

March 29, 2006

MEMORANDUM TO: The Board of Directors

FROM: Douglas H. Jones
Acting General Counsel

SUBJECT: Final Rule to Revise FDIC
Regulations to Reflect Funds Merger

Recommendation

The Legal Division recommends that the Board of Directors authorize publication in the Federal Register of the attached final rule. The final rule would implement, as of the date of publication in the Federal Register, technical and conforming revisions to the FDIC's regulations reflecting the merger of the Bank Insurance Fund ("BIF") and the Savings Association Insurance Fund ("SAIF") to form the Deposit Insurance Fund ("DIF").

Discussion

Section 2102 of the Federal Deposit Insurance Reform Act of 2005 ("Reform Act") (Pub. L. No. 109-171) requires that the FDIC merge the BIF and SAIF into the DIF effective no later than July 1, 2006. The FDIC will effectuate the funds merger as of March 31, 2006. As a result of the funds merger, the BIF and SAIF will be abolished. In addition, section 8 of the Federal Deposit Insurance Reform Conforming Amendments Act of 2005 (Pub. L. No. 109-173) ("Amendments Act") makes numerous technical and conforming amendments to the FDI Act relating to the merger of BIF and SAIF into the DIF.

The final rule would revise the FDIC's regulations to reflect the funds merger and the elimination of BIF and SAIF. The majority of revisions are comprised of replacing references to BIF and SAIF with DIF. Other changes eliminate provisions dealing with fund conversions and entrance and exit fees previously required when an institution converted from one fund to the other.

As indicated in the preamble to the final rule, neither the recent legislation nor the funds merger will affect the authority of the Financing Corporation ("FICO") to impose and collect, with approval of the FDIC, assessments for anticipated payments, issuance costs and custodial fees on obligations issued by the FICO.¹

¹ FICO is a mixed-ownership government corporation created in 1987 to recapitalize the Federal Savings and Loan Insurance Corporation ("FSLIC") by issuing bonds to purchase capital stock or capital certificates issued by the FSLIC. FICO issued 30-year non-callable bonds of approximately \$8.2 billion that mature in 2017 through 2019. *Competitive Equality Banking Act*, Pub. L. No. 100-86, Title III, amending section 21 of the Federal Home Loan Bank Act, 12 U.S.C. 1441.

Good Cause for Final Rulemaking

The revisions to the FDIC's regulations made by the final rule are all technical, conforming and non-discretionary changes required by the Reform Act and the Amendments Act incident to the merger of BIF and SAIF and formation of the DIF. Thus, the Federal Register notice indicates that the Board has determined that the public notice and participation that ordinarily would be required by the Administrative Procedure Act (5 U.S.C 553) before a regulation may take effect are unnecessary and that good cause exists for an exception to the customary 30-day delayed effective date.

Attachments

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