6714-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064-AD66

ASSESSMENTS

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking and request for comment.

SUMMARY:

The FDIC is proposing to amend 12 CFR 327 to: (1) implement revisions to the Federal Deposit Insurance Act made by the Dodd-Frank Wall Street Reform and Consumer Protection Act regarding the definition of an institution's deposit insurance assessment base; (2) alter the unsecured debt adjustment in light of the changes to the assessment base; (3) add an adjustment for long-term debt held by an insured depository institution where the debt is issued by another insured depository institution; (4) eliminate the secured liability adjustment; (5) change the brokered deposit adjustment to conform to the change in the assessment base and change the way the adjustment will apply to large institutions; and (6) revise deposit insurance assessment rate schedules, including base assessment rates, in light of the changes to the assessment base. Except as provided, the proposed rate schedule and other revisions to the assessment rules would take effect for the quarter beginning April 1, 2011, and would be reflected in the June 30, 2011 fund balance and the invoices for assessments due September 30, 2011.

DATES: Comments must be received on or before [Insert date 45 days from date of publication in the FEDERAL REGISTER].

ADDRESSES:

You may submit comments, identified by RIN number, by any of the following methods:

- Agency Web Site: http://www.fdic.gov/regulations/laws/federal/propose.html. Follow instructions for submitting comments on the Agency Web Site.
- E-mail: Comments@FDIC.gov. Include the RIN number in the subject line of the message.
- Mail: Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, DC 20429
- Hand Delivery/Courier: Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Instructions: All submissions received must include the agency name and RIN for this rulemaking. All comments received will be posted without change to http://www.fdic.gov/regulations/laws/federal/propose.html including any personal information provided.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

Assessment Base

The FDIC charges insured depository institutions (IDIs) an amount for deposit insurance equal to the deposit insurance assessment base times a risk-based assessment rate. Under the current system, the assessment base is domestic deposits minus a few allowable exclusions, such as pass-through reserve balances. An IDI currently reports its assessment base on a quarter-end basis; larger institutions (that is, those with $1 billion or more in assets), all institutions chartered after December 31, 2006, and other IDIs that so choose, use daily averaging.

Assessment Rate Adjustments

The FDIC calculates an initial base assessment rate (IBAR) for each institution based on CAMELS ratings, a number of inputs derived from data that the institution reports on the Consolidated Reports of Condition and Income (Call Report) or the Thrift Financial Report (TFR), and, for large institutions that have long-term debt issuer ratings, from these ratings.[1] Under the current system, an institution's total base assessment rate can vary from the IBAR as the result of three possible adjustments. An institution's total base assessment rate may be lowered from its IBAR by an amount determined by its ratio of long-term unsecured debt to domestic deposits and, for small institutions, certain

[1] The FDIC is concurrently issuing a Notice of Proposed Rulemaking and Request for Comment on the Assessment System for Large Institutions.

amounts of Tier 1 capital to domestic deposits (the unsecured debt adjustment).[2] This potential decrease in initial base assessment rates is limited to 5 basis points.

An institution's base assessment rate may be raised by an amount determined by its ratio of secured liabilities to domestic deposits (the secured liability adjustment). An institution's ratio of secured liabilities to domestic deposits (if greater than 25 percent) increases its assessment rate, but the resulting base assessment rate after any such increase can be no more than 50 percent greater than it was before the adjustment. The secured liability adjustment is made after any unsecured debt adjustment.

Finally, an institution's base assessment rate may be raised by an amount determined by its ratio of brokered deposits to domestic deposits (the brokered deposit adjustment) for institutions in Risk Categories II, III or IV. An institution's ratio of brokered deposits to domestic deposits (if greater than 10 percent) increases its assessment rate, but any increase is limited to no more than 10 basis points.

Assessment Rates

The FDIC last amended the assessment rate schedule in 2009.[3] The 2009 assessments rule established the following initial base assessment rate schedule:

[2] Long-term unsecured debt includes senior unsecured and subordinated debt.

[3] 74 FR 9525.

Table 1
Current Initial Base Assessment Rates

	Risk Category				
	I*		II	III	IV
	Minimum	Maximum			
Annual Rates (in basis points)	12	16	22	32	45

* Initial base assessment rates that are not the minimum or maximum rate vary between these rates.

After applying all possible adjustments, minimum and maximum total base assessment rates for each risk category are as set out in Table 2 below. The 2009 assessments rule also allowed the FDIC Board to adjust rates uniformly by up to 3 basis points above or below the total base assessment rates without notice-and-comment rulemaking, provided that no change from one quarter to the next in the total base assessment rates may exceed 3 basis points.

Table 2
Current Total Base Assessment Rates*

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV
Initial base assessment rate	12 – 16	22	32	45
Unsecured debt adjustment	(5) – 0	(5) – 0	(5) – 0	(5) – 0
Secured liability adjustment	0 – 8	0 – 11	0 – 16	0 – 22.5
Brokered deposit adjustment		0 – 10	0 – 10	0 – 10
Total base assessment rate	7 – 24	17 – 43	27 – 58	40 – 77.5

* All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate vary between these rates.

II. Overview of the Proposed Rule

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) requires that the FDIC amend its regulations to redefine the assessment base used for calculating deposit insurance assessments. This rulemaking proposes to amend the relevant regulations needed to implement this requirement. The change in the assessment base has also prompted the FDIC to reexamine its assessment rate system and assessment rate schedule. Specifically, the FDIC is proposing to modify or eliminate the adjustments made to the IBAR for unsecured debt, secured liabilities, and brokered deposits, to add a new adjustment for holding unsecured debt issued by another IDI, to revise and lower the initial base assessment rate schedule in order to collect approximately the same amount of revenue under the new base as under the old base calibrated to the second quarter of 2010 and to revise the assessment rate schedules proposed in the Notice of Proposed Rulemaking on Assessment Dividends, Assessment Rates and the Designated Reserve Ratio (the "October NPR" or the "NPR on Dividends, Assessment Rates and the DRR").[4] To the extent possible, the proposed changes attempt to minimize additional new reporting by building on established concepts and by using data that are already reported.

III. Assessment Base Changes

As stated above, the Dodd-Frank Act requires that the FDIC amend its regulations to redefine the assessment base used for calculating deposit insurance assessments. Specifically, the Dodd-Frank Act directs the FDIC:

> To define the term 'assessment base' with respect to an insured depository institution … as an amount equal to—
>
> > (1) the average consolidated total assets of the insured depository institution during the assessment period; minus

[4] See: Notice of Proposed Rulemaking and Request for Comment on Assessment Dividends, Assessment Rates and Designated Reserve Ratio, 75 FR 66271.

(2) the sum of —

(A) the average tangible equity of the insured depository institution during the assessment period, and

(B) in the case of an insured depository institution that is a custodial bank (as defined by the Corporation, based on factors including the percentage of total revenues generated by custodial businesses and the level of assets under custody) or a banker's bank (as that term is used in …(12 U.S.C. 24)), an amount that the Corporation determines is necessary to establish assessments consistent with the definition under the … Federal Deposit Insurance Act … for a custodial bank or a banker's bank.[5]

To implement this requirement, therefore, the FDIC must establish the appropriate methodology for calculating "average consolidated total assets" and "average tangible equity," determine the basis for reporting consolidated total assets and tangible equity, and define "tangible equity." The FDIC has identified three standards that should be met in determining the assessment base. First, the reported elements of the new assessment base should be a true reflection of the entire quarter. Second, the definition of tangible equity should reflect an institution's ability to provide a real capital buffer to the Deposit Insurance Fund (DIF) in the event of failure. Third, the reporting of the elements of the new assessment base should require minimal changes to the existing reporting requirements. The changes needed to implement the new assessment base will require

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[5] Pub. L. No. 111-203, §331(b), 124 Stat. 1376, 1538 (to be codified at 12 U.S.C. § 1817(nt)).

the FDIC to collect some information from IDIs that is not currently collected on the Call Report or TFR. However, the burden of requiring new data will be partly offset by allowing some assessment data that are currently collected to be deleted from the Call Report or TFR.

The Dodd-Frank Act also requires the FDIC to determine whether and to what extent adjustments to the assessment base are appropriate for banker's banks and custodial banks in order to establish assessments consistent with the definition of the "risk-based assessment system" under the Federal Deposit Insurance Act. The proposed rule outlines these adjustments and proposes a definition of "custodial bank."

Average Consolidated Total Assets

The FDIC proposes that all IDIs report their average consolidated total assets using the accounting methodology established for reporting total assets as applied to Line 9 of Schedule RC-K of the Call Report (that is, the methodology established by Schedule RC-K regarding when to use amortized cost, historical cost, or fair value), except that all institutions must average their balances as of the close of business for each day during the calendar quarter. Because differences exist in the requirements for averaging and in the reporting of total assets for Call Report and TFR filers, the FDIC seeks to standardize the calculation of total consolidated assets for deposit insurance assessment purposes while minimizing the number of reporting changes that result from the change in the assessment base. Since this accounting methodology for reporting average total assets exists, it was selected as the proposed methodology for reporting.

The amounts to be reported as daily averages are the sum of the gross amounts of consolidated total assets for each calendar day during the quarter divided by the number of calendar days in the quarter. For days that an office of the reporting institution (or any of its subsidiaries or branches) is closed (e.g., Saturdays, Sundays, or holidays), the amounts outstanding from the previous business day would be used. An office is considered closed if there are no transactions posted to the general ledger as of that date. For the surviving or resulting institution in a merger or consolidation, assets for all merged or consolidated institutions for the days prior to the merger or consolidation should be included in the daily average calculation, regardless of the method used to account for the merger or consolidation.

Requiring all insured institutions to report "average consolidated total assets" using daily averaging would result in a truer measure of the assessment base during the entire quarter. Further, this requirement would be consistent with the actions taken by the FDIC in 2006 when it determined that using quarter-end deposit data as a proxy for balances over an entire quarter did not accurately reflect an IDI's typical deposit level. As a result, the FDIC required certain institutions to report a daily average deposit assessment base.

The Dodd-Frank Act requires the assessment base to consist of average consolidated total assets. However, in the case of IDIs with consolidated IDI subsidiaries, consolidating all assets (and tangible equity, see below) could lead to a double charge for deposit insurance—once at the IDI level and again at the parent IDI level. Because of intercompany transactions, a simple subtraction of the subsidiary IDI's assets and equity from the parent IDI's assets and equity will not usually result in an accurate statement of the parent IDI's assets and equity. By calculating the assets and equity of the parent IDI without consolidating the assets and equity of the subsidiary IDI, this problem can be avoided. The FDIC is therefore proposing that parent IDIs of other IDIs report daily average consolidated total assets without consolidating their IDI subsidiaries into the calculations. This would be consistent with current assessment base practice and would ensure that all parent IDIs are assessed only for their own assessment base and not that of their subsidiary IDIs, which will be assessed separately.

The proposed rule also covers average consolidated total assets of non-IDI subsidiaries. For such entities, average consolidated assets would also be calculated using a daily averaging method. However, the IDI may choose to use either daily average data for such subsidiaries calculated for the current quarter or for the prior quarter, but having chosen one or the other method, reporting could not change from quarter to quarter. This proposed methodology would conform to the current requirements for consolidating data from non-IDI subsidiaries, which allows such data to be up to 93 days old.

Finally, for insured branches of foreign banks, average consolidated total assets would be defined as total assets of the branch (including net due from related depository institutions) in accordance with the schedule of assets and liabilities in the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks, but using the accounting methodology for reporting total assets established in Schedule RC-K of the Call Report, and calculated using a daily averaging method as described above.

Defining Tangible Equity

No definition of tangible equity currently exists for IDI reporting purposes. The FDIC considered developing a new definition for assessment base purposes. However, in an effort to minimize new reporting requirements, the FDIC is proposing to use an industry standard definition that would also provide a real capital buffer to the DIF in the event of failure. The FDIC, therefore, proposes to use Tier 1 capital as the definition of tangible equity. Since the Basel Committee is considering revisions to the definition of Tier 1 capital, this definition would serve as a measure of tangible equity at least until the Basel Committee (in Basel III) has completed its revamping of capital definitions and standards. At that time the FDIC may reconsider the definition of tangible equity.

Defining tangible equity as Tier 1 capital not only avoids an increase in regulatory burden that a new definition of capital could cause, but also provides a clearly understood capital buffer for the DIF in the event of the institution's failure.

The FDIC also proposes to define the averaging period for tangible equity to be monthly, except that institutions that reported less than $1 billion in quarter-end total consolidated assets on their March 31, 2011 Call Report or TFR may report average tangible equity using an end-of-quarter balance or may at any time opt permanently to report average tangible equity using a monthly average balance. An institution that reports average tangible equity using an end-of-quarter balance and reports average daily consolidated total assets of $1 billion or more for two consecutive quarters shall permanently report average tangible equity using monthly averaging starting in the next quarter. The FDIC proposes that monthly averaging would mean the average of the three month-end balances within the quarter. For the surviving institution in a merger or consolidation, Tier 1 capital should be calculated as if the merger occurred on the first day of the quarter in which the merger or consolidation actually occurred.

This methodology should not increase regulatory burden for institutions with assets of $1 billion or more as they generally compute their regulatory capital ratios no less frequently than monthly. To minimize regulatory burden for small institutions, the proposal allows an exception to the averaging requirement. The FDIC does not foresee a need for any institution to report daily average balances for tangible equity, since the components of tangible equity appear to be subject to less fluctuation within a quarter than are consolidated total assets. Thus, the proposal would require averaging of capital for institutions that account for the majority of industry assets, while minimizing additional reporting requirements.

For IDIs with consolidated IDI subsidiaries, the FDIC proposes to instruct IDIs that consolidate other IDIs for financial reporting purposes to report average tangible equity (or end-of-quarter tangible equity, as appropriate) without consolidating their IDI subsidiaries into the calculations. This conforms to the method for reporting total consolidated assets above and ensures that all parent IDIs will be assessed only on their own assessment base and not that of their subsidiary IDIs.

For IDIs that report average tangible equity using a monthly averaging method and that have non-IDI subsidiaries, the IDI must use monthly average data for such subsidiaries. The monthly average data for non-IDI subsidiaries, however, may be calculated for the current quarter or for the prior quarter, but having chosen one or the other method, reporting could not change from quarter to quarter.

For insured branches of foreign banks, tangible equity would be defined as eligible assets (determined in accordance with Section 347.210 of the FDIC's regulations) less the book value of liabilities (exclusive of liabilities due to the foreign bank's head office, other branches, agencies, offices, or wholly owned subsidiaries). This value would be calculated on a monthly average (or end-of-quarter) basis.

Banker's Bank Adjustment

Banker's banks are defined by 12 U.S.C. 24. These banks or companies must be owned exclusively by depository institutions or depository institution holding companies and the bank or company and all subsidiaries thereof must be engaged exclusively in providing services to or for other depository institutions, their holding companies, and the officers, directors, and employees thereof.

The unique business model of a banker's bank includes performing agency functions for its member banks. In this capacity, a banker's bank passes through funds from its member banks either to other banks in the federal funds market or to the Federal Reserve as reserve balances. While the federal funds that a banker's bank passes through do not appear on its balance sheet, those funds that a banker's bank passes through to the Federal Reserve do appear on its balance sheet. Currently, the corresponding deposit liabilities that result from these "pass-through" reserve balances are excluded from the assessment base. The FDIC is proposing to retain this exception.

In addition to its agency functions, a typical banker's bank provides liquidity and other services to its member banks acting as a principal. This activity may result in higher than average amounts of federal funds purchased and deposits from other IDIs and financial institutions on a banker's bank's balance sheet. To offset its relatively high levels of these short-term liabilities, a banker's bank often holds a relatively high amount of federal funds sold and reserve balances for its own account. The proposed rule would also adjust the assessment base of a banker's bank to reflect its greater need to maintain liquidity to service its member banks.

The proposed rule would first require a banker's bank to self-certify on its Call Report or TFR that it meets the definition of "banker's bank" as set forth in 12 U.S.C. 24. The self-certification would be subject to verification by the FDIC. For an institution that meets the definition (with the exception noted below) the FDIC would exclude from its assessment base the daily average amount of reserve balances "passed through" to the Federal Reserve, the daily average amount of reserve balances held at the Federal Reserve for its own account, and the daily average amount of its federal funds sold. The collective amount of this exclusion, however, could not exceed the sum of the bank's daily average amount of total deposits of commercial banks and other depository institutions in the United States and the daily average amount of its federal funds purchased. Thus, for example, if a banker's bank has a total daily average balance of $300 million of federal funds sold plus reserve balances (including pass-through reserve balances), and it has a total daily average balance of $200 million of deposits from commercial banks and other depository institutions and federal funds purchased, it can deduct $200 million from its assessment base. Federal funds purchased and sold on an agency basis would not be included in these calculations as they are not reported on the balance sheet of a banker's bank.

The proposed assessment base adjustment applicable to a banker's bank would only be available to an institution that conducts 50 percent or more of its business with non-affiliated entities (as defined under the Bank Holding Company Act or the Home Owners' Loan Act). Providing a benefit to a banker's bank that primarily serves affiliated companies would undermine the intent of the proposed benefit by providing a way for banks to reduce deposit insurance assessments simply by establishing a subsidiary for that purpose.

Defining Custodial Bank

The Dodd-Frank Act instructed the FDIC to consider whether certain assets should be deducted from the assessment base of custodial banks. However, the Act left it to the FDIC to define custodial banks "based on factors including the percentage of total revenues generated by custodial businesses and the level of assets under custody." To identify custodial banks for deposit insurance purposes, the FDIC focused on the custody and safekeeping accounts reported in the fiduciary and related assets section of the Call Report and TFR, along with the revenues associated with these activities. The FDIC determined that, although fiduciary accounts have an aspect of custodial activity associated with them, this activity is incidental to the fiduciary business and represents a small fraction of the income realized from these accounts. For this reason, the FDIC decided to focus on those assets held principally in custody and safekeeping accounts.

The FDIC identified 878 IDIs that reported some custody and safekeeping accounts on their Call Reports or TFRs as of December 2009.[6] Of this number, only 6 IDIs reported that the income they derived from these accounts exceeded 50 percent of their total revenue (interest income plus non-interest income), and only 16 IDIs reported that the percentage of custody and safekeeping income exceeded 10 percent of their total revenue. When examining the volume of assets held in custody and safekeeping accounts by each IDI, the FDIC found that 21 IDIs held more than $50 billion in assets in these accounts. The top 4 among these institutions held more than $5 trillion dollars each in these accounts. Given the nature of custody and safekeeping activity—characterized by economies of scale—the industry is dominated by large institutions.

The FDIC proposes that, to be classified as a custodial bank for deposit insurance assessment purposes, an IDI must have a significant amount of custody and safekeeping activity. Therefore, the FDIC proposes to identify custodial banks as those IDIs with previous calendar year-end custody and safekeeping assets of at least $50 billion or those IDIs that derived more than 50 percent of their revenue from custody and safekeeping activities over the previous calendar year. Using this definition, the FDIC estimates that 23 IDIs would have qualified as custodial banks for deposit insurance purposes as of December 31, 2009.

[6] IDIs with less than $250 million in fiduciary assets in the preceding year or with gross fiduciary income of less than 10 percent of the preceding year's revenue report their trust activities only on the December call report or TFR.

Custodial Bank Adjustment

The FDIC believes that an adjustment to the assessment base of a custodial bank should be made in recognition of the bank's need to hold liquid assets to facilitate the payments and processing function associated with its custody and safekeeping accounts. The proposed deduction, however, would be limited to the daily average amount of deposits on the custodial bank's balance sheet that can be directly linked to the servicing of a custody and safekeeping account.

The proposed rule states that the assessment base adjustment for custodial banks should be the daily average amount of highly liquid, short-term assets, subject to the limitation that the daily average value of these assets cannot exceed the daily average value of those deposits identified by the institution as being held in a custody and safekeeping account. Highly liquid, short-term assets would be defined as those assets with a Basel risk weighting of 20 percent or less and whose stated maturity date is 30 days or less.

IV. Assessment Rate Adjustments

In March 2009, the FDIC issued a final rule incorporating three adjustments into the risk-based pricing system.[7] These adjustments, the unsecured debt adjustment, the secured liability adjustment, and the brokered deposit adjustment, were added to better account for risk among insured institutions based on their funding sources. In light of the changes to the deposit insurance assessment base resulting from the Dodd-Frank Act, the FDIC decided to revisit the rationale and operation of these adjustments.

[7] 74 FR 9525.

Unsecured Debt Adjustment

All other things equal, greater amounts of long-term unsecured debt can reduce the FDIC's loss in the event of a failure, thus reducing the risk to the DIF.[8] Under the current assessment system an IDI's assessment rate can be reduced through the unsecured debt adjustment, which is based on the amount of long-term, unsecured liabilities the IDI issues. The amount of the adjustment equals 40 basis points for each dollar of long-term unsecured debt, effectively lowering the cost of issuing an additional dollar of such debt by 40 basis points (unless the issuing IDI has reached the 5 basis point cap on the adjustment). The amount of the reduction in the assessment rate due to the adjustment is equal to the amount of long-term unsecured liabilities times 40 basis points divided by the amount of domestic deposits. The cap on the deduction is 5 basis points.

Unless the unsecured debt adjustment is revised, the cost of issuing long-term unsecured liabilities will rise (as will the cost of funding for all other liabilities except, in most cases, domestic deposits) as there will be no longer be a distinction, in terms of the cost of deposit insurance, among the types of liabilities funding the new assessment base. The FDIC is concerned that this will reduce the incentive for IDIs to issue long-term unsecured debt.

The FDIC therefore proposes to revise the unsecured debt adjustment to ensure that IDIs continue to have the same incentive to issue more long-term unsecured debt than they otherwise would. The FDIC proposes that the amount of the unsecured debt

[8] Holders of unsecured claims, including subordinated debt, receive distributions from the receivership estate only if all secured claims, administrative claims and deposit claims have been paid in full. Consequently, greater amounts of long-term unsecured debt provide a cushion that can reduce the cost to the DIF in the event of failure.

adjustment be increased to 40 basis points plus the IBAR for every dollar of long-term unsecured debt issued so that the relative cost of issuing long-term unsecured debt will not rise with the implementation of the new assessment base. The amount of the reduction in the assessment rate due to the adjustment would thus be equal to the amount of long-term unsecured liabilities times the sum of 40 basis points and the IBAR divided by the amount of the new assessment base. In other words, the FDIC proposes to modify the unsecured debt adjustment according to the following formula:

> UDA = (Long-term unsecured liabilities/New assessment base)*(40 basis points + IBAR)

Thus, if an institution with a $10 billion assessment base issued $100 million in long-term unsecured liabilities and had an IBAR of 20 basis points, its unsecured debt adjustment would be 0.6 basis points, which would result in a decrease in the institution's assessment of $600,000.

The FDIC also proposes that the cap on the unsecured debt adjustment be changed from the current 5 basis points to the lesser of 5 basis points or 50 percent of the institution's IBAR. This cap would apply to the new assessment base. This change would not only allow the maximum dollar amount of the unsecured debt adjustment to increase because the assessment base is larger, but also would ensure that the assessment rate after the adjustment is applied does not fall to zero. The formula for the new cap would be the lesser of the following:

UDA Cap = 5 basis points

or,

UDA Cap = 0.5*IBAR,

Further, the FDIC proposes altering the definition of what is included in long-term, unsecured liabilities. Under the current assessment system, the unsecured debt adjustment includes certain amounts of Tier 1 capital (Qualified Tier 1 capital) for IDIs with less than $10 billion in assets. Since the new assessment base excludes Tier 1 capital, defining long-term, unsecured liabilities to include Qualified Tier 1 capital would have the effect of providing a double deduction for this capital.[9] The FDIC therefore proposes to eliminate Tier 1 capital from the definition of unsecured debt.

Depository Institution Debt Adjustment

Although issuance of unsecured debt by an IDI lessens the potential loss to the DIF in the event of an IDI's failure, when this debt is held by other IDIs, the overall risk to the DIF is not reduced. For this reason, the FDIC is proposing to increase the assessment rate of an IDI that holds this debt. The FDIC considered reducing the benefit to IDIs when their long-term unsecured debt is held by other IDIs, but debt issuers do not track which entities hold their debt. The proposal would apply a 50 basis point adjustment to every dollar of long-term unsecured debt held by an IDI when that debt is

[9] Capital, including Qualified Tier 1 capital, also enters the risk-based assessment system through the pricing model.

issued by another IDI.[10] This adjustment would be known as the depository institution debt adjustment (DIDA). Specifically, the adjustment would be determined according to the following formula:

> DIDA = (Long-term unsecured debt issued by another IDI/New assessment base)*50 basis points

Secured Liability Adjustment

The FDIC proposes to discontinue the secured liability adjustment with the implementation of the new assessment base. In arguing for the secured liability adjustment the FDIC stated that, "[t]he exclusion of secured liabilities can lead to inequity. An institution with secured liabilities in place of another's deposits pays a smaller deposit insurance assessment, even if both pose the same risk of failure and would cause the same losses to the FDIC in the event of failure." With the change in the assessment base, the relative cost advantage of funding with secured liabilities (due to assessing domestic deposits, but not secured liabilities) will disappear, thus eliminating the differential that led to the adjustment.

Brokered Deposit Adjustment

The brokered deposit adjustment compensates the DIF for the risk an IDI poses when it relies heavily on brokered deposits for funding. The brokered deposit adjustment applies to institutions in risk categories II, III, and IV when their ratio of brokered deposits to domestic deposits exceeds 10 percent. The present adjustment imposes a 25

[10] The FDIC recognizes that the amount of assessment revenue collected using this method will not exactly offset the amount of assessment revenue foregone by providing a benefit to those IDIs that issue long-term unsecured debt.

basis point charge multiplied by the ratio of brokered deposits to domestic deposits for brokered deposits in excess of 10 percent of domestic deposits and has a cap of 10 basis points.

The FDIC proposes to retain the current adjustment for brokered deposits, but to scale the adjustment to the new assessment base by the IDI's ratio of domestic deposits to the new assessment base. The new formula for brokered deposits would become:

BDA = ((Brokered deposits – (Domestic deposits*10%))/New assessment base)*25 basis points

The FDIC proposes to maintain the cap at 10 basis points. The FDIC recognizes that, because the assessment base is larger, keeping the cap rate constant could result in an increase in the amount an IDI is assessed since the cap will not be reached as quickly. However, the FDIC remains concerned that significant reliance on brokered deposits tends to increase an institution's risk profile, particularly as its financial condition weakens.

This proposal is being made simultaneously with the proposal to change the assessment system for large institutions, which proposes to eliminate risk categories for these institutions. The FDIC, therefore, is proposing to amend the brokered deposit adjustment to apply to all large institutions.[11] For small institutions, the adjustment, as modified above, would continue to apply only to those in risk categories II, III, and IV. Small risk category I institutions would continue to be excluded; brokered deposits

[11] The definition of brokered deposits for all institutions, which includes reciprocal deposits, would not change.

remain, however, a factor in the financial ratios method used to determine the IBAR for small risk category I institutions experiencing high growth rates.

V. Assessment Rate Schedule

The FDIC believes that the change to a new, expanded assessment base should not result in a change in the overall amount of assessment revenue projected to be collected under the Restoration Plan adopted by the Board on October 19, 2010.[12] To accomplish this, this NPR proposes to change the current assessment rate schedule such that the new proposed assessment rate schedule will result in the collection of assessment revenue that is approximately revenue neutral.[13]

Because the new assessment base under the Dodd-Frank Act is larger than the current assessment base, the assessment rates proposed below are lower than current rates. While the range of proposed initial base assessment rates is narrower than the current range, the difference in revenue between the maximum and minimum IBARs would be approximately the same because of the difference in assessment bases.

The rate schedule proposed below includes a column for institutions with at least $10 billion in total assets. This new column represents the assessment rates that would be applied to institutions of this size pursuant to the changes being proposed in the NPR on the large institution assessment system, which is being published concurrently with this proposal. The range of proposed total base assessment rates is the same for all sizes of institutions (2.5 basis points to 45 basis points); however, institutions with at least $10

[12] 75 FR 66293.

[13] Specifically, the FDIC has attempted to determine a rate schedule that would have generated approximately the same revenue as that generated under the current rate schedule in the second quarter of 2010 under the current assessment base.

billion in total assets would not be assigned to risk categories. The rate schedule, however, does not include the proposed depository institution debt adjustment.

Base Rate Schedule

Effective April 1, 2011, the FDIC proposes to set initial and total base assessment rates for IDIs as described in Table 3 below.

Table 3
Proposed Initial and Total Base Assessment Rates*

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV	Large and Highly Complex Institutions
Initial base assessment rate	5–9	14	23	35	5–35
Unsecured debt adjustment**	(4.5)–0	(5)–0	(5)–0	(5)–0	(5)–0
Brokered deposit adjustment	……	0–10	0–10	0–10	0–10
TOTAL BASE ASSESSMENT RATE	2.5–9	9-24	18-33	30-45	2.5–45

* Total base assessment rates do not include the proposed depository institution debt adjustment.
**The unsecured debt adjustment could not exceed the lesser of 5 basis points or 50 percent of an IDI's initial base assessment rate; thus for example, an IDI with an IBAR of 5 basis points would have a maximum unsecured debt adjustment of 2.5 basis points and could not have a total base assessment rate lower than 2.5 basis points.

Ability to Adjust Rates

The proposed rule would retain the FDIC Board's flexibility to adopt actual rates that are higher or lower than total base assessment rates without the necessity of further notice-and-comment rulemaking, provided that: (1) the Board could not increase or decrease rates from one quarter to the next by more than 3 basis points; and (2) cumulative increases and decreases cannot be more than 3 basis points higher or lower than the total base assessment rates. Retention of this flexibility would enable the Board to act in a timely manner to fulfill its mandate to raise the reserve ratio in accordance with the Restoration Plan, particularly in light of the increased uncertainty about expected revenue resulting from the change in the assessment base.

Conforming Changes to the Proposed Future Assessment Rates as Set Forth in the Notice of Proposed Rulemaking on Assessment Dividends, Assessment Rates and Designated Reserve Ratio

The October NPR (on dividends, assessment rates and the DRR), which was issued by the Board in October 2010, proposes rate decreases, in lieu of dividends, when the reserve ratio meets certain targets. As stated in that NPR, when the reserve ratio reaches 1.15 percent, the FDIC believes that it would be appropriate to lower assessment rates so that the average assessment rate would approximately equal the long-term moderate, steady assessment rate—approximately 8.5 basis points (as measured using the current assessment base, which is approximated by domestic deposits).[14] As discussed in the October NPR, this assessment rate represents the weighted average assessment rate that would have been needed to maintain a positive fund balance throughout past crises.

The FDIC proposed in the October NPR a schedule of assessment rates that would take effect when the fund reserve ratio first meets or exceeds 1.15 percent. Pursuant to the FDIC’s analysis, this schedule would produce a weighted average

[14] Using June 30, 2010 data, 8.5 basis points of the current, domestic deposit-based assessment base would equal approximately 5.4 basis points of the proposed assessment base.

assessment rate of the steady assessment rate identified above of 8.5 basis points (that is, the long-term rate needed to keep the DIF positive). That proposed schedule would take effect beginning in the next quarter after the reserve ratio reaches 1.15 percent without the necessity of further action by the FDIC's Board. The rates would remain in effect unless the reserve ratio equaled or exceeded 2 percent. The FDIC's Board would retain its current authority to uniformly adjust the total base rate assessment schedule up or down by up to 3 basis points without further rulemaking.

In light of the current rulemaking, the FDIC under its authority to set assessments is proposing revisions to those proposed rates commensurate with the changes in the assessment base. The proposed rate schedules are intended to be revenue neutral in that they anticipate collecting approximately the same amount of assessment revenue over the same period as the rate schedules presented in the October NPR.[15,16]

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[15] As of June 30, 2010, the proposed assessment rates in Tables 4, 5 and 6 below applied against the proposed assessment base would have produced relative diminutions in assessment revenue almost identical to the revenue estimated to be produced by the rates in the corresponding Tables 3, 4 and 5 of the October NPR.

[16] In setting assessment rates, the FDIC's Board of Directors is required by statute to consider the following factors:

> (i) The estimated operating expenses of the Deposit Insurance Fund.
> (ii) The estimated case resolution expenses and income of the Deposit Insurance Fund.
> (iii) The projected effects of the payment of assessments on the capital and earnings of insured depository institutions.
> (iv) The risk factors and other factors taken into account pursuant to section 7(b)(1) of the Federal Deposit Insurance Act (12 U.S.C Section 1817(b)(1)) under the risk-based assessment system, including the requirement under section 7(b)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C Section 1817(b)(1)(A)) to maintain a risk-based system.
> (v) Other factors the Board of Directors has determined to be appropriate.

Section 7(b)(2) of the Federal Deposit Insurance Act, 12 U.S.C. 1817(b)(2)(B). The risk factors referred to in factor (iv) include:

> (i) the probability that the Deposit Insurance Fund will incur a loss with respect to the institution, taking into consideration the risks attributable to--
>
> > (I) different categories and concentrations of assets;
> > (II) different categories and concentrations of liabilities, both insured and uninsured, contingent and noncontingent; and
> > (III) any other factors the Corporation determines are relevant to assessing such probability;

Proposed rate schedule once the reserve ratio reaches 1.15 percent

Once the reserve ratio reaches 1.15 percent, the October NPR proposed to lower assessment rates so that the average assessment rate would approximately equal the long-term moderate, steady assessment rate discussed above. The table presented below supersedes the table presented in that NPR, and sets forth the following rate schedule that would be applied to the assessment base proposed above:

(ii) the likely amount of any such loss; and
(iii) the revenue needs of the Deposit Insurance Fund.

Section 7(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(C)).

As set forth in a memorandum to the FDIC's Board of Directors dated October 14, 2010 proposing that the Board adopt a new Restoration Plan and authorize publication of the NPR on Dividends, Assessment Rates and the DRR, and in that NPR itself, the Board considered these factors.

Table 4

(Superseding Table 3 of the October NPR)
Initial and Total Base Assessment Rates*
Effective for the Quarter Beginning Immediately after the Quarter in which the Reserve Ratio Meets or Exceeds 1.15 Percent

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV	Large and Highly Complex Institutions
Initial base assessment rate	3–7	12	19	30	3–30
Unsecured debt adjustment**	(3.5)–0	(5)–0	(5)–0	(5)–0	(5)–0
Brokered deposit adjustment	……	0–10	0–10	0–10	0–10
TOTAL BASE ASSESSMENT RATE	1.5–7	7-22	14-29	29-40	1.5–40

* Total base assessment rates do not include the proposed depository institution debt adjustment.
**The unsecured debt adjustment could not exceed the lesser of 5 basis points or 50 percent of an IDI's initial assessment rate; thus, for example, an IDI with an initial base assessment rate of 3 basis points would have a maximum unsecured debt adjustment of 1.5 basis points and could not have a total base assessment rate lower than 1.5 basis points.

Proposed rate schedule once the reserve ratio reaches 2.0 percent

The October NPR also proposed rates that would come into effect without further action by the FDIC Board when the fund reserve ratio at the end of the prior quarter meets or exceeds 2 percent, but is less than 2.5 percent.[17] Again, the FDIC proposes to supersede that rate schedule in line with the changes to the assessment base, assessment rates, and adjustments proposed in this NPR according to the following table:

Table 5

(Superseding Table 4 of the October NPR)
Initial and Total Base Assessment Rates*
Effective for any Quarter when the Reserve Ratio for the Prior Quarter Meets or Exceeds 2 Percent (but Is Less than 2.5 Percent)

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV	Large and Highly Complex Institutions
Initial base assessment rate	2–6	10	17	28	2–28
Unsecured debt adjustment**	(3)–0	(5)–0	(5)–0	(5)–0	(5)–0
Brokered deposit adjustment	……	0–10	0–10	0–10	0–10
TOTAL BASE ASSESSMENT RATE	1–6	5-20	12-27	23-38	1–38

* Total base assessment rates do not include the proposed depository institution debt adjustment.
** The unsecured debt adjustment could not exceed the lesser of 5 basis points or 50 percent of an IDI's initial assessment rate; thus, for example, an IDI with an initial assessment rate of 2 basis points would have a maximum unsecured debt adjustment of 1 basis point and could not have a total base assessment rate lower than 1 basis point.

[17] The NPR proposes that new institutions would remain subject to the assessment schedule proposed in Table 5 once the reserve ratio reaches 1.15 percent.

Proposed rate schedule once the reserve ratio reaches 2.5 percent

Finally, the October NPR proposed rates that would come into effect without further action by the FDIC Board when the fund reserve ratio at the end of the prior quarter meets or exceeds 2.5 percent.[18] As with the other proposed rate schedules, the FDIC proposes to supersede that rate schedule in line with the changes to the assessment base, assessment rates, and adjustments proposed in this NPR according to the following table:

[18] See footnote 18 for the assessment rate schedule applicable to new institutions.

Table 6

(Amending Table 4 of the October NPR)
Initial and Total Base Assessment Rates*
Effective for any Quarter when the Reserve Ratio for the Prior Quarter Meets or Exceeds 2.5 Percent

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV	Large and Highly Complex Institutions
Initial base assessment rate	1–5	9	15	25	1–25
Unsecured debt adjustment**	(2.5)–0	(4.5)–0	(5)–0	(5)–0	(5)–0
Brokered deposit adjustment	……	0–10	0–10	0–10	0–10
TOTAL BASE ASSESSMENT RATE	0.5–5	4.5-19	10–25	20-35	0.5–35

* Total base assessment rates do not include the proposed depository institution debt adjustment.
** The unsecured debt adjustment could not exceed the lesser of 5 basis points or 50 percent of an IDI's initial assessment rate; thus, for example, an IDI with an initial assessment rate of 1 basis point would have a maximum unsecured debt adjustment of 0.5 basis points and could not have a total base assessment rate lower than 0.5 basis points.

Capital and earnings analysis

The proposed assessment rates in Table 3 change the current assessment rate schedule such that the new proposed assessment rate schedule applied against the proposed assessment base would result in the collection of assessment revenue that is approximately revenue neutral. Thus, overall, the proposed rates and proposed assessment base should have no effect on the capital and earnings of the banking industry, although the proposed rates would affect the earnings and capital of individual institutions. The great majority of institutions of all sizes would pay assessments at least 5 percent lower than currently and would thus have higher earnings and capital.

However, about 36 percent of large institutions (those with greater than $10 billion in assets) would pay assessments at least 5 percent higher than currently.

The remaining proposed rate schedules would take effect when the reserve ratio reaches 1.15 percent, 2 percent and 2.5 percent. In the October NPR, the FDIC analyzed the effect of the rate schedules contained in that NPR on the capital and earnings of IDIs.[19] The rate schedules contained in the current NPR are intended to produce approximately the same revenue as the rate schedules in the NPR on dividends, assessment rates and the DRR. Consequently, the analysis of the effect of the rate schedules on capital and earnings contained in that NPR is essentially applicable to the current NPR.

In the October NPR, the FDIC stated that it anticipated that when the reserve ratio exceeds 1.15 percent, and particularly when it exceeds 2 or 2.5 percent, the industry is likely to be prosperous. Consequently, the FDIC examined the effect of the proposed lower rates on the industry at the end of 2006, when the industry was prosperous. Under that scenario, reducing assessment rates as proposed when the reserve ratio reaches 1.15 percent would have increased average after-tax income by 1.25 percent and average capital by 0.14 percent. Reducing assessment rates as proposed when the reserve ratio reaches 1.15 percent to the proposed rate schedule when the reserve ratio reaches 2 percent would have increased average after-tax income by 0.62 percent and average capital by 0.07 percent. Similarly, reducing assessment rates as proposed when the

[19] As noted in an earlier footnote, in setting assessment rates, the FDIC's Board of Directors is authorized to set assessments for IDIs in such amounts as the Board of Directors may determine to be necessary. 12 U.S.C. 1817(b)(2)(A). In so doing, the Board must consider certain statutorily defined factors. 12 U.S.C. 1817(b)(2)(B). As reflected in the text, the FDIC has taken into account all of these statutory factors.

reserve ratio reaches 2 percent to the proposed rate schedule when the reserve ratio reaches 2.5 percent would have increased average after-tax income by 0.61 percent and average capital by 0.07 percent.

Effective Date

Except as specifically noted above, the rate schedule and the other revisions to the assessment rules would take effect for the quarter beginning April 1, 2011, and would be reflected in the invoices for assessments due September 30, 2011. The FDIC has considered the possibility of making the application of the new assessment base, the revised assessment rates, and the changes to the assessment rate adjustments retroactive to passage of the Dodd-Frank Act. However, as this NPR details, implementation of the Act requires that a number of changes be made to the Call Report and TFR that render such consideration operationally infeasible. Additionally, retroactively applying such changes would introduce significant legal complexity and introduce unacceptable levels of litigation risk. The FDIC is committed to implementing the Dodd-Frank Act in the most expeditious manner possible and is contemporaneously pursuing changes to the Call Report and TFR that would be necessary if this NPR is adopted. The proposed effective date is contingent upon these changes being made and if there is a delay in changing the Call Report and TFR that would delay the effective date of this proposed rulemaking.

VI. Request for Comments

The FDIC seeks comment on every aspect of this proposed rulemaking. In particular, the FDIC seeks comment on the issues set out below. The FDIC asks that commenters include the reasons for their positions.

1. Please identify any operational issues with the new assessment base definition that would argue for delaying the proposed rule until changes can be made to bank reporting systems.
2. The proposed rule uses the accounting definition for total assets found on Line 9 of Schedule RC-K of the Call Report except that all institutions must report the average of the balances as of the close of business for each day during the calendar quarter. Is this definition the best definition of total assets to use for the assessment base? If not, how should the valuation of assets be handled? Is reporting the average of the balances as of the close of business for each day during the calendar quarter unduly burdensome for all or some institutions? Should all or some institutions be allowed to report the average of the balances as of the close of business for one day each week during the calendar quarter, as currently allowed under Schedule RC-K?
3. Is the proposed definition of average tangible equity appropriate? Should some other definition be used? Is reporting the average of tangible equity as of the end of each month in the calendar quarterly unduly burdensome? Is the exception to this requirement for small institutions appropriate?
4. Is the proposed adjustment to the assessment base for banker's banks appropriate?

5. Is the proposed definition of custodial bank appropriate? Is the proposed adjustment to the assessment base appropriate?
6. The proposal alters the unsecured debt adjustment, making it larger for IDIs that present greater risk to the DIF. Is this an appropriate way to encourage riskier IDIs to alter their funding structure so that they present less risk to the DIF?
7. Are the modifications to the current unsecured debt adjustment reasonable in light of the objective of continuing to encourage institutions to issue this type of debt?
8. Would it be possible to increase the assessment rate to account for the long-term unsecured debt issued by IDIs that is held by other IDIs in another way? Is the size of the depository institution debt adjustment reasonable and appropriate to meet the policy goal?
9. Should the FDIC consider incorporating an adjustment that would take into consideration the risk posed to the DIF for institutions that have director and officer liability policies containing regulatory exclusions?
10. Are the new rates appropriate given the changes to the assessment base?
11. Is the proposed effective date for the changes to the assessment system too soon for IDIs to adjust their reporting systems to the proposed reporting requirements?

VII. Regulatory Analysis and Procedure

A. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Public Law 106-102, 113 Stat. 1338, 1471 (Nov. 12, 1999), requires the federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC invites your comments on how to make this proposal easier to understand. For example:

- Has the FDIC organized the material to suit your needs? If not, how could this material be better organized?
- Are the requirements in the proposed regulation clearly stated? If not, how could the regulation be more clearly stated?
- Does the proposed regulation contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes to the format would make the regulation easier to understand?
- What else could the FDIC do to make the regulation easier to understand?

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires that each federal agency either certify that a proposed rule would not, if adopted in final form, have a significant economic impact on a substantial number of small entities or prepare an initial regulatory flexibility analysis of the rule and publish the analysis for comment.[20] Certain types of

[20] See 5 U.S.C. 603, 604, 605.

rules, such as rules of particular applicability relating to rates or corporate or financial structures, or practices relating to such rates or structures, are expressly excluded from the definition of "rule" for purposes of the RFA.[21] However, the FDIC is voluntarily undertaking a regulatory flexibility analysis to aid the public in commenting on the effect of the proposed rule on small institutions.

As of June 30, 2010, of the 7,839 insured commercial banks and savings associations, there were 4,299 small insured depository institutions as that term is defined for purposes of the RFA (i.e., institutions with $175 million or less in total assets). The proposed rule would adopt the Dodd-Frank definition of assessment base and alter assessment rates and the adjustments to those rates at the same time that the new assessment base takes effect. Under this part of the proposal, 94 percent of small institutions would be subject to lower assessments. In effect, the proposed rule would decrease small institution assessments by an average of $7,675 per quarter and would alter the present distribution of assessments by reducing the percentage of the assessments borne by small institutions. As of June 30, 2010, small institutions, as that term is defined for purposes of the RFA, actually accounted for 3.7 percent of total assessments. Also as of that date, but applying the proposed assessment rates against the proposed assessment base, small institutions would have accounted for 2.6 percent of the total cost of insurance assessments.

Other parts of the proposed rule would progressively lower assessment rates when the reserve ratio reaches 1.15 percent, 2 percent and 2.5 percent. Pursuant to section 605(b) of the RFA, the FDIC certifies that the proposed rule would not have a significant

[21] See 5 U.S.C. 601.

economic effect on small entities unless and until the DIF reserve ratio exceeds specific thresholds of 1.15, 1.5, 2, and 2.5 percent. The reserve ratio is unlikely to reach these levels for many years. When it does, the overall effect of the proposed rule will be positive for entities of all sizes. All entities, including small entities, will receive a net benefit as a result of lower assessments paid. The rate reductions in the proposed rule should not alter the distribution of the assessment burden between small entities and all others. It is difficult to realistically quantify the benefit at the present time. However, the initial magnitude of the benefit (when the reserve ratio reaches 1.15 percent) is likely to be less than a 2 percent increase in after-tax income and less than a 20 basis point increase in capital.

VIII. Paperwork Reduction Act

No collections of information pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are contained in the proposed rule.

A. The Treasury and General Government Appropriations Act, 1999 – Assessment of Federal Regulations and Policies on Families

The FDIC has determined that the proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Public Law 105-277, 112 Stat. 2681).

List of Subjects in 12 CFR Part 327

Bank deposit insurance, Banks, Banking, Savings associations

Part 327 – Assessments

1. For the reasons set forth in the preamble and the Assessment Base NPR published concurrently with this Notice Of Proposed Rulemaking, the FDIC proposes to amend chapter III of title 12 of the Code of Federal Regulations as follows:

2. The authority citation for Part 327 is amended to read as follows:

12 U.S.C. 1441, 1813, 1815, 1817-19, 1821.

3. Amend § 327.4 of Subpart A by revising paragraph (c) to read as follows:

* * * * *

(c) *Requests for review.* An institution that believes any assessment risk assignment provided by the Corporation pursuant to paragraph (a) of this section is incorrect and seeks to change it must submit a written request for review of that risk assignment. An institution cannot request review through this process of the CAMELS ratings assigned by its primary federal regulator or challenge the appropriateness of any such rating; each federal regulator has established procedures for that purpose. An institution may also request review of a determination by the FDIC to assess the institution as a large, highly complex, or a small institution (§ 327.9(d)(9)) or a determination by the FDIC that the institution is a new institution (§ 327.9(d)(10)). Any request for review must be submitted within 90 days from the date the assessment risk assignment being challenged pursuant to paragraph (a) of this section appears on the institution's quarterly certified statement invoice. The request shall be submitted to the Corporation's Director of the Division of Insurance and Research in Washington, DC, and shall include documentation sufficient to support the change sought by the institution. If additional information is requested by the Corporation, such information shall be provided by the institution within 21 days of the date of the request for additional information. Any institution submitting a timely request for review will receive written notice from the Corporation regarding the outcome of its request. Upon completion of a review, the Director of the Division of Insurance and Research (or designee) or the Director of the Division of Supervision and Consumer Protection (or designee) or any successor divisions, as appropriate, shall promptly notify the institution in writing of his or her determination of whether a change is warranted. If the institution requesting review disagrees with that determination, it may appeal to the FDIC's Assessment Appeals Committee. Notice of the procedures applicable to appeals will be included with the written determination.

4. Amend § 327.4 of Subpart A by revising paragraph (f) to read as follows:

* * * * *

(f) *Effective date for changes to risk assignment.* Changes to an insured institution's risk assignment resulting from a supervisory ratings change become effective as of the date of written notification to the institution by its primary federal regulator or state authority of its supervisory rating (even when the CAMELS component ratings have not been disclosed to the institution), if the FDIC, after taking into account other information that could affect the rating, agrees with the rating. If the FDIC does not agree, the FDIC will notify the institution of the FDIC’s supervisory rating; resulting changes to an insured institution's risk assignment become effective as of the date of written notification to the institution by the FDIC.

5. Revise § 327.5 to read as follows:

§ 327.5 Assessment base.

(a) *Assessment base for all insured depository institutions.* Except as provided in subsections (b), (c), and (d) of this section, the assessment base for an insured depository institution shall equal the average consolidated total assets of the insured depository institution during the assessment period minus the average tangible equity of the insured depository institution during the assessment period.

(1) *Average consolidated total assets defined and calculated*. Average consolidated total assets is defined in the schedule of quarterly averages in the Consolidated Reports of Condition and Income, using a daily averaging method. The amounts to be reported as daily averages are the sum of the gross amounts of consolidated total assets for each calendar day during the quarter divided by the number of calendar days in the quarter. For days that an office of the reporting institution (or any of its subsidiaries or branches) is closed (e.g., Saturdays, Sundays, or holidays), the amounts outstanding from the previous business day would be used. An office is considered closed if there are no transactions posted to the general ledger as of that date. For institutions that begin operating during the calendar quarter, the amounts to be reported as daily averages are the sum of the gross amounts of consolidated total assets for each calendar day the institution was operating during the quarter divided by the number of calendar days the institution was operating during the quarter.

(2) *Average tangible equity defined and calculated.* Tangible equity is defined in the schedule of regulatory capital as Tier 1 capital. The definition of Tier 1 capital is to be determined pursuant to the definition the Report of Condition or Thrift Financial

Report (or any successor reports) instructions as of the assessment period for which the assessment is being calculated.

(i) *Calculation of average tangible equity*. Except as provided in paragraph (ii) below, average tangible equity shall be calculated using monthly averaging. Monthly averaging means the average of the three month-end balances within the quarter.

(ii) *Alternate calculation of average tangible equity*. Institutions that reported less than $1 billion in quarter-end total consolidated assets on their March 31, 2011 Reports of Condition or Thrift Financial Reports may report average tangible equity using an end-of-quarter balance or may at any time opt permanently to report average tangible equity using a monthly average balance. An institution that reports average tangible equity using an end-of-quarter balance and reports average daily consolidated assets of $1 billion or more for two consecutive quarters shall permanently report average tangible equity using monthly averaging starting in the next quarter.

(3) *Consolidated subsidiaries*.

(i) *Data for reporting from consolidated subsidiaries.* Insured depository institutions may use data that are up to 93 days old for consolidated subsidiaries when reporting daily average consolidated total assets. Insured depository institutions may use either daily average asset values for the consolidated subsidiary for the current quarter or for the prior quarter (that is, data that are up to 93 days old), but, once chosen, insured depository institutions cannot change the reporting method from quarter to quarter. Similarly, insured depository institutions may use data for the current quarter or data that are up to 93 days old for consolidated subsidiaries when reporting tangible equity values.

Once chosen, however, insured depository institutions cannot change the reporting method from quarter to quarter.

(ii) *Reporting for insured depository institutions with consolidated insured depository subsidiaries.* Insured depository institutions that consolidate other insured depository institutions for financial reporting purposes shall report daily average consolidated total assets and tangible equity without consolidating their insured depository institution subsidiaries into the calculations. Investments in insured depository institution subsidiaries should be included in total assets using the equity method of accounting.

(b) *Assessment base for banker's banks*.

(1) *Bankers bank defined*. A banker's bank for purposes of calculating deposit insurance assessments shall meet the definition of banker's bank set forth in 12 U.S.C. 24.

(2) *Self-certification*. Institutions that meet the requirements of paragraph (b)(1) of this section shall so certify each quarter on the Consolidated Reports of Condition and Income or Thrift Financial Report to that effect.

(3) *Assessment base calculation for banker's banks.* A banker's bank shall pay deposit insurance assessments on its assessment base as calculated in paragraph (a) of this section provided that it conducts 50 percent or more of its business with entities other than its parent holding company or entities other than those controlled either directly or indirectly (under the Bank Holding Company Act or Home Owners' Loan Act) by its parent holding company, the FDIC will exclude from that assessment base the daily average reserve balances passed through to the Federal Reserve, the daily average reserve

balances held at the Federal Reserve for its own account, and the daily average amount of its federal funds sold, but in no case shall the amount excluded exceed the sum of the bank's daily average amount of total deposits of commercial banks and other depository institutions in the United States and the daily average amount of its federal funds purchased.

(c) *Assessment base for custodial banks.*

(1) *Custodial bank defined*. A custodial bank for purposes of calculating deposit insurance assessments shall be an insured depository institution with previous calendar-year custody and safekeeping assets of at least $50 billion or an insured depository institution that derived more than 50 percent of its total revenue from custody and safekeeping activities over the previous calendar year.

(2) *Assessment base calculation for custodial banks.* A custodial bank shall pay deposit insurance assessments on its assessment base as calculated in paragraph (a) of this section, but the FDIC will exclude from that assessment base the daily average amount of highly liquid, short-term assets (i.e., assets with a Basel risk weighting of 20 percent or less and a stated maturity date of 30 days or less), subject to the limitation that the daily average value of these assets cannot exceed the daily average value of the deposits identified by the institution as being held in a custody and safekeeping account.

(d) *Assessment base for insured branches of foreign banks.* Average consolidated total assets for an insured branch of a foreign bank is defined as total assets of the branch (including net due from related depository institutions) in accordance with the schedule of assets and liabilities in the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks as of the assessment period for which the assessment is being calculated, but measured using the definition for reporting total assets in the schedule of quarterly averages in the Consolidated Reports of Condition and Income, and calculated using a daily averaging method. Tangible equity for an insured branch of a foreign bank is eligible assets (determined in accordance with § 347.210 of the FDIC's regulations) less the book value of liabilities (exclusive of liabilities due to the foreign bank's head office, other branches, agencies, offices, or wholly owned subsidiaries) calculated on a monthly or end-of-quarter basis.

(e) *Newly insured institutions.* A newly insured institution shall pay an assessment for the assessment period during which it became insured. The FDIC will prorate the newly insured institution's assessment amount to reflect the number of days it was insured during the period.

6. Amend § 327.6 of Subpart A by revising paragraphs (a) and (b) to read as follows:

§ 327.6 Mergers and consolidations; other terminations of insurance.

(a) *Final quarterly certified invoice for acquired institution*. An institution that is not the resulting or surviving institution in a merger or consolidation must file a report of condition for every assessment period prior to the assessment period in which the merger or consolidation occurs. The surviving or resulting institution shall be responsible for ensuring that these reports of condition are filed and shall be liable for any unpaid assessments on the part of the institution that is not the resulting or surviving institution.

(b) *Assessment for quarter in which the merger or consolidation occurs*. For an assessment period in which a merger or consolidation occurs, total consolidated assets for the surviving or resulting institution shall include the total consolidated assets of all insured depository institutions that are parties to the merger or consolidation as if the merger or consolidation occurred on the first day of the quarter. Tier 1 capital shall be reported in the same manner.

(c) *Other termination.* When the insured status of an institution is terminated, and the deposit liabilities of such institution are not assumed by another insured depository institution--

(1) *Payment of assessments; quarterly certified statement invoices.* The depository institution whose insured status is terminating shall continue to file and certify its quarterly certified statement invoice and pay assessments for the assessment period its deposits are insured. Such institution shall not be required to certify its quarterly certified statement invoice and pay further assessments after it has paid in full its deposit liabilities and the assessment to the Corporation required to be paid for the assessment period in which its deposit liabilities are paid in full, and after it, under applicable law, goes out of business or transfers all or substantially all of its assets and liabilities to other institutions or otherwise ceases to be obliged to pay subsequent assessments.

(2) *Payment of deposits; certification to Corporation.* When the deposit liabilities of the depository institution have been paid in full, the depository institution shall certify to the Corporation that the deposit liabilities have been paid in full and give the date of the final payment. When the depository institution has unclaimed deposits, the certification shall further state the amount of the unclaimed deposits and the disposition made of the

funds to be held to meet the claims. For assessment purposes, the following will be considered as payment of the unclaimed deposits:

(i) The transfer of cash funds in an amount sufficient to pay the unclaimed and unpaid deposits to the public official authorized by law to receive the same; or

(ii) If no law provides for the transfer of funds to a public official, the transfer of cash funds or compensatory assets to an insured depository institution in an amount sufficient to pay the unclaimed and unpaid deposits in consideration for the assumption of the deposit obligations by the insured depository institution.

(3) *Notice to depositors.* (i) The depository institution whose insured status is terminating shall give sufficient advance notice of the intended transfer to the owners of the unclaimed deposits to enable the depositors to obtain their deposits prior to the transfer. The notice shall be mailed to each depositor and shall be published in a local newspaper of general circulation. The notice shall advise the depositors of the liquidation of the depository institution, request them to call for and accept payment of their deposits, and state the disposition to be made of their deposits if they fail to promptly claim the deposits.

(ii) If the unclaimed and unpaid deposits are disposed of as provided in paragraph (c)(2)(i) of this section, a certified copy of the public official's receipt issued for the funds shall be furnished to the Corporation.

(iii) If the unclaimed and unpaid deposits are disposed of as provided in paragraph (c)(2)(ii) of this section, an affidavit of the publication and of the mailing of the notice to the depositors, together with a copy of the notice and a certified copy of the contract of assumption, shall be furnished to the Corporation.

(4) *Notice to Corporation.* The depository institution whose insured status is terminating shall advise the Corporation of the date on which it goes out of business or transfers all or substantially all of its assets and liabilities to other institutions or otherwise ceases to be obligated to pay subsequent assessments and the method whereby the termination has been effected.

(d) *Resumption of insured status before insurance of deposits ceases.* If a depository institution whose insured status has been terminated is permitted by the Corporation to continue or resume its status as an insured depository institution before the insurance of its deposits has ceased, the institution will be deemed, for assessment purposes, to continue as an insured depository institution and must thereafter file and certify its quarterly certified statement invoices and pay assessments as though its insured status had not been terminated. The procedure for applying for the continuance or resumption of insured status is set forth in § 303.248 of this chapter.

* * * * *

7. Amend § 327.8 of Subpart A by removing paragraphs (e) and (f), and redesignating paragraphs (g) through (s) as paragraphs (e) through (q), as appropriate. Amend redesignated paragraphs (e), (f), (g), (k), (l), (m), (n), (o), and (p) as follows, and add new paragraphs (r), (s), (t), and (u) to read as follows:

§ 327.8 Definitions.

* * * * *

(e) *Small Institution.* An insured depository institution with assets of less than $10 billion as of December 31, 2006, and an insured branch of a foreign institution shall be classified as a small institution. If, after December 31, 2006, an institution classified as large under paragraph (f) of this section (other than an institution classified as large for purposes of § 327.9(d)(9)) reports assets of less than $10 billion in its quarterly reports of condition for four consecutive quarters, the FDIC will reclassify the institution as small beginning the following quarter.

(f) *Large Institution.* An institution classified as large for purposes of § 327.9(d)(9) or an insured depository institution with assets of $10 billion or more as of December 31, 2006 (other than an insured branch of a foreign bank or a highly complex institution) shall be classified as a large institution. If, after December 31, 2006, an institution classified as small under paragraph (e) of this section reports assets of $10 billion or more in its quarterly reports of condition for four consecutive quarters, the FDIC will reclassify the institution as large beginning the following quarter.

(g) *Highly Complex Institution.* A highly complex institution is an insured depository institution (excluding a credit card bank) with greater than $50 billion in total assets for at least four consecutive quarters that is controlled by a parent company with more than $500 billion in total assets for four consecutive quarters, or controlled by one or more intermediate parent companies that are controlled by a holding company with more than $500 billion in assets for four consecutive quarters, or a processing bank or trust company that has had $10 billion or more in total assets for at least four consecutive quarters. If, after December 31, 2010, an institution classified as highly complex falls below $50 billion in total assets in its quarterly reports of condition for four consecutive quarters, or its parent company or companies fall below $500 billion in total assets for four consecutive quarters, or a processing bank or trust company falls below $10 billion in total assets in its quarterly reports of condition for four consecutive quarters, the FDIC will reclassify the institution beginning the following quarter.

* * * * *

(k) *Established depository institution.* An established insured depository institution is a bank or savings association that has been federally insured for at least five years as of the last day of any quarter for which it is being assessed.

(1) *Merger or consolidation involving new and established institution(s).* Subject to paragraphs (k)(2), (3), (4), and (5) of this section and § 327.9(d)(10)(iii), (iv), when an established institution merges into or consolidates with a new institution, the resulting institution is a new institution unless:

(i) The assets of the established institution, as reported in its report of condition for the quarter ending immediately before the merger, exceeded the assets of the new institution, as reported in its report of condition for the quarter ending immediately before the merger; and

(ii) Substantially all of the management of the established institution continued as management of the resulting or surviving institution.

(2) *Consolidation involving established institutions.* When established institutions consolidate, the resulting institution is an established institution.

(3) *Grandfather exception.* If a new institution merges into an established institution, and the merger agreement was entered into on or before July 11, 2006, the resulting institution shall be deemed to be an established institution for purposes of this part.

(4) *Subsidiary exception.* Subject to paragraph (k)(5) of this section, a new institution will be considered established if it is a wholly owned subsidiary of:

(i) A company that is a bank holding company under the Bank Holding Company Act of 1956 or a savings and loan holding company under the Home Owners' Loan Act, and:

(A) At least one eligible depository institution (as defined in 12 CFR 303.2(r)) that is owned by the holding company has been chartered as a bank or savings association for at least five years as of the date that the otherwise new institution was established; and

(B) The holding company has a composite rating of at least "2" for bank holding companies or an above average or "A" rating for savings and loan holding companies and at least 75 percent of its insured depository institution assets are assets of eligible depository institutions, as defined in 12 CFR 303.2(r); or

(ii) An eligible depository institution, as defined in 12 CFR 303.2(r), that has been chartered as a bank or savings association for at least five years as of the date that the otherwise new institution was established.

(5) *Effect of credit union conversion.* In determining whether an insured depository

institution is new or established, the FDIC will include any period of time that the institution was a federally insured credit union.

(*l*) *Risk assignment.* For all small institutions and insured branches of foreign banks, risk assignment includes assignment to Risk Category I, II, III, or IV, and, within Risk Category I, assignment to an assessment rate or rates. For all large institutions and highly complex institutions, risk assignment includes assignment to an assessment rate or rates.

(m) *Unsecured debt* - For purposes of the unsecured debt adjustment as set forth in § 327.9(d)(6) and the depository institution debt adjustment as set forth in § 327.9(d)(7), unsecured debt shall include senior unsecured liabilities and subordinated debt.

(n) *Senior unsecured liability* – For purposes of the unsecured debt adjustment as set forth in § 327.9(d)(6) and the depository institution debt adjustment as set forth in § 327.9(d)(7), senior unsecured liabilities shall be the unsecured portion of other borrowed money as defined in the quarterly report of condition for the reporting period as defined in paragraph (b) of this section, but shall not include any senior unsecured debt that the FDIC has guaranteed under the Temporary Liquidity Guarantee Program, 12 CFR Part 370.

(o) *Subordinated debt* – For purposes of the unsecured debt adjustment as set forth in § 327.9(d)(6) and the depository institution debt adjustment as set forth in § 327.9(d)(7), subordinated debt shall be as defined in the quarterly report of condition for the reporting period; however, subordinated debt shall also include limited-life preferred stock as defined in the quarterly report of condition for the reporting period.

(p) *Long-term unsecured debt* – For purposes of the unsecured debt adjustment as set forth in § 327.9(d)(6) and the depository institution debt adjustment as set forth in § 327.9(d)(7), long-term unsecured debt shall be unsecured debt with at least one year remaining until maturity.

* * * * *

(r) *Parent holding company* – A parent holding company is a bank holding company under the Bank Holding Company Act of 1956 or a savings and loan holding company under the Home Owners' Loan Act.

(s) *Processing bank or trust company* – A processing bank or trust company is an institution whose non-lending interest income, fiduciary revenues, and investment banking fees, combined, exceed 50 percent of total revenues (and its fiduciary revenues are non-zero), and has had $10 billion or more in total assets for at least four consecutive quarters.

(t) *Credit Card Bank* – A credit card bank is a bank for which credit card plus securitized receivables exceed 50 percent of assets plus securitized receivables.

(u) *Control* – Control has the same meaning as in section 2 of the Bank Holding Company Act of 1956, 12 U.S.C. 1841(a)(2).

8. Amend § 327.9 of Subpart A to read as follows:

§ 327.9 Assessment risk categories and pricing methods.

(a) *Risk Categories.*--Each small insured depository institution and each insured branch of a foreign bank shall be assigned to one of the following four Risk Categories based upon the institution's capital evaluation and supervisory evaluation as defined in this section.

(1) *Risk Category I.* Small institutions in Supervisory Group A that are Well Capitalized;

(2) *Risk Category II.* Small institutions in Supervisory Group A that are Adequately Capitalized, and institutions in Supervisory Group B that are either Well Capitalized or Adequately Capitalized;

(3) *Risk Category III.* Small institutions in Supervisory Groups A and B that are Undercapitalized, and institutions in Supervisory Group C that are Well Capitalized or Adequately Capitalized; and

(4) *Risk Category IV.* Small institutions in Supervisory Group C that are Undercapitalized.

(b) *Capital evaluations.* Each small institution and each insured branch of a foreign bank will receive one of the following three capital evaluations on the basis of data reported in the institution's Consolidated Reports of Condition and Income, Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks, or Thrift Financial Report dated as of March 31 for the assessment period beginning the preceding January 1; dated as of June 30 for the assessment period beginning the preceding April 1; dated as of September 30 for the assessment period beginning the preceding July 1; and dated as of December 31 for the assessment period beginning the preceding October 1.

(1) *Well Capitalized.* (i) Except as provided in paragraph (b)(1)(ii) of this section, a Well Capitalized institution is one that satisfies each of the following capital ratio

standards: Total risk-based ratio, 10.0 percent or greater; Tier 1 risk-based ratio, 6.0 percent or greater; and Tier 1 leverage ratio, 5.0 percent or greater.

(ii) For purposes of this section, an insured branch of a foreign bank will be deemed to be Well Capitalized if the insured branch:

(A) Maintains the pledge of assets required under § 347.209 of this chapter; and

(B) Maintains the eligible assets prescribed under § 347.210 of this chapter at 108 percent or more of the average book value of the insured branch's third-party liabilities for the quarter ending on the report date specified in paragraph (b) of this section.

(2) *Adequately Capitalized.* (i) Except as provided in paragraph (b)(2)(ii) of this section, an Adequately Capitalized institution is one that does not satisfy the standards of Well Capitalized under this paragraph but satisfies each of the following capital ratio standards: Total risk-based ratio, 8.0 percent or greater; Tier 1 risk-based ratio, 4.0 percent or greater; and Tier 1 leverage ratio, 4.0 percent or greater.

(ii) For purposes of this section, an insured branch of a foreign bank will be deemed to be Adequately Capitalized if the insured branch:

(A) Maintains the pledge of assets required under § 347.209 of this chapter; and

(B) Maintains the eligible assets prescribed under § 347.210 of this chapter at 106 percent or more of the average book value of the insured branch's third-party liabilities for the quarter ending on the report date specified in paragraph (b) of this section; and

(C) Does not meet the definition of a Well Capitalized insured branch of a foreign bank.

(3) *Undercapitalized.* An undercapitalized institution is one that does not qualify as either Well Capitalized or Adequately Capitalized under paragraphs (b)(1) and (b)(2) of

this section.

(c) *Supervisory evaluations.* Each small institution and each insured branch of a foreign bank will be assigned to one of three Supervisory Groups based on the Corporation's consideration of supervisory evaluations provided by the institution's primary federal regulator. The supervisory evaluations include the results of examination findings by the primary federal regulator, as well as other information that the primary federal regulator determines to be relevant. In addition, the Corporation will take into consideration such other information (such as state examination findings, as appropriate) as it determines to be relevant to the institution's financial condition and the risk posed to the Deposit Insurance Fund. The three Supervisory Groups are:

(1) *Supervisory Group "A."* This Supervisory Group consists of financially sound institutions with only a few minor weaknesses;

(2) *Supervisory Group "B."* This Supervisory Group consists of institutions that demonstrate weaknesses which, if not corrected, could result in significant deterioration of the institution and increased risk of loss to the Deposit Insurance Fund; and

(3) *Supervisory Group "C."* This Supervisory Group consists of institutions that pose a substantial probability of loss to the Deposit Insurance Fund unless effective corrective action is taken.

(d) *Determining Assessment Rates for Insured Depository Institutions.* A small insured depository institution in Risk Category I shall have its initial base assessment rate determined using the financial ratios method set forth in paragraph (d)(1) of this section. An insured branch of a foreign bank in Risk Category I shall have its assessment rate determined using the weighted average ROCA component rating method set forth in paragraph (d)(2) of this section. A large insured depository institution shall have its initial base assessment rate determined using the large institution method set forth in paragraph (d)(3) of this section. A highly complex insured depository institution shall have its initial base assessment rate determined using the highly complex institution method set forth at paragraph (d)(4) of this section.

(1) *Financial ratios method.* (i) Under the financial ratios method for small Risk Category I institutions, each of six financial ratios and a weighted average of CAMELS component ratings will be multiplied by a corresponding pricing multiplier. The sum of these products will be added to a uniform amount. The resulting sum shall equal the institution's initial base assessment rate; provided, however, that no institution's initial base assessment rate shall be less than the minimum initial base assessment rate in effect for Risk Category I institutions for that quarter nor greater than the maximum initial base assessment rate in effect for Risk Category I institutions for that quarter. An institution's initial base assessment rate, subject to adjustment pursuant to paragraphs (d)(6), (7), and (8) of this section, as appropriate (resulting in the institution's total base assessment rate, which in no case can be lower than 50 percent of the institution's initial base assessment rate), and adjusted for the actual assessment rates set by the Board under § 327.10(f), will equal an institution's assessment rate. The six financial ratios are: Tier 1 Leverage Ratio; Loans past due 30--89 days/gross assets; Nonperforming assets/gross assets; Net loan charge-offs/gross assets; Net income before taxes/risk-weighted assets; and the Adjusted brokered deposit ratio. The ratios are defined in Table A.1 of Appendix A to this subpart. The ratios will be determined for an assessment period based upon information contained in an institution's report of condition filed as of the last day of the assessment period as

set out in § 327.9(b). The weighted average of CAMELS component ratings is created by multiplying each component by the following percentages and adding the products: Capital adequacy--25%, Asset quality--20%, Management--25%, Earnings--10%, Liquidity--10%, and Sensitivity to market risk--10%. The following table sets forth the initial values of the pricing multipliers:

Risk Measures*	Pricing Multipliers**
Tier 1 Leverage Ratio	(0.056)
Loans Past Due 30 – 89 Days/Gross Assets	0.575
Nonperforming Assets/Gross Assets	1.074
Net Loan Charge-Offs/Gross Assets	1.210
Net Income before Taxes/Risk-Weighted Assets	(0.764)
Adjusted brokered deposit ratio	0.065
Weighted Average CAMELS Component Rating	1.095

* Ratios are expressed as percentages.
** Multipliers are rounded to three decimal places.

(ii) The six financial ratios and the weighted average CAMELS component rating will be multiplied by the respective pricing multiplier, and the products will be summed. To this result will be added the uniform amount. The resulting sum shall equal the institution's initial base assessment rate; provided, however, that no institution's initial base assessment rate shall be less than the minimum initial base assessment rate in effect for Risk Category I institutions for that quarter nor greater than the maximum initial base assessment rate in effect for Risk Category I institutions for that quarter.

(iii) *Uniform amount and pricing multipliers.* Except as adjusted for the actual assessment rates set by the Board under §327.10(f), the uniform amount shall be:

(A) 4.861 whenever the assessment rate schedule set forth in § 327.10(a) is in effect;

(B) 2.861 whenever the assessment rate schedule set forth in § 327.10(b) is in effect;

(C) 1.861 whenever the assessment rate schedule set forth in § 327.10(c) is in effect; or

(D) 0.861 whenever the assessment rate schedule set forth in § 327.10(d) is in effect.

(iv) *Implementation of CAMELS rating changes*--(A) *Changes between risk categories.* If, during a quarter, a CAMELS composite rating change occurs that results in an institution whose Risk Category I assessment rate is determined using the financial ratios method moving from Risk Category I to Risk Category II, III or IV, the institution's initial base assessment rate for the portion of the quarter that it was in Risk Category I shall be determined using the supervisory ratings in effect before the change and the financial ratios as of the end of the quarter, subject to adjustment pursuant to paragraphs (d)(6), (7), and (8) of this section, as appropriate, and adjusted for the actual assessment rates set by the Board under §327.10(f). For the portion of the quarter that the institution was not in Risk Category I, the institution's initial base assessment rate, which shall be subject to adjustment pursuant to paragraphs (d)(6), (7), and (8), shall be determined under the assessment schedule for the appropriate Risk Category. If, during a quarter, a CAMELS composite rating change occurs that results in an institution moving from Risk Category II, III or IV to Risk Category I, and its initial base assessment rate will be determined using the financial ratios method, then that method shall apply for the portion of the quarter that it was in Risk Category I, subject to adjustment pursuant to paragraphs (d)(6), (7) and (8) of this section, as appropriate, and adjusted for the actual assessment rates set by the Board under § 327.10(f). For the portion of the quarter that the institution was not in Risk Category I, the institution's initial base assessment rate, which shall be subject to adjustment pursuant to paragraphs (d)(6), (7), and (8) of this section shall be determined under the assessment schedule for the appropriate Risk Category.

(B) Changes within Risk Category I. If, during a quarter, an institution's CAMELS component ratings change in a way that will change the institution's initial base assessment rate within Risk Category I, the initial base assessment rate for the period before the change shall be determined under the financial ratios method using the CAMELS component ratings in effect before the change, subject to adjustment pursuant to paragraphs (d)(6), (7), and (8) of this section, as appropriate. Beginning on the date of the CAMELS component ratings change, the initial base assessment rate for the remainder of the quarter shall be determined using the CAMELS component ratings in effect after the change, again subject to adjustment pursuant to paragraphs (d)(6), (7), and (8) of this section, as appropriate.

(2) *Assessment rate for insured branches of foreign banks*--(i) *Insured branches of foreign banks in Risk Category I.* Insured branches of foreign banks in Risk Category I shall be assessed using the weighted average ROCA component rating.

(ii) *Weighted average ROCA component rating.* The weighted average ROCA component rating shall equal the sum of the products that result from multiplying ROCA component ratings by the following percentages: Risk Management--35%, Operational Controls--25%, Compliance--25%, and Asset Quality--15%. The weighted average ROCA rating will be multiplied by 5.076 (which shall be the pricing multiplier). To this result will be added a uniform amount. The resulting sum - the initial base assessment rate - will equal an institution's total base assessment rate; provided, however, that no institution's total base assessment rate will be less than the minimum total base assessment rate in effect for Risk Category I institutions for that quarter nor greater than the maximum total base assessment rate in effect for Risk Category I institutions for that quarter.

(iii) *Uniform amount.* Except as adjusted for the actual assessment rates set by the Board under §327.10(f), the uniform amount for all insured branches of foreign banks shall be:

(A) -3.127 whenever the assessment rate schedule set forth in § 327.10(a) is in effect;

(B) -5.127 whenever the assessment rate schedule set forth in § 327.10(b) is in effect;

(C) -6.127 whenever the assessment rate schedule set forth in § 327.10(c) is in effect; or

(D) -7.127 whenever the assessment rate schedule set forth in § 327.10(d) is in effect.

(iv) No insured branch of a foreign bank in any risk category shall be subject to the adjustments in paragraphs (d)(5), (d)(6), or (d)(8) of this section.

(v) *Implementation of changes between Risk Categories for insured branches of foreign banks.* If, during a quarter, a ROCA rating change occurs that results in an insured branch of a foreign bank moving from Risk Category I to Risk Category II, III or IV, the institution's initial base assessment rate for the portion of the quarter that it was in Risk Category I shall be determined using the weighted average ROCA component rating. For the portion of the quarter that the institution was not in Risk Category I, the institution's initial base assessment rate shall be determined under the assessment schedule for the appropriate Risk Category. If, during a quarter, a ROCA rating change occurs that results in an insured branch of a foreign bank moving from Risk Category II, III or IV to Risk Category I, the institution's assessment rate for the portion of the quarter that it was in Risk Category I shall equal the rate determined as provided using the weighted average ROCA component rating. For the portion of the quarter that the institution was not in Risk Category I, the institution's initial base assessment rate shall be determined under the assessment schedule for the appropriate Risk Category.

(vi) *Implementation of changes within Risk Category I for insured branches of foreign banks.* If, during a quarter, an insured branch of a foreign bank remains in Risk Category I, but a ROCA component rating changes that will affect the institution's initial base assessment rate, separate assessment rates for the portion(s) of the quarter before and after the change(s) shall be determined under this paragraph (d)(2) of this section.

(3) *Assessment scorecard for large institutions (other than highly complex institutions).* (i) All large institutions other than highly complex institutions shall have their quarterly assessments determined using the scorecard for large institutions.

Scorecard for Large Institutions

	Scorecard Measures	Weights within Component	Component Weights
P	Performance Score		
P.1	*Weighted Average CAMELS Rating*	*100%*	*30%*
P.2	*Ability to Withstand Asset-Related Stress:*		*50%*
	Tier 1 Leverage Ratio	10%	
	Concentration Measure	35%	
	Core Earnings/Average Quarter-End Total Assets	20%	
	Credit Quality Measure	35%	
P.3	*Ability to Withstand Funding-Related Stress*		*20%*
	Core Deposits/Total Liabilities	60%	
	Balance Sheet Liquidity Ratio	40%	
L	Loss Severity Score		
L.1	*Loss Severity*		*100%*
	Potential Losses/Total Domestic Deposits (loss severity measure)	75%	
	Noncore Funding/Total Liabilities	25%	

(ii) The large institution scorecard produces two scores: performance and loss severity.

(A) *Performance score.* The performance score for large institutions is the weighted average of three inputs: weighted average CAMELS rating (30%); ability to withstand asset-related stress measures (50%); and ability to withstand funding-related stress measures (20%).

(A) Weighted Average CAMELS score(1). To derive the weighted average CAMELS score, a weighted average of an institution's CAMELS component ratings is calculated using the following weights:

CAMELS Component	Weight
C	25%
A	20%
M	25%
E	10%
L	10%
S	10%

(2) A weighted average CAMELS rating is converted to a score that ranges from 25 to 100. A weighted average rating of 1 equals a score of 25 and a weighted average of 3.5 or greater equals a score of 100. Weighted average CAMELS ratings between 1 and 3.5 are assigned a score between 25 and 100 according to the following equation:

$$S = 25 + [(20/3) * (C^2 - 1)],$$

where:

S = the weighted average CAMELS score and

C = the weighted average CAMELS rating.

(B) *Ability to Withstand Asset-Related Stress.* *(1)* The ability to withstand asset-related stress component contains four measures: Tier 1 leverage ratio; Concentration measure (the higher of the higher-risk assets to Tier 1 capital and reserves or growth-adjusted portfolio concentrations measures); Core earnings to average quarter-end total assets; and Credit quality measure (the higher of the criticized and classified assets to Tier 1 capital and reserves or underperforming assets to Tier 1 capital and reserves). Appendices A and C define these measures in detail and give the source of the data used to determine them.

The concentration measure score is the higher of the scores of the two measures that make up the concentration measure score (higher-risk assets to Tier 1 capital and reserves measure or growth-adjusted portfolio concentrations measure). The credit quality measure score is the higher of the criticized and classified items ratio score or the underperforming assets ratio score. Each asset related stress measure is assigned the following cutoff values and weights to derive a score for an institution's ability to withstand asset-related stress:

Cutoff Values and Weights for Ability to Withstand Asset-Related Stress Measures

Scorecard Measures	Cutoff Values		Weight
	Minimum	Maximum	
Tier 1 Leverage Ratio	6	13	10%
Concentration Measure:			35%
Higher-Risk Assets to Tier 1 capital and Reserves; or	0	135	
Growth-Adjusted Portfolio Concentrations	3	57	
Core Earnings/Average Quarter-End Total Assets	0	2	20%
Credit Quality Measure:			35%
Criticized and Classified Items/Tier 1 capital and Reserves; or	8	100	
Underperforming Assets/ Tier 1 capital and Reserves	2	37	

(2) For each of the risk measures within the ability to withstand asset-related stress portion of the scorecard, a value reflecting lower risk than the cutoff value that results in a score of 0 will also receive a score of 0, where 0 equals the lowest risk for that measure. A value reflecting higher risk than the cutoff value that results in a score of 100 will also receive a score of 100, where 100 equals the highest risk for that measure. A risk measure value between the minimum and maximum cutoff values is converted linearly to a score between 0 and 100 as shown in Appendix B.

Each score is multiplied by a respective weight and the resulting weighted score for each measure is summed to arrive at an ability to withstand asset-related stress score, which ranges from 0 to 100.

(C) *Ability to Withstand Funding-Related Stress.* The ability to withstand funding-related stress component contains two risk measures: a core deposits to liabilities ratio, and a balance sheet liquidity ratio. Appendix A describes these ratios in detail and gives the source of the data used to determine them. Appendix B describes in detail how each of these measures is converted to a score. The ability to withstand funding-related stress component score is the weighted average of the two measure scores. Each measure is assigned the following cutoff values and weights to derive a score for an institution's ability to withstand funding-related stress:

Cutoff Values and Weights for Ability to Withstand Funding-Related Stress Measures

Scorecard Measures	Cutoff Values		Weight
	Minimum	Maximum	
Core Deposits/Total Liabilities	3	79	60%
Balance Sheet Liquidity Ratio	7	188	40%

(D) *Calculation of Performance Score.* The weighted average CAMELS score, the ability to withstand asset-related stress score, and the ability to withstand funding-related stress score are multiplied by their weights and the results are summed to arrive at the performance score. The performance score cannot exceed 100.

(ii) *Loss severity score.* The loss severity score is based on two measures: the loss severity measure and noncore funding to total liabilities ratio. Appendices A and D describe these measures in detail and Appendix B describes how each of these measures is converted to a score between 0 and 100. The loss severity score is the weighted average of these two scores. Each measure is assigned the following cutoff values and weights to derive a score for an institution's loss severity score:

Cutoff Values and Weights for Loss Severity Score Measures

Scorecard Measures	Cutoff Values		Weight
	Minimum	Maximum	
Potential Losses/Total Domestic Deposits (loss severity measure)	0	29	75%
Noncore Funding/Total Liabilities	21	97	25%

(iii) *Total Score*. The performance and loss severity scores are combined to produce a total score. The loss severity score is converted into a loss severity factor that ranges from 0.8 (score of 5 or lower) to 1.2 (score of 85 or higher). Scores that fall at or below the minimum cutoff of 5 receive a loss severity measure of 0.8 and scores that fall at or above the maximum cutoff of 85 receive a loss severity score of 1.2. The following linear interpolation converts loss severity scores between the cutoffs into a loss severity factor: ($\textit{Loss Severity Factor} = 0.8 + [0.005 * (\textit{Loss Severity Score} - 5)]$. The performance score is multiplied by the loss severity factor to produce a total score (total score =

performance score * loss severity factor). The total score cannot be less than 30 or more than 90. The total score is subject to adjustment, up or down, by a maximum of 15 points, as set forth in section (d)(5). The resulting total score cannot be less than 30 or more than 90.

(iv) *Initial base assessment rate.* A large institution with a total score of 30 pays the minimum initial base assessment rate and an institution with a total score of 90 pays the maximum initial base assessment rate. For total scores between 30 and 90, initial base assessment rates rise at an increasing rate as the total score increases, calculated according to the following formula:

$$Rate = Minimum\ Rate + \left[\left(\left(1.4245 \times \left(\frac{Score}{100}\right)^3\right) - 0.0385\right) \times \left(Maximum\ Rate - Minimum\ Rate\right)\right]$$

where Rate is the initial base assessment rate (expressed in basis points), Maximum Rate is the maximum initial base assessment rate then in effect (expressed in basis points), and Minimum Rate is the minimum initial base assessment rate then in effect (expressed in basis points). Initial base assessment rates are subject to adjustment pursuant to paragraphs (d)(5), (d)(6), (d)(7), and (d)(8) of this section, resulting in the institution's total base assessment rate, which in no case can be lower than 50 percent of the institution's initial base assessment rate.

(4) *Assessment scorecard for highly complex institutions* – (i) All highly complex institutions shall have their quarterly assessments determined using the scorecard for highly complex institutions.

Scorecard for Highly Complex Institutions

	Scorecard Measures	Weights within Component	Component Weights
P	Performance Score		
P.1	*Weighted Average CAMELS Rating*	*100%*	*30%*
P.2	*Ability to Withstand Asset-Related Stress:*		*50%*
	Tier 1 Leverage Ratio	10%	
	Concentration Measure	35%	
	Core Earnings/Average Quarter-End Total Assets	20%	
	Credit Quality Measure and Market Risk Measure	35%	
P.3	*Ability to Withstand Funding-Related Stress*		*20%*
	Core Deposits/Total Liabilities	50%	
	Balance Sheet Liquidity Ratio	30%	
	Average Short-Term Funding/Average Total Assets	20%	
L	Loss Severity Score		
L.1	*Loss Severity*		*100%*
	Potential Losses/Total Domestic Deposits (loss severity measure)	75%	
	Noncore Funding/Total Liabilities	25%	

(ii) The scorecard for highly complex institutions contains the performance components and the loss severity components of the large bank scorecard and employs the same methodology. The assessment process set forth in paragraph (d)(3) of this section for the large bank scorecard applies to highly complex institutions, modified as follows. The scorecard for highly-complex institutions contains two additional measures: (1) a concentration measure based on three risk measures—higher-risk assets, top 20 counterparty exposure, and the largest counterparty exposure, all divided by Tier 1 capital and reserves, and (2) a credit quality measure and market risk measure in the ability to withstand asset-related stress; and an additional component—average short-term funding to average total assets ratio—in the ability to withstand funding-related stress.

(A) *Performance score for highly complex institutions.* A performance score for highly complex institutions is the weighted average of three inputs: weighted average CAMELS rating (30%); ability to withstand asset-related stress score (50%); and ability to withstand funding-related stress score (20%). To calculate the performance score for highly complex institutions, the weighted average CAMELS score, the ability to withstand asset-related stress score, and the ability to withstand funding-related stress score are multiplied by their weights and the results are summed to arrive at the performance score. The resulting score cannot exceed 100.

(B) *Ability to withstand asset-related stress.* *(1)* The scorecard for highly complex institutions substitutes the growth-adjusted concentration measure with the top 20 counterparty exposure and the largest counterparty exposure, adds one additional factor to the ability to withstand asset-related stress component—the market risk measure—and one additional factor to the ability to withstand funding-related stress component—the average short-term funding to average total assets ratio. The cutoff values and weights for ability to withstand asset-related stress measures are set forth below.

Cutoff Values and Weights for Ability to Withstand Asset-Related Stress Measures

Scorecard Measures	Cutoff Values		Sub-Component Weight	Weight
	Minimum	Maximum		
Tier 1 Leverage Ratio	6	13		10%
Concentration Measure:				35%
Higher Risk Assets/Tier 1 Capital and Reserves;	0	135		
Top 20 Counterparty Exposure/Tier 1 Capital and Reserves; or	0	125		
Largest Counterparty Exposure/Tier 1 Capital and Reserves	0	20		
Core Earnings/Average Quarter-End Total Assets	0	2		20%
Credit Quality Measure*:				35% * (1-Trading Asset Ratio)
Criticized and Classified Items to Tier 1 Capital and Reserves; or	8	100		
Underperforming Assets/Tier 1 Capital and Reserves	2	37		
Market Risk Measure*:				35% * Trading Asset Ratio
Trading Revenue Volatility/Tier 1 Capital	0	2	60%	
Market Risk Capital/Tier 1 Capital	0	10	20%	
Level 3 Trading Assets/Tier 1 Capital	0	35	20%	

* Combined, the credit quality measure and the market risk measure will be assigned a 35 percent weight. The relative weight between the two measures will depend on the ratio of average trading assets to sum of average securities, loans and trading assets (trading asset ratio).

(2) Appendix A describes these measures in detail and gives the source of the data used to calculate the measures.

(C) *Ability to withstand funding related stress. (1)* The scorecard for highly complex institutions adds one additional factor to the ability to withstand funding-related stress component—the average short-term funding to average total assets ratio. The cutoff values and weights for ability to withstand funding-related stress measures for highly complex institutions are set forth below.

Cutoff Values and Weights for Ability to Withstand Funding-Related Stress Measures

Scorecard Measures	Cutoff Values		Weight
	Minimum	Maximum	
Core Deposits/Total Liabilities	3	79	50%
Balance Sheet Liquidity Ratio	7	188	30%
Average Short-term Funding/Average Total Assets	0	20	20%

(2) Appendix A describes these measures in detail and gives the source of the data used to calculate the measures.

(iv) *Loss severity score for highly complex institutions.* The loss severity score for highly complex institutions is calculated as provided for the loss severity score for large institutions in paragraph (d)(3)(ii) (of this section).

(vi) The performance score and the loss severity score are combined in the same manner to calculate the total score as for large institutions as set forth in paragraph (d)(3) of this section.

(vi) The initial base assessment rate for highly complex institutions is calculated from the total score in the same manner as for large institutions as set forth in paragraph (d)(3) of this section. Initial base assessment rates are subject to adjustment pursuant to paragraphs (d)(5), (d)(6), (d)(7), and (d)(8) of this section, resulting in the institution's total base assessment rate, which in no case can be lower than 50 percent of the institution's initial base assessment rate.

(5) *Adjustment to total score for large institutions and highly complex institutions*. The total score for large institutions and highly complex institutions is subject to adjustment, up or down, by a maximum of 15 points, based upon significant risk factors that are not adequately captured in the appropriate scorecard. In making such adjustments, the FDIC may consider such information as financial performance and condition information and other market or supervisory information.

(i) *Prior notice of adjustments*--(A) *Prior notice of upward adjustment.* Prior to making any upward adjustment to an institution's total score because of considerations of additional risk information, the FDIC will formally notify the institution and its primary federal regulator and provide an opportunity to respond. This notification will include the reasons for the adjustment(s) and when the adjustment(s) will take effect.

(B) *Prior notice of downward adjustment.* Prior to making any downward adjustment to an institution's total score because of considerations of additional risk information, the FDIC will formally notify the institution's primary federal regulator and provide an opportunity to respond.

(ii) *Determination whether to adjust upward; effective period of adjustment.* After considering an institution's and the primary federal regulator's responses to the notice, the FDIC will determine whether the adjustment to an institution's total score is warranted, taking into account any revisions to scorecard measures, as well as any actions taken by the institution to address the FDIC's concerns described in the notice. The FDIC will evaluate the need for the adjustment each subsequent assessment period. Except as provided in paragraph (d)(5)(iv) of this section, the amount of adjustment cannot exceed the proposed adjustment amount contained in the initial notice unless additional notice is provided so that the primary federal regulator and the institution may respond.

(iii) *Determination whether to adjust downward; effective period of adjustment.* After considering the primary federal regulator's responses to the notice, the FDIC will determine whether the adjustment to total score is warranted, taking into account any revisions to scorecard measures, as well as any actions taken by the institution to address the FDIC's concerns described in the notice. Any downward adjustment in an institution's total score will remain in effect for subsequent assessment periods until the FDIC determines that an adjustment is no longer warranted. Downward adjustments will be made without notification to the institution. However, the FDIC will provide advance notice to an institution and its primary federal regulator and give them an opportunity to respond before removing a downward adjustment.

(iv) *Adjustment without notice.* Notwithstanding the notice provisions set forth above, the FDIC may change an institution's total score without advance notice under this paragraph, if the institution's supervisory ratings or the scorecard measures deteriorate.

(6) *Unsecured debt adjustment to initial base assessment rate for all institutions.* All institutions, except new institutions as provided under paragraph (d)(10)(i)(C) of this section and insured branches of foreign banks as provided under paragraph (d)(2)(iii) of this section, are subject to an adjustment of assessment rates for unsecured debt. Any unsecured debt adjustment shall be made after any adjustment under paragraph (d)(5) of this section.

(i) *Application of unsecured debt adjustment.* The unsecured debt adjustment shall be determined as the sum of the initial base assessment rate plus 40 basis points; that sum shall be multiplied by the ratio of an insured depository institution's long-term unsecured debt to its assessment base. The amount of the reduction in the assessment rate due to the adjustment is equal to the dollar amount of the adjustment divided by the amount of the assessment base.

(ii) *Limitation* – No unsecured debt adjustment that provides a benefit for any institution shall exceed the lesser of 5 basis points or 50 percent of the institution's initial base assessment rate.

(iii) *Applicable quarterly reports of condition* – Unsecured debt adjustment ratios for any given quarter shall be calculated from quarterly reports of condition (Call Reports and Thrift Financial Reports, or any successor reports, as appropriate) filed by each institution as of the last day of the quarter.

(7) *Depository institution debt adjustment to initial base assessment rate for all institutions.* All institutions shall be subject to an adjustment of assessment rates for unsecured debt held that is issued by another depository institution. Any such depository institution debt adjustment shall be made after any adjustment under paragraphs (d)(5) and (d)(6) of this section.

(i) *Application of depository institution debt adjustment.* The depository institution debt adjustment shall equal 50 basis points multiplied by the ratio of the long-term unsecured debt an institution holds that was issued by another insured depository institution to its assessment base.

(ii) *Applicable quarterly reports of condition.* Depository institution debt adjustment ratios for any given quarter shall be calculated from quarterly reports of condition (Call Reports and Thrift Financial Reports, or any successor reports, as appropriate) filed by each institution as of the last day of the quarter.

(8) *Brokered Deposit Adjustment.* All small institutions in Risk Categories II, III, and IV, all large institutions, and all highly complex institutions shall be subject to an assessment rate adjustment for brokered deposits. Any such brokered deposit adjustment shall be made after any adjustment under paragraphs (d)(5), (d)(6), and (d)(7) of this section. The brokered deposit adjustment includes all brokered deposits as defined in Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f), and 12 CFR 337.6, including reciprocal deposits as defined in § 327.8(p), and brokered deposits that consist of balances swept into an insured institution by another institution. The adjustment under this paragraph is limited to those institutions whose ratio of brokered deposits to domestic deposits is greater than 10 percent; asset growth rates do not affect the adjustment. Insured branches of foreign banks are not subject to the brokered deposit adjustment as provided in paragraph (d)(2)(iii) of this section.

(i) *Application of brokered deposit adjustment*. The brokered deposit adjustment shall be determined by multiplying 25 basis points by the ratio of the difference between an insured depository institution's brokered deposits and 10 percent of its domestic deposits to its assessment base.

(ii) *Limitation*. The maximum brokered deposit adjustment will be 10 basis points; the minimum brokered deposit adjustment will be 0.

(iii) *Applicable quarterly reports of condition.* Brokered deposit ratios for any given quarter shall be calculated from the quarterly reports of condition (Call Reports and Thrift Financial Reports, or any successor reports, as appropriate) filed by each institution as of the last day of the quarter.

(9) *Request to be treated as a large institution*--(i) *Procedure.* Any institution with assets of between $5 billion and $10 billion may request that the FDIC determine its assessment rate as a large institution. The FDIC will consider such a request provided that it has sufficient information to do so. Any such request must be made to the FDIC's Division of Insurance and Research. Any approved change will become effective within one year from the date of the request. If an institution whose request has been granted subsequently reports assets of less than $5 billion in its report of condition for four consecutive quarters, the FDIC will consider such institution to be a small institution subject to the financial ratios method.

(ii) *Time limit on subsequent request for alternate method.* An institution whose request to be assessed as a large institution is granted by the FDIC shall not be eligible to request that it be assessed as a small institution for a period of three years from the first quarter in which its approved request to be assessed as a large institution became effective. Any request to be assessed as a small institution must be made to the FDIC's Division of Insurance and Research.

(iii) An institution that disagrees with the FDIC's determination that it is a large, highly complex, or small institution may request review of that determination pursuant to § 327.4(c).

(10) *New and established institutions and exceptions*--(i) *New small institutions.* A new small Risk Category I institution shall be assessed the Risk Category I maximum initial base assessment rate for the relevant assessment period. No new small institution in any risk category shall be subject to the unsecured debt adjustment as determined under paragraph (d)(6) of this section. All new small institutions in any Risk Category

shall be subject to the depository institution debt adjustment as determined under paragraph (d)(7) of this section. All new small institutions in Risk Categories II, III, and IV shall be subject to the brokered deposit adjustment as determined under paragraph (d)(8) of this section.

(ii) *New large institutions and new highly complex institutions*. All new large institutions and all new highly complex institutions shall be assessed under the appropriate method provided at paragraph (d)(3) or (d)(4) and subject to the adjustments provided at paragraphs (d)(5), (d)(7), and (d)(8). No new highly complex or large institutions are entitled to adjustment under paragraph (d)(6). If a large or highly complex institution has not yet received CAMELS ratings, it will be given a weighted CAMELS rating of 2 for assessment purposes until actual CAMELS ratings are assigned.

(iii) *CAMELS ratings for the surviving institution in a merger or consolidation.* When an established institution merges with or consolidates into a new institution, if the FDIC determines the resulting institution to be an established institution under § 327.8(k)(1), its CAMELS ratings for assessment purposes will be based upon the established institution's ratings prior to the merger or consolidation until new ratings become available.

(iv) *Rate applicable to institutions subject to subsidiary or credit union exception.* A small Risk Category I institution that is established under § 327.8(k)(4) and (5), but does not have CAMELS component ratings, shall be assessed at 2 basis points above the minimum initial base assessment rate applicable to Risk Category I institutions until it receives CAMELS component ratings. Thereafter, the assessment rate will be determined by annualizing, where appropriate, financial ratios obtained from all quarterly reports of condition that have been filed, until the institution files four quarterly reports of condition If a large or highly complex institution is considered established under § 327.8(k)(4) and (5), but does not have CAMELS component ratings, it will be given a weighted CAMELS rating of 2 for assessment purposes until actual CAMELS ratings are assigned.

(v) *Request for review.* An institution that disagrees with the FDIC's determination that it is a new institution may request review of that determination pursuant to § 327.4(c).

(11) *Assessment rates for bridge depository institutions and conservatorships* Institutions that are bridge depository institutions under 12 U.S.C. 1821(n) and institutions for which the Corporation has been appointed or serves as conservator shall, in all cases, be assessed at the Risk Category I minimum initial base assessment rate, which shall not be subject to adjustment under paragraphs (d)(5), (6), (7) or (8) of this section.

9. Revise section 327.10 to read as follows:

§ 327.10 Assessment rate schedules.

(a) *Assessment rate schedules if, after September 30, 2010, the reserve ratio of the DIF has not reached 1.15 percent.*

(1) *Applicability*. The assessment rate schedules in paragraph (a) of this section will cease to be applicable when the reserve ratio of the DIF first reaches 1.15 percent after September 30, 2010.

(2) *Initial Base Assessment Rate Schedule.* After September 30, 2010, if the reserve ratio of the DIF has not reached 1.15 percent, the initial base assessment rate for an insured depository institution shall be the rate prescribed in the following schedule:

Initial Base Assessment Rate Schedule if, After September 30, 2010, the Reserve Ratio of the DIF Has Not Reached 1.15 Percent

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV	Large and Highly Complex Institutions
Initial base assessment rate	5–9	14	23	35	5–35

* All amounts for all risk categories are in basis points annually. Initial base rates that are not the minimum or maximum rate will vary between these rates.

(i) *Risk Category I Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all institutions in Risk Category I shall range from 5 to 9 basis points.

(ii) *Risk Category II, III, and IV Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for Risk Categories II, III, and IV shall be 14, 23, and 35 basis points, respectively.

(iii) All institutions in any one risk category, other than Risk Category I, will be charged the same initial base assessment rate, subject to adjustment as appropriate.

(iv) *Large and Highly Complex Institutions Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all large and highly complex institutions shall range from 5 to 35 basis points.

(3) *Total Base Assessment Rate Schedule after Adjustments.* After September 30, 2010, if the reserve ratio of the DIF has not reached 1.15 percent, the total base

assessment rates after adjustments for an insured depository institution shall be the rate prescribed in the following schedule.

Total Base Assessment Rate Schedule (after Adjustments)* if, After September 30, 2010, the Reserve Ratio of the DIF Has Not Reached 1.15 Percent**

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV	Large and Highly Complex Institutions
Initial base assessment rate	5–9	14	23	35	5–35
Unsecured debt adjustment	(4.5)–0	(5)–0	(5)–0	(5)–0	(5)–0
Brokered deposit adjustment	……	0–10	0–10	0–10	0–10
TOTAL BASE ASSESSMENT RATE	2.5–9	9-24	18-33	30-45	2.5–45

* All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.
** Total base assessment rates do not include the depository institution debt adjustment.

(i) *Risk Category I Total Base Assessment Rate Schedule.* The annual total base assessment rates for all institutions in Risk Category I shall range from 2.5 to 9 basis points.

(ii) *Risk Category II Total Base Assessment Rate Schedule.* The annual total base assessment rates for Risk Category II shall range from 9 to 24 basis points.

(iii) *Risk Category III Total Base Assessment Rate Schedule.* The annual total base assessment rates for Risk Category III shall range from 18 to 33 basis points.

(iv) *Risk Category IV Total Base Assessment Rate Schedule.* The annual total base assessment rates for Risk Category IV shall range from 30 to 45 basis points.

(v) *Large and Highly Complex Institutions Total Base Assessment Rate Schedule.* The annual total base assessment rates for all large and highly complex institutions shall range from 2.5 to 45 basis points.

(b) *Assessment rate schedules once the reserve ratio of the DIF first reaches 1.15 percent after September 30, 2010, and the reserve ratio for the immediately prior assessment period is less than 2 percent.*

(1) *Initial Base Assessment Rate Schedule.* After September 30, 2010, once the reserve ratio of the DIF first reaches 1.15 percent, and the reserve ratio for the immediately prior assessment period is less than 2 percent, the initial base assessment rate for an insured depository institution shall be the rate prescribed in the following schedule:

Initial Base Assessment Rate Schedule Once the Reserve Ratio of the DIF Reaches 1.15 Percent After September 30, 2010, and the Reserve Ratio for the Immediately Prior Assessment Period is Less than 2 Percent

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV	Large and Highly Complex Institutions
Initial base assessment rate	3–7	12	19	30	3–30

* All amounts for all risk categories are in basis points annually. Initial base rates that are not the minimum or maximum rate will vary between these rates.

(i) *Risk Category I Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all institutions in Risk Category I shall range from 3 to 7 basis points.

(ii) *Risk Category II, III, and IV Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for Risk Categories II, III, and IV shall be 12, 19, and 30 basis points, respectively.

(iii) All institutions in any one risk category, other than Risk Category I, will be charged the same initial base assessment rate, subject to adjustment as appropriate.

(iv) *Large and Highly Complex Institutions Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all large and highly complex institutions shall range from 3 to 30 basis points.

(2) *Total Base Assessment Rate Schedule after Adjustments.* After September 30, 2010, once the reserve ratio of the DIF first reaches 1.15 percent, and the reserve ratio for the immediately prior assessment period is less than 2 percent, the total base assessment rates after adjustments for an insured depository institution shall be the rate prescribed in the following schedule.

Total Base Assessment Rate Schedule (after Adjustments)* Once the Reserve Ratio of the DIF reaches 1.15 Percent After September 30, 2010, and the Reserve Ratio for the Immediately Prior Assessment Period is Less than 2 Percent**

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV	Large and Highly Complex Institutions
Initial base assessment rate	3–7	12	19	30	3–30
Unsecured debt adjustment	(3.5)–0	(5)–0	(5)–0	(5)–0	(5)–0
Brokered deposit adjustment	……	0–10	0–10	0–10	0–10
TOTAL BASE ASSESSMENT RATE	1.5–7	7-22	14-29	29-40	1.5–40

* All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.
** Total base assessment rates do not include the depository institution debt adjustment.

(i) *Risk Category I Total Base Assessment Rate Schedule.* The annual total base assessment rates for institutions in Risk Category I shall range from 1.5 to 7 basis points.

(ii) *Risk Category II Total Base Assessment Rate Schedule.* The annual total base assessment rates for Risk Category II shall range from 7 to 22 basis points.

(iii) *Risk Category III Total Base Assessment Rate Schedule.* The annual total base assessment rates for Risk Category III shall range from 14 to 29 basis points.

(iv) *Risk Category IV Total Base Assessment Rate Schedule.* The annual total base assessment rates for Risk Category IV shall range from 29 to 40 basis points.

(v) *Large and Highly Complex Institutions Total Base Assessment Rate Schedule.* The annual total base assessment rates for all large and highly complex institutions shall range from 1.5 to 40 basis points.

(c) *Assessment rate schedules if the reserve ratio of the DIF for the prior assessment period is equal to or greater than 2 percent and less than 2.5 percent.*

(1) *Initial Base Assessment Rate Schedule.* If the reserve ratio of the DIF for the prior assessment period is equal to or greater than 2 percent and less than 2.5 percent, the initial base assessment rate for an insured depository institution, except as provided in paragraph (e) of this section, shall be the rate prescribed in the following schedule:

Initial Base Assessment Rate Schedule if Reserve Ratio for Prior Assessment Period is Equal to or Greater than 2 percent but Less than 2.5 percent

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV	Large and Highly Complex Institutions
Initial base assessment rate	2–6	10	17	28	2–28

* All amounts for all risk categories are in basis points annually. Initial base rates that are not the minimum or maximum rate will vary between these rates.

(i) *Risk Category I Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all institutions in Risk Category I shall range from 2 to 6 basis points.

(ii) *Risk Category II, III, and IV Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for Risk Categories II, III, and IV shall be 10, 17, and 28 basis points, respectively.

(iii) All institutions in any one risk category, other than Risk Category I, will be charged the same initial base assessment rate, subject to adjustment as appropriate.

(iv) *Large and Highly Complex Institutions Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all large and highly complex institutions shall range from 2 to 28 basis points.

(2) *Total Base Assessment Rate Schedule after Adjustments.* If the reserve ratio of the DIF for the prior assessment period is equal to or greater than 2 percent and less than 2.5 percent, the total base assessment rates after adjustments for an insured depository institution, except as provided in paragraph (e) of this section, shall be the rate prescribed in the following schedule.

Total Base Assessment Rate Schedule (after Adjustments)* if Reserve Ratio for Prior Assessment Period is Equal to or Greater than 2 Percent but Less than 2.5 Percent**

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV	Large and Highly Complex Institutions
Initial base assessment rate	2–6	10	17	28	2–38
Unsecured debt adjustment	(3)–0	(5)–0	(5)–0	(5)–0	(5)–0
Brokered deposit adjustment	……	0–10	0–10	0–10	0–10
TOTAL BASE ASSESSMENT RATE	1–6	5-20	12-27	23-38	1–38

* All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.
** Total base assessment rates do not include the depository institution debt adjustment.

(i) *Risk Category I Total Base Assessment Rate Schedule.* The annual total base assessment rates for institutions in Risk Category I shall range from 1 to 6 basis points.

(ii) *Risk Category II Total Base Assessment Rate Schedule.* The annual total base assessment rates for Risk Category II shall range from 5 to 20 basis points.

(iii) *Risk Category III Total Base Assessment Rate Schedule.* The annual total base assessment rates for Risk Category III shall range from 12 to 27 basis points.

(iv) *Risk Category IV Total Base Assessment Rate Schedule.* The annual total base assessment rates for Risk Category IV shall range from 23 to 38 basis points.

(v) *Large and Highly Complex Institutions Total Base Assessment Rate Schedule.* The annual total base assessment rates for all large and highly complex institutions shall range from 1 to 38 basis points.

(d) *Assessment rate schedules if the reserve ratio of the DIF for the prior assessment period is greater than 2.5 percent.*

(1) *Initial Base Assessment Rate Schedule.* If the reserve ratio of the DIF for the prior assessment period is greater than 2.5 percent, the initial base assessment rate for an insured depository institution, except as provided in paragraph (e) of this section, shall be the rate prescribed in the following schedule:

Initial Base Assessment Rate Schedule if Reserve Ratio for Prior Assessment Period is Greater than or Equal to 2.5 percent

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV	Large and Highly Complex Institutions
Initial base assessment rate	1–5	9	15	25	1–25

* All amounts for all risk categories are in basis points annually. Initial base rates that are not the minimum or maximum rate will vary between these rates.

(i) *Risk Category I Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all institutions in Risk Category I shall range from 1 to 5 basis points.

(ii) *Risk Category II, III, and IV Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for Risk Categories II, III, and IV shall be 9, 15, and 25 basis points, respectively.

(iii) All institutions in any one risk category, other than Risk Category I, will be charged the same initial base assessment rate, subject to adjustment as appropriate.

(iv) *Large and Highly Complex Institutions Initial Base Assessment Rate Schedule.* The annual initial base assessment rates for all large and highly complex institutions shall range from 1 to 25 basis points.

(2) *Total Base Assessment Rate Schedule after Adjustments.* If the reserve ratio of the DIF for the prior assessment period is greater than 2.5 percent, the total base assessment rates after adjustments for an insured depository institution, except as provided in paragraph (e) of this section, shall be the rate prescribed in the following schedule.

Total Base Assessment Rate Schedule (after Adjustments)* if Reserve Ratio for Prior Assessment Period is Greater than or Equal to 2.5 Percent**

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV	Large and Highly Complex Institutions
Initial base assessment rate	1–5	9	15	25	1–25
Unsecured debt adjustment	(2.5)–0	(4.5)–0	(5)–0	(5)–0	(5)–0
Brokered deposit adjustment	……	0–10	0–10	0–10	0–10
TOTAL BASE ASSESSMENT RATE	0.5–5	4.5-19	10-25	20-35	0.5–35

* All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.
** Total base assessment rates do not include the depository institution debt adjustment.

(i) *Risk Category I Total Base Assessment Rate Schedule.* The annual total base assessment rates for institutions in Risk Category I shall range from 0.5 to 5 basis points.

(ii) *Risk Category II Total Base Assessment Rate Schedule.* The annual total base assessment rates for Risk Category II shall range from 4.5 to 19 basis points.

(iii) *Risk Category III Total Base Assessment Rate Schedule.* The annual total base assessment rates for Risk Category III shall range from 10 to 25 basis points.

(iv) *Risk Category IV Total Base Assessment Rate Schedule.* The annual total base assessment rates for Risk Category IV shall range from 20 to 35 basis points.

(v) *Large and Highly Complex Institutions Total Base Assessment Rate Schedule.* The annual total base assessment rates for all large and highly complex institutions shall range from 0.5 to 35 basis points.

(e) *Assessment Rate Schedules for New Institutions.* New depository institutions, as defined in 327.8(*j*), shall be subject to the assessment rate schedules as follows:

(1) *Prior to the reserve ratio of the DIF first reaching 1.15 percent after September 30, 2010.* After September 30, 2010, if the reserve ratio of the DIF has not reached 1.15 percent, new institutions shall be subject to the initial and total base assessment rate schedules provided for in subsection (a) of this section.

(2) *Assessment rate schedules once the DIF reserve ratio first reaches 1.15 percent after September 30, 2010.* After September 30, 2010, once the reserve ratio of the DIF first reaches 1.15 percent, new institutions shall be subject to the initial and total base assessment rate schedules provided for in subsection (b) of this section, even if the reserve ratio equals or exceeds 2 percent or 2.5 percent.

(f) *Total Base Assessment Rate Schedule adjustments and procedures*--(1) *Board Rate Adjustments.* The Board may increase or decrease the total base assessment rate schedule in subsections (a) through (d) of this section up to a maximum increase of 3 basis points or a fraction thereof or a maximum decrease of 3 basis points or a fraction thereof (after aggregating increases and decreases), as the Board deems necessary. Any such adjustment shall apply uniformly to each rate in the total base assessment rate schedule. In no case may such Board rate adjustments result in a total base assessment rate that is mathematically less than zero or in a total base assessment rate schedule that, at any time, is more than 3 basis points above or below the total base assessment schedule for the Deposit Insurance Fund in effect pursuant to subsection (b) of this section, nor may any one such Board adjustment constitute an increase or decrease of more than 3 basis points.

(2) *Amount of revenue.* In setting assessment rates, the Board shall take into consideration the following:

(i) Estimated operating expenses of the Deposit Insurance Fund;

(ii) Case resolution expenditures and income of the Deposit Insurance Fund;

(iii) The projected effects of assessments on the capital and earnings of the institutions paying assessments to the Deposit Insurance Fund;

(iv) The risk factors and other factors taken into account pursuant to 12 USC 1817(b)(1); and

(v) Any other factors the Board may deem appropriate.

(3) *Adjustment procedure.* Any adjustment adopted by the Board pursuant to this paragraph will be adopted by rulemaking, except that the Corporation may set assessment rates as necessary to manage the reserve ratio, within set parameters not exceeding cumulatively 3 basis points, pursuant to paragraph (c)(1) of this section, without further rulemaking.

(4) *Announcement.* The Board shall announce the assessment schedules and the

amount and basis for any adjustment thereto not later than 30 days before the quarterly certified statement invoice date specified in § 327.3(b) of this part for the first assessment period for which the adjustment shall be effective. Once set, rates will remain in effect until changed by the Board.

Appendix A to Subpart A

Description of Scorecard Measures

Scorecard Measures	Description
Tier 1 Leverage Ratio	Tier 1 capital for Prompt Corrective Action (PCA) divided by adjusted average assets based on the definition for prompt corrective action.
Concentration Measure for Large IDIs (excluding Highly Complex Institutions) (1) Higher-Risk Assets/Tier 1 Capital and Reserves (2) Growth-Adjusted Portfolio Concentrations	Concentration score for large institutions takes the higher score of the following two: Sum of construction and land development (C&D) loans (funded and unfunded), leveraged loans (funded and unfunded), nontraditional mortgages, and subprime consumer loans divided by Tier 1 capital and reserves. See Appendix C for the detailed description of the ratio. The measure is calculated in following steps: (1) Concentration levels (as a ratio to Tier 1 capital and reserves) are calculated for each broad portfolio category (C&D, other commercial real estate loans, first lien residential mortgages (including non-agency mortgage-backed securities), and junior lien residential mortgages, commercial and industrial loans, credit card, and other consumer loans). (2) Three-year merger-adjusted portfolio growth rates are then scaled to a growth factor of 1 to 1.2 where a 3-year cumulated growth rate of 20 percent or less equals a factor of 1 and a growth rate of 80 percent or greater equals a factor of 1.2. If three years of data are not available, a growth factor of 1 will be assigned. (3) Risk weights are assigned to each category based on historical loss rates. (4) Concentration levels are multiplied by risk weights and squared to produce a risk-adjusted concentration ratio for each portfolio. (5) The risk-adjusted concentration ratio for each portfolio is multiplied by the growth factor and resulting values are summed. See Appendix C for the detail description of the measure.
Concentration Measure for Highly Complex Institutions (1) Higher-Risk Assets/Tier 1 Capital and	Concentration score for highly complex institutions takes the highest score of the following three: Sum of C&D loans (funded and unfunded),

Reserves	leveraged loans (funded and unfunded), nontraditional mortgages, and subprime consumer loans divided by Tier 1 capital and reserves. See Appendix C for the detailed description of the ratio.
(2) Top 20 Counterparty Exposure/Tier 1 Capital and Reserves	Sum of the total exposure amount to the largest 20 counterparties by exposure amount divided by Tier 1 capital and reserves. Counterparty exposure is equal to the sum of Exposure at Default (EAD) associated with derivatives trading and Securities Financing Transactions (SFTs) and the gross lending exposure (including all unfunded commitments) for each counterparty or borrower at the consolidated entity level.[22] EAD for derivatives trading and SFTs is to be calculated as defined in Basel II or as updated in future Basel Accords. EAD and lending exposure is to be reported at the consolidated level across all legal entities for that counterparty.
(3) Largest Counterparty Exposure/Tier 1 Capital and Reserves	Sum of the exposure amount to the largest counterparty by exposure amount divided by Tier 1 capital and reserves. Counterparty exposure is equal to the sum of Exposure at Default (EAD) associated with derivatives trading and Securities Financing Transactions (SFTs) and the gross lending exposure (including all unfunded commitments) for each counterparty or borrower at the consolidated entity level. EAD for derivatives trading and SFTs is to be calculated as defined in Basel II or as updated in future Basel Accords. EAD and lending exposure is to be reported at the consolidated level across all legal entities for that counterparty.
Core Earnings/Average Quarter-End Total Assets	Core earnings are defined as quarterly net income less extraordinary items and realized gains and losses on available-for-sale (AFS) and held-to-maturity (HTM) securities, adjusted for mergers. The ratio takes a four-quarter sum of merger-adjusted core earnings and divides it by an average of five quarter-end total assets (most recent and four prior quarters). If four quarters of data on core earnings are not available, data for quarters that are available will be added and annualized. If five quarters of data on total assets are not available, data for quarters that are available will be averaged.

[22] EAD and SFTs are defined and described in the compilation issued by the Basel Committee on Banking Supervision in its June 2006 document, "International Convergence of Capital Measurement and Capital Standards." The definitions are described in detail in Annex 4 of the document. Any updates to the Basel II capital treatment of counterparty credit risk would be implemented as they are adopted.

Credit Quality Measure: (1) Criticized and Classified Items/Tier 1 Capital and Reserves (2) Underperforming Assets/Tier 1 Capital and Reserves	Asset quality score takes a higher score of the following two: Sum of criticized and classified items divided by the sum of Tier 1 capital and reserves. Criticized and classified items include items with an internal grade of "Special Mention" or worse and include retail items under Uniform Retail Classification Guidelines, securities that are internally rated the regulatory equivalent of "Special Mention" or worse, and marked-to-market counterparty positions that are internally rated the regulatory equivalent of "Special Mention" or worse, less credit valuation adjustments. Criticized and classified items exclude loans and securities in trading books, and the maximum amount recoverable from the U.S. government, its agencies, or government-sponsored agencies, under guarantee or insurance provisions. Sum of loans that are 30-89 day past due, loans that are 90 days or more past due, nonaccrual loans, restructured loans (including restructured 1-4 family loans), and ORE, excluding the maximum amount recoverable from the U.S. government, its agencies, or government-sponsored agencies, under guarantee or insurance provisions, divided by a sum of Tier 1 capital and reserves.
Core Deposits/Total Liabilities	Sum of demand deposits, NOW accounts, MMDA, other savings deposits, CDs under $250,000 less insured brokered deposits under $250,000 divided by total liabilities.
Balance Sheet Liquidity Ratio	Sum of cash and balances due from depository institutions, federal funds sold and securities purchased under agreements to resell, and agency securities (excludes agency mortgage-backed securities but includes securities issued by the US Treasury, US government agencies, and US government-sponsored enterprises) divided by the sum of federal funds purchased and repurchase agreements, other borrowings (including FHLB) with a remaining maturity of one year or less, 7.5 percent of insured domestic deposits, and 15 percent of uninsured domestic and foreign deposits.
Potential Losses/Total Domestic Deposits (Loss Severity Measure)	Potential losses to the DIF in the event of failure divided by total domestic deposits. Appendix D describes the calculation of the loss severity measure in detail.
Noncore Funding/Total Liabilities	Noncore liabilities divided by total liabilities. Noncore liabilities generally consist of total time deposits of $250,000 or more, other borrowed money

	(all maturities), foreign office deposits, securities sold under agreements to repurchase, federal funds purchased, and insured brokered deposits issued in denominations of less than $250,000.
Market Risk Measure for Highly Complex Institutions (1) Trading Revenue Volatility/Tier 1 Capital (2) Market Risk Capital/Tier 1 Capital (3) Level 3 Trading Assets/Tier 1 Capital	This measure is a weighted average of three risk measures: Trailing 4-quarter standard deviation of quarterly trading revenue (merger-adjusted) divided by Tier 1 capital. Market risk capital divided by Tier 1 capital. Market risk capital equals market-risk equivalent assets divided by 12.5. Level 3 trading assets divided by Tier 1 capital.
Average Short-term Funding/Average Total Assets	Quarterly average of federal funds purchased and repurchase agreements divided by the quarterly average of total assets as reported on Schedule RC-K of call reports

Appendix B

Conversion of Scorecard Measures into Score

1. Weighted Average CAMELS Rating

Weighted average CAMELS ratings between 1 and 3.5 are assigned a score between 25 and 100 according to the following equation:

$$S = 25 + [(20/3) * (C^2 - 1)],$$

where:

S = the weighted average CAMELS score; and

C = the weighted average CAMELS rating.

2. Other Scorecard Measures

For certain scorecard measures, a lower ratio implies lower risk and a higher ratio implies higher risk. These measures include:

- Concentration measure;
- Credit quality measure;
- Market risk measure;
- Average short-term funding to average total assets ratio;
- Potential losses to total domestic deposits ratio (loss severity measure); and,
- Noncore funding to total liabilities ratio.

For those measures, a value between the minimum and maximum cutoff values is converted linearly to a score between 0 and 100, according to the following formula:

$$S = (V - Min) * 100 / (Max - Min),$$

where S is score (rounded to three decimal points), V is the value of the measure, Min is the minimum cutoff value and Max is the maximum cutoff value.

For other scorecard measures, a lower value represents higher risk and a higher value represents lower risk. These measures include:

- Tier 1 leverage ratio;
- Core earnings to average quarter-end total assets ratio;
- Core deposits to total liabilities ratio; and,
- Balance sheet liquidity ratio.

For those measures, a value between the minimum and maximum cutoff values is converted linearly to a score between 0 and 100, according to the following formula:

$$S = (Max - V) * 100 / (Max - Min),$$

where S is score (rounded to three decimal points), V is the value of the measure, Max is the maximum cutoff value and Min is the minimum cutoff value.

Appendix C

Concentration Measures

The concentration measure score for large institutions is the higher of the two concentration scores: a higher-risk assets to Tier 1 capital and reserves ratio and a growth-adjusted portfolio concentration measure. The concentration measure score for highly complex institutions takes a higher of the three concentration scores: a higher-risk assets to Tier 1 capital and reserve ratio, a Top 20 counterparty exposure to Tier 1 capital and reserves ratio, a largest counterparty to Tier 1 capital and reserves ratio. The higher-risk assets to Tier 1 capital and reserve ratio and the growth-adjusted portfolio concentration measure are described below.

1. Higher-risk assets/Tier 1 capital and reserves

The higher-risk assets to Tier 1 capital and reserves ratio is the sum of the concentrations in each of four risk areas described below and is calculated as:

$$H_i = \sum_{k=1}^{4} \left(\frac{\text{Amount of Exposure}_{i,k}}{\text{Tier 1 Capital} + \text{Reserves}_i} \right)$$

where

H is institution *i*'s higher-risk concentration measure and

k is a risk area.[23] The four risk areas (*k*) are defined as:

- Construction and land development loans (funded and unfunded);
- Leveraged loans (funded and unfunded);
- Nontraditional mortgage loans; and

[23] The high-risk concentration measure is rounded to two decimal points.

- Subprime consumer loans. [24,25]

The risk areas are defined according to the interagency guidance for a given product with specific modifications made to minimize reporting discrepancies. The definitions for each risk area are as follows:

1. *Construction and Land Development Loans*: Construction and development loans include construction and land development loans outstanding and unfunded commitments.
2. *Leveraged Loans*: Leveraged loans include all commercial loans—funded and unfunded and securities (e.g., high yield bonds meeting any of the criteria below), excluding those securities classified as trading book, that meet any one of the following conditions:
    - Loans or securities where proceeds are used for buyout, acquisition, and recapitalization;
    - Loans or securities with a balance sheet leverage ratio (total liabilities/total assets) higher than 50 percent or where a transaction resulted in an increase in the leverage ratio of more than 75 percent. Loans or securities where borrower's operating leverage ratio ((total debt/trailing twelve month EBITDA (earnings before interest, taxes, depreciation, and amortization) or senior debt/trailing twelve month EBITDA)) are above 4.0X EBITDA or 3.0X EBITDA, respectively. For purposes of this calculation, the only permitted EBITDA adjustments are those

[24] All loan concentrations should include purchased credit impaired loans.

[25] Each loan concentration category should exclude the maximum amount of loans recoverable from the U.S. government, its agencies, or government-sponsored agencies, under guarantee or insurance provisions.

adjustments specifically permitted for that borrower in its credit agreement; or

- Loans or securities that are designated as highly leveraged transactions (HLT) by syndication agent.[26]

For purposes of the concentration measure, leveraged loans include all loans and/or securitizations that may not have been considered leveraged at the time of origination, but subsequent to origination, meet the characteristics of a leveraged loan. Leveraged loans include all securitizations where greater than 50 percent of the assets backing the securitization meet one or more of the preceding criteria of leveraged loans (e.g., CLOs), with the exception of those securities classified as trading book.

3. *Nontraditional Mortgage Loans*: Nontraditional mortgage loans includes all residential loan products that allow the borrower to defer repayment of principal or interest and includes all interest-only products, teaser rate mortgages, and negative amortizing mortgages, with the exception of home equity lines of credit (HELOCs) or reverse mortgages.[27]

   For purposes of the concentration measure, nontraditional mortgage loans include securitizations where greater than 50 percent of the assets backing the securitization meet one or more of the preceding criteria for nontraditional mortgage loans, with the exception of those securities classified as trading book.

[26] http://www.fdic.gov/news/news/press/2001/pr2801.html

[27] http://www.fdic.gov/regulations/laws/federal/2006/06noticeFINAL.html

4. *Subprime Consumer Loans*: Subprime loans include loans made to borrowers that display one or more of the following credit risk characteristics (excluding subprime loans that are previously included as nontraditional mortgage loans):

   - Two or more 30-day delinquencies in the last 12 months, or one or more 60-day delinquencies in the last 24 months;
   - Judgment, foreclosure, repossession, or charge-off in the prior 24 months;
   - Bankruptcy in the last 5 years;
   - Credit bureau risk score (FICO) of 660 or below (depending on the product/collateral), or other bureau or proprietary scores with an equivalent default probability likelihood; and/or
   - Debt service-to-income ratio of 50 percent or greater, or otherwise limited ability to cover family living expenses after deducting total monthly debt-service requirements from monthly income.[28]

   For purposes of the concentration measure, subprime loans include loans that were not considered subprime at origination, but meet the characteristics of subprime subsequent to origination. Subprime loans also include securitizations where more than 50 percent of assets backing the securitization meet one or more of the preceding criteria for subprime loans, excluding those securities classified as trading book.

2. Growth-adjusted portfolio concentration measure

The growth-adjusted concentration measure is the sum of the values of concentrations in each of the seven portfolios, each of the values being first adjusted for

[28] http://www.fdic.gov/news/news/press/2001/pr0901a.html.

risk weights and growth. To obtain the value for each of the seven portfolios, the product of the risk weight and the concentration ratio is first squared and then multiplied by the growth factor. The measure is calculated as:

$$N_i = \sum_{k=1}^{7}\left[w_k * \left(\frac{\text{Amount of exposure}_{i,k}}{\text{Tier 1 Capital} + \text{Reserves}_i}\right)\right]^2 * g_k$$

where

N is institution *i*'s growth-adjusted portfolio concentration measure;[29]

k is a portfolio;

g is a growth factor for institution *i*'s portfolio *k*; and,

w is a risk weight for portfolio *k*.

The seven portfolios (*k*) are defined based on the Call Report/TFR data and they are:

- First-lien residential mortgages and non-agency residential mortgage-backed securities;
- Closed-end junior liens and home equity lines of credit (HELOCs);
- Construction and land development loans;
- Other commercial real estate loans;
- Commercial and industrial loans;
- Credit card loans; and
- Other consumer loans. [30,31]

[29] The growth-adjusted portfolio concentration measure is rounded to two decimal points.

[30] All loan concentrations should include the fair value of purchased credit impaired loans.

[31] Each loan concentration category should exclude the maximum amount of loans recoverable from the U.S. government, its agencies, or government-sponsored agencies, under guarantee or insurance provisions.

The growth factor, *g*, is based on a three-year merger-adjusted growth rate for a given portfolio; *g* ranges from 1 to 1.2 where a 20 percent growth rate equals a factor of 1 and an 80 percent growth rate equals a factor of 1.2.[32,33] For growth rates less than 20 percent, *g* is 1; for growth rates greater than 80 percent, *g* is 1.2. For growth rates between 20 percent and 80 percent, the growth factor is calculated as:

$$g_{i,k} = 1 + \left[\frac{1}{3} \left(G_{i,k} - 0.20 \right) \right]$$

where $G_{i,k} = \frac{V_{i,k,t}}{V_{i,k,t-12}} - 1$, V is the portfolio amount as reported on the Call Report/TFR and t is the quarter for which the assessment is being determined.

The risk weight for each portfolio reflects relative peak loss rates for banks at the 90th percentile during the 1990-2009 period.[34] These loss rates were converted into equivalent risk weights as shown in Table C.1.

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[32] The cut-off values of 0.2 and 0.8 correspond to about 45th percentile and 80th percentile among the large institutions, respectively, based on the data from 2000 to 2009.

[33] The growth factor is rounded to two decimal points.

[34] The risk weights are based on loss rates for each portfolio relative to the loss rate for C&I loans, which is given a risk weight of 1. The peak loss rates were derived as follows. The loss rate for each loan category for each bank with over $5 billion in total assets was calculated for each of the last twenty calendar years (1990-2009). The highest value of the 90th percentile of each loan category over the twenty-year period was selected as the peak loss rate.

Table C.1

90^{th} percentile Annual Loss rates for 1990-2009 Period and Corresponding Risk Weights

Portfolio	Loss Rates (90^{th} percentile)	Risk Weights
First-Lien Mortgages	2.3%	0.5
Second/Junior Lien Mortgages	4.6%	0.9
Commercial and Industrial (C&I) Loans	5.0%	1.0
Construction and Development (C&D) Loans	15.0%	3.0
Commercial Real Estate Loans, excluding C&D	4.3%	0.9
Credit Card Loans	11.8%	2.4
Other Consumer Loans	5.9%	1.2

Appendix D

Description of the Loss Severity Measure

The loss severity measure applies a standardized set of assumptions to an institution's balance sheet for a given quarter to measure possible losses to the FDIC in the event of an institution's failure. To determine an institution's loss severity rate, the FDIC first uses assumptions about uninsured deposit and other unsecured liability runoff and growth in insured deposits to adjust the size and composition of the institution's liabilities. Assets are then reduced to match any reduction in liabilities.[35] The institution's asset values are then further reduced so that the Tier 1 leverage ratio reaches 2 percent.[36] Asset adjustments are made pro rata to asset categories to preserve the institution's asset composition. Assumptions regarding loss rates at failure for a given asset category and the extent of secured liabilities are then applied to estimated assets and liabilities at failure to determine whether the institution has enough unencumbered assets to cover domestic deposits. Any projected shortfall is divided by current domestic deposits to obtain an end-of-period loss severity ratio. The loss severity measure is an average loss severity ratio for the three most recent quarters.

Runoff and Capital Adjustment Assumptions

Table D.1 contains run-off assumptions.

[35] In most cases, the model would yield reductions in liabilities and assets prior to failure. Exceptions may occur for institutions primarily funded through insured deposits, which the model assumes to grow prior to failure.

[36] Of course, in reality, runoff and capital declines occur more or less simultaneously as an institution approaches failure. The loss severity measure assumptions simplify this process for ease of modeling.

Table D.1

Runoff Rate Assumptions

Liability Type	Runoff Rate*
Insured Deposits	-32.0%
Uninsured Deposits	28.6%
Foreign Deposits	80.0%
Federal Funds Purchased	40.0%
Repurchase Agreements	25.0%
Trading Liabilities	50.0%
Unsecured Borrowings <= 1 Year	75.0%
Unsecured Borrowing > 1 Year	0.0%
Secured Borrowings <= 1 Year	25.0%
Secured Borrowings > 1 Year	0.0%
Subordinated Debt and Limited Liability Preferred Stock	15.0%
Other Liabilities	0.0%

* A negative rate implies growth.

Given the resulting total liabilities after runoff, assets are then reduced pro rata to preserve the relative amount of assets in each of the following asset categories and to achieve a Tier 1 leverage ratio of 2 percent:

- Cash and Interest Bearing Balances;
- Trading Account Assets;
- Federal Funds Sold and Repurchase Agreements;
- Treasury and Agency Securities;
- Municipal Securities;
- Other Securities;
- Construction and Development Loans;
- Nonresidential Real Estate Loans;
- Multifamily Real Estate Loans;
- 1-4 Family Closed-End First Liens;

- 1-4 Family Closed-End Junior Liens;
- Revolving Home Equity Loans; and
- Agricultural Real Estate Loans.

Recovery Value of Assets at Failure

Table D.2 shows loss rates applied to each of the asset categories as adjusted above.

Table D.2

Asset Loss Rate Assumptions

Asset Category	Loss Rate
Cash and Interest Bearing Balances	0.0%
Trading Account Assets	0.0%
Federal Funds Sold and Repurchase Agreements	0.0%
Treasury and Agency Securities	0.0%
Municipal Securities	10.0%
Other Securities	15.0%
Construction and Development Loans	38.2%
Nonresidential Real Estate Loans	17.6%
Multifamily Real Estate Loans	10.8%
1-4 Family Closed-End First Liens	19.4%
1-4 Family Closed-End Junior Liens	41.0%
Revolving Home Equity Loans	41.0%
Agricultural Real Estate Loans	19.7%
Agricultural Loans	11.8%
Commercial and Industrial Loans	21.5%
Credit Card Loans	18.3%
Other Consumer Loans	18.3%
All Other Loans	51.0%
Other Assets	75.0%

Secured liabilities at failure

Federal home loan bank advances, secured federal funds purchased, foreign deposits and repurchase agreements are assumed to be fully secured.

Loss Severity Ratio Calculation

The FDIC's loss given failure (LGD) is calculated as:

$$LGD = \frac{InsuredDeposits_{Failure}}{DomesticDeposits_{Failure}} \times \left(\mathrm{DomesticDeposits}_{\mathrm{Failure}} - \mathrm{RecoveryValueofAssets}_{\mathrm{Failure}} + \mathrm{SecuredLiabilities}_{\mathrm{Failure}}\right)$$

An end-of-quarter loss severity ratio is LGD divided by total domestic deposits at quarter-end and the loss severity measure for the scorecard is an average of end-of-period loss severity ratio for three most recent quarters.

By order of the Board of Directors.

Dated at Washington, D.C., this 9th day of November, 2010

Federal Deposit Insurance Corporation

Robert Feldman

Executive Secretary

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