



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

Financial Institution Letter
FIL-63-2009
November 12, 2009

PREPAID ASSESSMENTS

Final Rule

Summary: On November 12, 2009, the FDIC adopted the attached final rule amending the assessment regulations to require insured depository institutions to prepay their quarterly risk-based assessments for the fourth quarter of 2009, and for all of 2010, 2011, and 2012, on December 30, 2009, along with each institution's risk-based assessment for the third quarter of 2009. For most institutions, the amount paid on December 30 will be substantially higher than typical quarterly deposit insurance assessments. Institutions should plan to have adequate funds available.

Distribution:

All FDIC-Insured Institutions

Suggested Routing:

Chief Executive Officer
President
Chief Financial Officer

Related Topics:

FDIC Regulations Governing the Assessment Process, 12 CFR Part 327

Attachment:

Final Rule
<http://www.fdic.gov/news/board/2009nov12no4.pdf>

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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/2009/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:

- On December 30, 2009, institutions must prepay their estimated quarterly risk-based assessments for the fourth quarter of 2009, through the fourth quarter of 2012, along with their risk-based assessment for the third quarter of 2009.
- The amount of the prepaid assessment will be included on the certified statement invoices for the third quarter of 2009, which will be available on FDICconnect no later than December 15, 2009.
- An institution can estimate its prepaid assessment at <http://www.fdic.gov/deposit/insurance/initiative/index.html>.
- On its own initiative, the FDIC will exempt certain institutions from the prepayment requirement and will notify them no later than November 23, 2009. Exempted institutions that do not wish to be exempted must apply by December 1, 2009, for withdrawal of the exemption. Requests for withdrawal will be deemed denied unless the FDIC notifies the institution the request is granted by December 15, 2009.
- In addition, an institution may apply for an exemption if the prepayment would significantly impair the institution's liquidity or would otherwise create extraordinary hardship. Applications must be submitted by December 1, 2009. The application must contain a full explanation of the need for the exemption with supporting documentation.
- Any application for exemption will be deemed denied unless the FDIC notifies the institution by December 15, 2009, that either the institution is exempt or the FDIC has postponed determination of the application.

PREPAID ASSESSMENTS

Final Rule

On November 12, 2009, the FDIC Board of Directors (Board) adopted a final rule amending the assessment regulations to require insured depository institutions to prepay their estimated quarterly regular risk-based assessments for the fourth quarter of 2009, and for all of 2010, 2011, and 2012 (the prepayment period) on December 30, 2009, at the same time that institutions pay their regular quarterly deposit insurance assessments for the third quarter of 2009. The following is a summary of the final rule:

Calculation of Prepaid Assessment Amounts. An institution's estimated assessments for the prepayment period (the prepaid amount) will be calculated by summing its estimated assessment for the fourth quarter of 2009 and all of 2010 and its estimated assessment for all of 2011 and 2012, as described below. The prepaid amount will be paid on December 30, 2009.

- *Estimated assessment for the fourth quarter 2009 and all of 2010.* An institution's prepaid assessment for the fourth quarter of 2009 and for all of 2010 will be determined by multiplying the total base assessment rate that the institution would have paid for the third quarter of 2009 — had the institution's CAMELS ratings in effect on September 30, 2009, and, where applicable, long-term debt issuer ratings in effect on September 30, 2009, been in effect for the entire third quarter of 2009 (its prepaid assessment rate) — times the corresponding prepaid assessment base (described below) for each quarter.
- *Estimated assessment for all of 2011 and 2012.* An institution's prepaid assessment for each quarter of 2011 and 2012 will be determined by multiplying its prepaid assessment rate plus .75 basis points (which implements the 3 basis point increase in annual assessment rates adopted by the FDIC on September 29, 2009) times the corresponding prepaid assessment base (described below) for each quarter.
- *Prepaid assessment base.* For each quarter of the prepayment period, an institution's prepaid assessment base will be calculated by increasing its third quarter 2009 assessment base at an annual rate of 5 percent.

Changes to data underlying an institution's September 30, 2009, assessment rate or assessment base received by the FDIC after December 24, 2009, will not affect an institution's prepaid amount.¹

An assessment rate calculator is available at <http://www.fdic.gov/deposit/insurance/initiative/index.html> to assist institutions in estimating their prepaid assessment amounts.

Accounting for Prepaid Assessments. Each institution should record the entire amount of its prepaid assessment as a prepaid expense (asset) as of December 30, 2009. As of December 31, 2009, and each quarter thereafter, each institution should record an expense (charge to earnings) for its regular quarterly assessment for the quarter and an offsetting credit to the prepaid assessment until the asset is exhausted. Once the asset is exhausted, the institution should record an expense and an accrued expense payable each quarter for its regular assessment, which is paid in arrears to the FDIC at the end of the following quarter. Any prepaid assessment not exhausted after collection of the amount due on June 30, 2013, will be returned to the institution.

Risk Weighting of Prepaid Assessments. The federal banking agencies' risk-based capital rules permit an institution to apply a zero-percent risk weight to claims on U.S. Government agencies. The FDIC believes the prepaid assessment qualifies for a zero-percent risk weight.

Restrictions on Use of Prepaid Assessments. Prepaid assessments can only be used to offset regular quarterly risk-based deposit insurance assessments. Prepaid assessments may not, for example, be used to:

- Offset FICO assessments;
- Offset any future special or systemic risk assessments;
- Offset Temporary Liquidity Guarantee Program assessments;
- Pay assessments for quarters prior to the fourth quarter of 2009;
- Pay civil money penalties; or
- Offset interest owed to the FDIC for underpayment of assessments for periods prior to the fourth quarter of 2009.

The FDIC will begin to offset prepaid assessments on March 30, 2010, representing payment for the fourth quarter of 2009.

¹ Thus, for purposes of calculating the prepaid assessment, the FDIC will take into account mergers and consolidations that are recorded in the FDIC's computer systems as of December 24, 2009. If a merger is recorded by this date, the assessment for the acquired institution will be paid by the acquirer at the acquirer's rate.

Transfer of Prepaid Assessments. An insured depository institution may transfer any portion of its prepaid assessment to another insured depository institution provided that the institutions notify the FDIC's Division of Finance and submit a written agreement signed by the legal representatives of both institutions. In their submission to the FDIC, the institutions must include documentation that each representative has the legal authority to bind the respective institutions. A prepaid assessment may not be transferred to any entity that is not an insured depository institution. A prepaid assessment may not be pledged to any entity. Contact assessments@fdic.gov or (800) 759-6596 (Option 2) for further information concerning the transfer of prepaid assessments.

Exemption from Prepayment Requirement. The final rule provides for an exemption or postponement from the required prepayment of assessments in certain cases. The exemption process does not in any way affect an institution's obligation to pay its regular third quarter 2009 risk-based assessment by December 30, 2009. The following is a summary of the exemption provisions contained in the final rule, including critical dates.

- *Exemption on the FDIC's Initiative.* The FDIC will exercise its discretion as supervisor and insurer to exempt an institution from the prepayment amount if the FDIC, in consultation with the institution's primary federal regulator, determines that prepayment would adversely affect the safety and soundness of the institution. If the FDIC initiates an exemption, the institution will be notified no later than November 23, 2009.
- *Application for Exemption.* In addition, an institution may apply for an exemption if the prepayment would significantly impair the institution's liquidity or would otherwise create extraordinary hardship. The FDIC expects that only a few institutions will find it necessary to apply for an exemption.

Applications for exemption must be submitted to the Director of the FDIC's Division of Supervision and Consumer Protection on or before December 1, 2009. Applications can be submitted by either electronic mail to prepaidassessment@fdic.gov or by fax to (202) 898-6676. The application must contain a full explanation of the need for the exemption with supporting documentation, including current financial statements, cash flow projections, and any other relevant information that the FDIC requests.

Any application for exemption filed by an institution will be deemed to be denied unless the FDIC notifies the applying institution by December 15, 2009, that either the institution is exempt from the prepaid assessment or the FDIC has postponed determination of the application for exemption, as explained below.

- *Application Requesting that the FDIC Withdraw an Exemption.* An institution that the FDIC has exempted on the grounds that prepayment would adversely affect the institution's safety and soundness may request that the FDIC allow the institution to pay its prepaid assessment.

Applications requesting withdrawal of an exemption must be submitted to the FDIC's Director of the Division of Supervision and Consumer Protection on or before December 1, 2009. Applications can be submitted by either electronic mail to prepaidassessment@fdic.gov or by fax to (202)898-6676. The application must contain a full explanation of the reasons the exemption is not needed with supporting documentation, including current financial statements, cash flow projections, and any other relevant information that the FDIC requests.

Any application requesting the FDIC to withdraw an exemption will be deemed denied unless the FDIC notifies the applying institution by December 15, 2009, that the exemption is withdrawn.

- *Postponement of Determination.* The FDIC may postpone determination of an application for exemption filed by an institution until no later than January 14, 2010. If the FDIC postpones determination of an application for exemption, the FDIC will notify the institution of the postponement by December 15, 2009. No later than January 14, 2010, the FDIC will make a final decision on applications for exemption that have been postponed. The FDIC expects to postpone few, if any, determinations of an application for exemption.

In the event that the FDIC postpones determination of an application for exemption, the institution will not have to pay its prepaid assessment on December 30, 2009, but the institution must still pay its third quarter 2009 risk-based assessment on December 30, 2009. If the FDIC ultimately denies an institution's request for exemption, the FDIC will notify the institution of the denial and of the date by which the institution must pay the prepaid assessment. The due date for payment of the prepaid assessment after a postponement will be no less than 15 days after the date of the denial.

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