



Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Financial Institution Letter
FIL-93-2006
October 18, 2006

DEPOSIT INSURANCE ASSESSMENTS

Final Rule on One-Time Assessment Credit

Summary: The FDIC Board of Directors has approved the attached final rule to implement the One-Time Assessment Credit, as required by the Federal Deposit Insurance Reform Act of 2005. Under the final rule, eligible institutions will share in an aggregated one-time deposit insurance assessment credit of \$4,707,580,238.19. The final rule takes effect on November 17, 2006.

Distribution:

All FDIC-Insured Institutions

Suggested Routing:

Chief Executive Officer
President
Chief Financial Officer

Related Topics:

FDIC Assessments Regulations, 12 CFR 327, Subpart A

FDIC Dividends Regulations, 12 CFR 327, Subpart C

Attachment:

Final Rule

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Note:

FDIC financial institution letters (FILs) may be accessed from the FDIC's Web site at www.fdic.gov/news/news/financial/2006/index.html.

To receive FILs electronically, please visit <http://www.fdic.gov/about/subscriptions/fil.html>.

Paper copies of FDIC financial institution letters may be obtained through the FDIC's Public Information Center, 3501 Fairfax Drive, E-1002, Arlington, VA 22226 (1-877-275-3342 or 703-562-2200).

Highlights:

- Institutions eligible for the One-Time Assessment Credit are those that were in existence on December 31, 1996, and paid a deposit insurance assessment prior to that date, or are a successor to such an institution.
- A successor institution is defined as the acquiring, assuming, or resulting institution in a merger or consolidation or the acquiring institution under a de facto rule.
- The de facto rule recognizes a transfer of at least 90 percent of an institution's assets and deposit liabilities as a substantial transfer of the transferring institution's business. An institution deemed a "successor" under this rule acquires a pro-rata portion of the transferring institution's 1996 assessment base ratio.
- The FDIC will apply an eligible institution's One-Time Assessment Credit against the institution's future assessments to the maximum extent allowed by the statute.
- The FDIC will provide a preliminary Statement of One-Time Credit (Statement) to all eligible institutions as soon as practicable after the publication date of the final rule.
- An institution may request a review of its One-Time Assessment Credit eligibility or amount no later than December 18, 2006.
- Because the amounts shown in the Statements will not reflect credits as a result of transfers under the de facto rule, an institution claiming credits under this rule must file a request for review.
- An institution that does not request a review of its One-Time Assessment Credit eligibility or amount by December 18, 2006, will be barred from subsequently requesting a review.

DEPOSIT INSURANCE ASSESSMENTS
Final Rule on One-Time Assessment Credit

The Board of Directors of the Federal Deposit Insurance Corporation (FDIC) has approved the attached final rule to implement the One-Time Assessment Credit, as required by the Federal Deposit Insurance Reform Act of 2005. Under the final rule, eligible institutions will share in an aggregated deposit insurance assessment credit of \$4,707,580,238.19. The final rule takes effect on November 17, 2006.

Institutions eligible for the One-Time Assessment Credit are those that were in existence on December 31, 1996, and paid a deposit insurance assessment prior to that date, or are a successor to such an institution. A successor institution is defined as the acquiring, assuming, or resulting institution in a merger or consolidation or the acquiring institution under a de facto rule. The de facto rule recognizes a transfer of at least 90 percent of an institution's assets and deposit liabilities as a substantial transfer of the transferring institution's business. An institution deemed a "successor" under this rule acquires a pro-rata portion of the transferring institution's 1996 assessment base ratio.

The FDIC will apply an eligible institution's One-Time Assessment Credit against the institution's future assessments to the maximum extent allowed by the statute. The FDIC will provide a preliminary Statement of One-Time Credit to all eligible institutions as soon as practicable after the publication date of the final rule. The amounts shown in the Statements do not reflect credits as a result of transfers under the de facto rule.

Requests for Review Involving Credits

Under the final rule, an institution may request a review of its One-Time Assessment Credit *by December 18, 2006*, if it:

- Disagrees with the FDIC's determination of eligibility or ineligibility for the credit;
- Disagrees with the computation of the credit amount on the preliminary Statement of One-Time Credit;
- Believes that the Statement does not fully or accurately reflect appropriate adjustments to the institution's 1996 assessment base ratio; or
- Is claiming a credit under the de facto rule.

The Request for Review must be filed with the FDIC's Division of Finance at the following address:

Federal Deposit Insurance Corporation
Manager, Assessments Section
3501 Fairfax Drive, E-5082
Arlington, Virginia 22226-3500

All requests must be in writing and be accompanied by any documentation supporting the institution's claim.

IF AN INSTITUTION DOES NOT SUBMIT A TIMELY REQUEST FOR REVIEW, THE INSTITUTION IS BARRED FROM SUBSEQUENTLY REQUESTING A REVIEW OF ITS ONE-TIME ASSESSMENT CREDIT AMOUNT.

Timely Requests

A Request for Review is considered to be filed in a timely manner if the written request is received by the FDIC or postmarked by December 18, 2006.

Suggested Documentation

Documentation submitted to evidence a merger or consideration under the *successor rule* should allow the FDIC to readily identify the successor in such a transaction. An example of documentation that an institution might submit with its Request for Review, to support its claim as successor, would be a copy of the transfer/transaction agreement.

Documentation submitted in support of a claim under the *de facto rule* should allow the FDIC to readily identify assets and deposit liabilities transferred in a transaction, as well as the total assets and total liabilities of the transferring institution on the date of the transaction. These amounts are necessary to determine "substantial transfers" under the de facto rule, which is explained in the preamble to the final rule as representing a transfer of at least 90 percent of an institution's assets and deposit liabilities.

The following are examples of documentation that an institution might submit with its Request for Review to support its claim under the de facto rule:

1. A copy of the transfer/transaction agreement;
2. A copy of the transaction "Closing Statement" or "Pro Forma Statement," which shows the amount of assets and deposit liabilities transferred;
3. A copy of the transferring/selling institution's general ledger *as of the date of the transfer/transaction*.

Definitions

- *Deposit Liabilities* – Deposit liabilities for purposes of determining a “substantial transfer” under the de facto rule are deposits as defined by section 3(1) of the Federal Deposit Insurance Act.
- *“At Least 90 Percent”* – Asset percentages will be determined by dividing assets transferred on the date of transfer by total assets of the transferring institution on the date of transfer, and rounding to the nearest whole percent. Deposit liabilities percentages will be determined by dividing deposit liabilities transferred on the date of transfer by total deposit liabilities of the transferring institution on the date of transfer, and rounding to the nearest whole percent. In both cases, calculated percentages that are 0.5 percent or greater will be rounded up to the next percentage and those under 0.5 percent will be rounded down to the nearest whole percent.

Fred S. Selby
Director
Division of Finance