

Federal Deposit Insurance Corporation Amended Restoration Plan

On October 7, 2008, the FDIC established a Restoration Plan for the Deposit Insurance Fund (the DIF or the fund), which was implemented immediately. The Restoration Plan called for the FDIC to set assessment rates such that the reserve ratio would return to 1.15 percent within five years, which required an increase in assessment rates. Thus, on October 7, 2008, the Board adopted a notice of proposed rulemaking (NPR) that proposed, among other things, to increase assessment rates uniformly by seven basis points effective January 1, 2009, and substantially revise the assessment system and reset assessment rates effective April 1, 2009.

The FDIC received many comments from industry trade groups and banks regarding the proposed increases in assessment rates. Many of the comments were critical of the proposed assessment rate increases. Several commenters urged the FDIC to take advantage of the flexibility that Congress provided to extend the restoration period beyond five years under “extraordinary circumstances.” As the trade groups and many other commenters noted, the law allows the FDIC to take longer than five years for the reserve ratio to reach 1.15 percent due to “extraordinary circumstances.”

In recognition of the current severe strains on banks and the financial system, the FDIC has concluded that the problems facing the financial services sector and the economy at large constitute such extraordinary circumstances. Since the NPR was published, earnings and capital levels of insured institutions have continued to decline and the credit markets remain under significant stress. Industry losses in the fourth quarter of 2008 were the largest in the 25 years that insured institutions have reported quarterly earnings. Given the enormous stresses on financial institutions and the likelihood of a prolonged and severe economic recession, the FDIC is amending its Restoration Plan to extend the restoration period, as described below. The assessment rates that the FDIC is adopting in the accompanying final rule reflect this extended period.

Therefore, the FDIC amends the Restoration Plan adopted on October 7, 2008, as follows:

1. The period of the Restoration Plan is extended to seven years.
2. The FDIC will have the accompanying final rule published in the Federal Register as soon as possible.
3. In addition, the FDIC will also have the accompanying interim rule regarding emergency special assessments published in the Federal Register as soon as possible. Under this interim rule, the FDIC will impose an emergency special assessment equal to 20 basis points of an institution’s assessment base on June 30, 2009. The interim rule also provides that the Board may impose additional emergency special assessments of up to 10 basis points thereafter if the reserve ratio of the DIF is estimated to fall to a level that the Board believes would

adversely affect public confidence or to a level which shall be close to zero or negative at the end of a calendar quarter.

4. The FDIC projects that the rates adopted in the final rule combined with the 20 basis point emergency special assessment should return the fund reserve ratio to 1.15 percent within seven years, that is, by December 31, 2015.
5. At least semiannually hereafter, the FDIC will update its loss and income projections for the fund and, if needed to ensure that the fund reserve ratio reaches 1.15 percent within the seven-year period, will increase assessment rates, following notice-and-comment rulemaking if required. If consistent with the fund reserve ratio reaching 1.15 percent within the seven-year period (or such shorter period as the FDIC may determine), the FDIC may also lower assessment rates, again following notice-and-comment rulemaking if required.
6. Institutions may continue to use assessment credits (for regular quarterly assessments and for emergency special assessments) without additional restriction (other than those imposed by law) during the term of the Restoration Plan, since the few remaining credits should have only a minimal effect on fund revenue.
7. This amended Restoration Plan shall be implemented immediately.