Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064–AD27

Assessment Dividends

AGENCY: Federal Deposit Insurance Corporation (''FDIC'').

ACTION: Notice of proposed rulemaking.

SUMMARY: The FDIC is proposing regulations to implement the assessment dividend requirements in the Federal Deposit Insurance Reform Act of 2005 (''Reform Act'') and the Federal Deposit Insurance Reform Conforming Amendments Act of 2005 (''Amendments Act''). The proposed rule is the follow-up to the advanced notice of proposed rulemaking on assessment dividends the FDIC issued in September 2007 and the temporary final rule on assessment dividends the FDIC issued in October 2006. The temporary final rule sunsets on December 31, 2008.

DATES: Comments must be received on or before May 23, 2008.

ADDRESSES: You may submit comments by any of the following methods:

• *Agency Web Site: http://www.fdic.gov/regulations/laws/federal.* Follow instructions for submitting comments on the Agency Web Site.

• *E-mail: Comments@FDIC.gov.* Please include ''Assessment Dividends'' in the subject line of the message.

• *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW., 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. (EST).

• *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting comments.

Public Inspection: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal* including any personal information provided. Comments may be inspected and photocopied in the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1002, Arlington, VA 22226, between 9 a.m. and 5 p.m. (EST) on business days. Paper copies of public comments may be ordered from the Public Information Center by telephone at (877) 275–3342 or (703) 562–2200.

FOR FURTHER INFORMATION CONTACT: Munsell W. St. Clair, Chief, Banking and Regulatory Policy Section, Division of Insurance and Research, (202) 898–8967; Missy Craig, Program Analyst, Division of Insurance and Research, (202) 898–8724; Donna Saulnier, Division of Finance, Team Leader, Assessment Management, (703) 562–6167; or Joseph A. DiNuzzo, Counsel, Legal Division, (202) 898–7349.

SUPPLEMENTARY INFORMATION:

I. Background

A. Reform Act Requirements

Section 7(e)(2) of the Federal Deposit Insurance Act (''FDI Act''), as amended by the Reform Act, requires the FDIC, under most circumstances, to declare dividends from the Deposit Insurance Fund (''DIF'') when the DIF reserve ratio (''Reserve Ratio'') at the end of a calendar year equals or exceeds 1.35 percent. When the Reserve Ratio equals or exceeds 1.35 percent, and is not higher than 1.50 percent, the FDIC generally must declare one-half of the amount in the DIF in excess of the amount required to maintain the Reserve Ratio at 1.35 percent as dividends to be paid to insured depository institutions. The FDIC Board of Directors (''Board'') may suspend or limit dividends to be paid, however, if it determines in writing, after taking a number of statutory factors into account, that: [1]

1. The DIF faces a significant risk of losses over the next year; and
2. It is likely that such losses will be sufficiently high as to justify a finding by the Board that the Reserve Ratio should temporarily be allowed to grow without requiring dividends when the Reserve Ratio is between 1.35 and 1.50 percent or to exceed 1.50 percent.[2]

When the Reserve Ratio exceeds 1.50 percent at the end of a calendar quarter, the FDI Act requires the FDIC, absent certain limited circumstances (discussed in footnote 2), to declare a dividend equal to the excess of the amount required to maintain the Reserve Ratio at 1.50 percent as dividends to be paid to insured depository institutions.

If the Board decides to suspend or limit dividends, it must submit, within 270 days of making the determination, a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and to the Committee on Financial Services of the House of Representatives. The report must include a detailed explanation for the determination and a discussion of the factors required to be considered.[3]

The FDI Act directs the FDIC to consider each insured depository institution's relative contribution to the DIF (or any predecessor deposit insurance fund) when calculating such institution's share of any dividend. More specifically, when allocating dividends, the Board must consider:

1. The ratio of the assessment base of an insured depository institution (including any predecessor) on December 31, 1996, to the assessment base of all eligible insured depository institutions on that date;
2. The total amount of assessments paid on or after January 1, 1997, by an insured depository institution (including any predecessor) to the DIF (and any predecessor fund); [4]

[1] The statutory factors that the Board must consider are:

1. National and regional conditions and their impact on insured depository institutions;
2. Potential problems affecting insured depository institutions or a specific group or type of depository institution;
3. The degree to which the contingent liability of the Corporation for anticipated failures of insured institutions adequately addresses concerns over funding levels in the Deposit Insurance Fund; and
4. Any other factors that the Board determines are appropriate.

12 U.S.C. 1817(e)(2)(F).

[2] This provision would allow the FDIC's Board to suspend or limit dividends in circumstances where the Reserve Ratio has exceeded 1.5 percent, if the Board made a determination to continue a suspension or limitation that it had imposed initially when the reserve ratio was between 1.35 and 1.5 percent.

[3] *See* section 5 of the Amendments Act. Public Law 109–173, 119 Stat. 3601, which was signed into law by the President on February 15, 2006.

[4] This factor is limited to deposit insurance assessments paid to the DIF (or previously to the Bank Insurance Fund (''BIF'') or the Savings Association Insurance Fund (''SAIF'')) and does not include assessments paid to the Financing

Continued

3. That portion of assessments paid by an insured depository institution (including any predecessor) that reflects higher levels of risk assumed by the institution; and

4. Such other factors as the Board deems appropriate.

The Reform Act expressly requires the FDIC to prescribe by regulation the method for calculating, declaring and paying dividends. The dividend regulation must include provisions allowing an insured depository institution a reasonable opportunity to challenge administratively the amount of dividends it is awarded. Under the Reform Act, any review by the FDIC pursuant to these administrative procedures is final and not subject to judicial review.

B. The Temporary Final Rule on Assessment Dividends

In compliance with the Reform Act requirement to issue regulations on assessment dividends within 270 days of the statute's enactment, in October 2006, the FDIC issued a temporary final rule to implement the dividend requirements of the Reform Act (''Temporary Final Rule''). 71 FR 61385 (October 18, 2006).[5]

The Temporary Final Rule, which will expire on December 31, 2008, mirrors the dividend provisions of the Reform Act, provides definitions (including the definition of a ''predecessor'' depository institution) to implement the statute and details how an institution may request that the FDIC's Division of Finance (''DOF'') review an FDIC determination of the institution's dividend amount and how an institution may appeal the DOF's response to that request. In the Temporary Final Rule, the FDIC adopted a simple system for allocating any dividends that might be declared during the two-year duration of the regulation. Any dividends awarded before January 1, 2009, will be distributed simply in proportion to an institution's 1996 assessment base ratio, as determined pursuant to the one-time assessment credit rule. 12 CFR 327.53.

In publishing the Temporary Final Rule, the FDIC stated its intention to initiate a second, more comprehensive notice-and-comment rulemaking on dividends beginning with an advanced notice of proposed rulemaking to explore alternative methods for distributing future dividends after the temporary dividend rules expired on December 31, 2008. The publication of the assessment dividend advance notice of proposed rulemaking in September 2007 (''ANPR'') commenced that process. 72 FR 53181 (September 18, 2007).

C. The Advanced Notice of Proposed Rulemaking

In the ANPR the FDIC presented two general approaches to allocating dividends—the fund balance method and the payments method.[6]

The Fund Balance Method

Under the fund balance method, every quarter, each institution would be assigned a dollar portion of the fund balance (its fund allocation), solely for purposes of determining the institution's dividend share. Each institution's most recent fund allocation (as a percentage of the fund balance) would determine its share of any dividend. The fund allocation would increase or decrease each quarter depending upon fund performance and assessments paid by each institution. Specifically:

- Initially, the December 31, 2006 fund balance would be divided up among institutions in proportion to 1996 assessment bases. Thus, initially, each institution's fund allocation would equal its 1996 ratio times the December 31, 2006 fund balance.
- Thereafter, from quarter to quarter, fund allocations would grow or shrink depending upon the performance of the fund.
- In addition, each ''eligible'' premium would increase an institution's fund allocation, dollar for dollar. An ''eligible'' premium would be the portion of an institution's premium that would count toward increasing its share of dividends.
- Possible definitions for an eligible premium include: (1) All premiums charged; (2) premiums charged up to the lowest rate charged a Risk Category I institution; or (3) something in between, for example, premiums charged up to the maximum rate for a Risk Category I institution, in all cases minus any credit use.[7] Ineligible premiums would be those paid through the use of credits or those paid in cash at rates in excess of the eligible premium rate.

The Payments Method

Under the payments method an institution's share of any dividend would depend upon its (and its predecessors') 1996 assessment base, weighted in some manner, and its quarterly assessments. Specifically:

- At the start of the new assessments system, each institution's dividend share would depend upon its 1996 assessment base compared to all other institutions, weighted in some manner.
- The resulting value assigned to each institution based on its 1996 ratio could either remain unchanged or be assigned a declining weight over time.
- The possible definitions of an eligible (and an ineligible) premium are the same as those under the fund balance method. (However, under certain variations of this method discussed below, assessments offset through credit use could increase an institution's dividend share.)
- Cumulative eligible premiums paid into the fund since 1996 would add to an institution's share.
- Alternatively, the FDIC could count only eligible premiums paid over some recent period, for example, the most recent 3, 5, 10 or 15 years. In contrast, the fund balance method would necessarily take into account all assessment payments made under the new assessment system.
- Another variation would allow the FDIC to subtract dividends paid to an institution from its eligible premiums.

The ANPR presented two illustrative variations of the payments method. Under Variation 1, the Board could, as under the fund balance method, initially divide the 2006 fund balance based on each institution's share of the December 1996 assessment base. Eligible premiums after 1996 would be added to that amount. Under Variation 2, only premiums paid over some prior period (such as the previous 15 years) would be considered. When the prior period covered any year before 2007, the years 1997 through 2006 would be skipped, since the great majority of institutions paid no deposit insurance premiums then. Thus, for example, to determine dividend shares at the end of 2009, the method would consider premiums paid from 1985 through 1996 and from 2007 through 2009. Premiums paid during 2007, 2008 and 2009 would include only eligible premiums. However, because the weight accorded the 1996 ratio would effectively decline to zero over time, eligible premiums after 2006 would include eligible premiums offset with credits. An eligible premium paid

Corporation (''FICO'') used to pay interest on outstanding FICO bonds, although the FDIC collects those assessments on behalf of FICO. Beginning in 1997, the FDIC collected separate FICO assessments from both SAIF and BIF members.

[5] Prior to issuing the temporary final rule, the FDIC published and received comment on a proposed temporary final rule. 71 FR 28804.

[6] The sole focus of the ANPR was on the type of assessment dividend allocation method the FDIC should adopt. The ANPR indicated that whether and how the FDIC should retain or revise the other aspects of the Temporary Final Rule would be addressed in this proposed rule.

[7] However, an eligible premium would never be negative.

in 1996 or any earlier year would be calculated as an institution's share of the 1996 assessment base times total deposit insurance fund assessment income in that year.[8]

The ANPR provided additional details and variations on the alternate allocation methods, addressing issues including: risk reduction incentives, the treatment of older versus newer institutions, simplicity, relative dividend shares, the treatment of institutions chartered in the future and remaining decision-making for the Board. The ANPR also included charts and tables on the alternate allocation methods as well as formulas for determining dividends under different scenarios.

II. Comments on the ANPR

We received five comment letters on the ANPR: two from banking trade associations; one from a trade association representing large financial services companies; one from a coalition of four insured depository institutions; and one from a single depository institution that also was a member of the coalition. As the single institution's comments and recommendations were virtually identical to the coalition's, its response is not included separately in the following summary.

The two banking trade associations recommended that conservative fund management ensure that the fund be kept below the 1.35 percent statutory level that would trigger dividends. Both argued that low and steady premiums would limit the effect on both the old and new segments of the industry and not unfairly favor one set of institutions over the other. The financial services trade association concurred with the bank trade associations on the importance of keeping the fund balance below the level that would trigger dividends.

The two banking trade associations took no position on either of the two proposed dividend allocation methods, the fund balance method or the payments method. The depository institution coalition recommended adopting a modified form of the ANPR's Variation 2 of the payments method: instead of a 15-year look-back period that would exclude the years 1997–2006, it recommended a shortened look-back period of 5 years, without skipping the years 1997–2006. Unlike the ANPR's Variation 2, it did not explicitly describe how, if at all, the 1996 assessment base would be considered in determining an institution's dividends. The financial services trade association recommended that, if the FDIC is not able to maintain the fund below 1.35 percent, it adopt the payments method, structured as simply as possible. Specifically, it supported a 3–5 year look-back period for premiums, with no weight given to the 1996 assessment base.

The three trade associations recommended that eligible premiums be defined as premiums charged up to the maximum rate for a Risk Category I institution. The coalition did not explicitly discuss this aspect of the ANPR.[9] The financial services association and the coalition recommended that premiums offset with credits be excluded from eligible premiums. One banking trade association argued that, if the fund balance method were adopted, premiums offset by credits should be excluded.

Respondents generally were interested in simplicity and transparency. One trade association cautioned that any method adopted should be simple, transparent, and not require constant FDIC intervention and decision-making.

III. Explanation of the Proposed Rule

A. Overview

As part of the proposed rule, the FDIC, in accordance with requirements in the Reform Act, must establish the process for the Board's annual determination of whether a declaration of a dividend is required and whether circumstances indicate that a dividend should be limited or suspended. In addition, the FDIC must establish procedures for calculating the aggregate amount of any dividend, allocating that aggregate amount among insured depository institutions and paying dividends to individual insured depository institutions. The regulations also must allow an insured depository institution a reasonable opportunity to challenge the amount of its dividend.

B. Annual Determination of Whether Dividends Are Required/Declaration of Dividends

The provisions in the proposed rule for the annual determination of whether dividends are required and the declaration of dividends are unchanged, with one minor exception, from the provisions in the Temporary Final Rule.

Under the proposed rule, the FDIC would determine annually whether the Reserve Ratio at the end of the prior year equals or exceeds 1.35 percent of estimated insured deposits or exceeds 1.50 percent, thereby triggering a dividend requirement. At the same time, if a dividend is triggered, the FDIC would determine whether it should limit or suspend the payment of dividends based on the statutory factors. Any determination to limit or suspend dividends would be reviewed annually and would have to be justified to renew or make a new determination to limit or suspend dividends. Each decision to limit or suspend dividends must be reported to Congress. As proposed, any declaration with respect to dividends would be made on or before May 10th for the preceding calendar year. The May 10th date for the declaration of dividends differs from the May 15th date in the Temporary Final Rule. This slightly revised timing still would provide enough time for the Board to consider final data for the end of the preceding year regarding the Reserve Ratio, as well as to perform an analysis of what amount is necessary to maintain the fund at the required level and whether circumstances warrant limiting or suspending the payment of dividends. In addition, the May 10th date would allow more time, operationally, for the notification and payment of dividends and the FDIC's handling of requests for review of dividend amounts.

Under the proposed rule, if the FDIC does not limit or suspend the payment of dividends or does not renew such a determination, then the aggregate amount of the dividend would be determined as provided by the Reform Act. When the Reserve Ratio equals or exceeds 1.35 percent (but is not higher than 1.50 percent), then the FDIC generally is required to declare the amount that is equal to one-half the amount in excess of the amount required to maintain the Reserve Ratio at 1.35 percent as the aggregate amount of dividends to be paid to insured depository institutions. When the Reserve Ratio exceeds 1.50 percent, the FDIC generally is required to declare the amount in the DIF in excess of the amount required to maintain the Reserve Ratio at 1.50 percent as dividends to be paid to institutions.

C. Allocation of Dividends

As noted, in the Temporary Final Rule the FDIC adopted a simple system for allocating dividends, which will remain in place until December 31,

[8] For years prior to 1990, deposit insurance fund assessment income used to produce Chart 5 and Table 5 includes such income for both the FDIC and the Federal Savings and Loan Insurance Corporation.

[9] The coalition did, however, argue against skipping the 1997–2006 period in determining the look-back period. During these years, however, only institutions that were not in what is now called Risk Category I would have paid premiums.

2008, when the Temporary Final Rule terminates. Under that allocation method, any dividends awarded in 2007 or 2008 would have been distributed simply in proportion to an institution's 1996 assessment base ratio. However, no dividend was awarded in 2007 and none will be awarded in 2008 because the Reserve Ratio at the end of 2006 and 2007 was less than 1.35 percent.

After thoroughly considering the comments received, the FDIC is proposing a variation of the payments method for allocating future assessment dividends to FDIC-insured institutions. The proposed rule would divide the total dividend in any year into two parts. One of the two parts would be allocated based on the ratio of each institution's (including any predecessors') 1996 assessment base compared to the total of all existing eligible institutions' 1996 assessment bases (an institution's ''1996 assessment base share''). The other part of the total dividend would be allocated based on each institution's (including any predecessors') ratio of cumulative eligible premiums (defined below) over the previous five years to the total of cumulative eligible premiums paid by all existing institutions (or their predecessors) over the previous five years (an institution's ''eligible premium share''). The part of any potential dividend that would be allocated based upon 1996 assessment base shares would decline steadily from 100 percent to zero over 15 years; the part of any potential dividend that would be allocated based upon eligible premium shares would increase steadily over the same 15-year period from zero to 100 percent. After the 15-year period, any dividend would be allocated solely based on eligible premium shares.

The 15-year period would run from the end of 2006 to the end of 2021 and would govern dividends based upon the Reserve Ratio at the end of the years 2008 through 2021.[10] Actual dividends, if any, would be allocated and paid the following year. Table A shows the change in the allocation of potential dividends over time.

TABLE A.—TOTAL DIF DIVIDEND DISTRIBUTION TABLE

Based upon the DIF reserve ratio at year-end	Part of total DIF dividend determined by:	
	1996 Assessment base shares	Eligible premium shares
2006[10]	1 (100.0%)	0 (0%)
2007[10]	14/15 (93.3%)	1/15 (6.7%)
2008	13/15 (86.7%)	2/15 (13.3%)
2009	4/5 (80.0%)	1/5 (20.0%)
2010	11/15 (73.3%)	4/15 (26.7%)
2011	2/3 (66.7%)	1/3 (33.3%)
2012	3/5 (60.0%)	2/5 (40.0%)
2013	8/15 (53.3%)	7/15 (46.7%)
2014	7/15 (46.7%)	8/15 (53.3%)
2015	2/5 (40.0%)	3/5 (60.0%)
2016	1/3 (33.3%)	2/3 (66.7%)
2017	4/15 (26.7%)	11/15 (73.3%)
2018	1/5 (20.0%)	4/5 (80.0%)
2019	2/15 (13.3%)	13/15 (86.7%)
2020	1/15 (6.7%)	14/15 (93.3%)
2021	0 (0%)	1 (100.0%)
Thereafter	0%	100.0%

[10] As discussed earlier, had dividends actually been awarded based upon the 2006 and 2007 reserve ratios, the dividends would have been allocated pursuant to the existing rule governing dividends.

Thus, for example, if a dividend were awarded based upon the Reserve Ratio at the end of 2018, one-fifth of the total dividend would be allocated based upon 1996 assessment base shares and four-fifths of the total dividend would be allocated based upon eligible premium shares.[11]

The 15-year period over which the influence of 1996 assessment bases would decline represents a compromise between two legitimate, but opposing, arguments. On one hand, a 15-year period recognizes the significant contributions made by some institutions in the early 1990s to capitalize the deposit insurance fund and that the interest earned on this capital continues to help fund the FDIC. On the other hand, a 15-year period does not give these institutions an advantage that could last indefinitely in obtaining dividends, as would occur under the fund balance method absent very large insurance losses. It is also consistent with an argument noted in a comment letter that the $4.7 billion one-time assessment credit, which was awarded under the Reform Act and distributed according to the 1996 assessment base shares, was intended to compensate institutions that helped capitalize the insurance funds in the early 1990s.

Cumulating eligible premiums over the 5-year period preceding the year of the dividend is consistent with the specific recommendations made by the large financial services company trade association and the coalition in their comment letters. A 5-year look-back period recognizes that the Reform Act enhances the FDIC's ability to control the growth of the fund over time through the level of assessment rates. Certain events, however, such as an unanticipated decline in estimated insured deposits or unexpectedly high investment income, could raise the fund over the 1.35 percent dividend threshold. Thus, assessments charged over some relatively short period preceding the unexpected events would have proven in retrospect to be too high, and the dividend would serve as a rebate of excess funds.[12]

Eligible Premiums

Based upon the unanimous recommendations of all respondents

[11] The dividend would actually be awarded and paid in 2019.

[12] One of the banking trade associations that commented on the ANPR cited essentially the same argument as a justification for adopting the payments method.

who commented specifically on the issue, the FDIC is proposing that an eligible premium be defined as the part of any actual assessment that is charged at no more than the maximum rate then applicable to a Risk Category I institution. Under the assessment rate schedule presently in effect, the minimum and maximum rates that can be charged a Risk Category I institution differ by two basis points. At present, the minimum annual rate applicable to a Risk Category I institution is 5 basis points and the maximum rate is 7 basis points. Thus, the entire assessment of an institution charged anywhere between 5 and 7 basis points would be an eligible premium, but only 7/10 of the assessment of an institution in Risk Category II (charged 10 basis points under the current schedule) would be eligible so long as this rate schedule is in effect.[13]

Under the proposed rule, whether an institution paid its assessment in cash or offset it with assessment credits would not affect its eligible premiums. Thus, again assuming present assessment rates, the entire assessment of an institution charged 7 basis points would be an eligible premium, whether the institution paid in cash or offset its assessment liability with an assessment credit. The FDIC currently anticipates that the great bulk of assessment credits (over 95 percent) will have been used by the end of 2008.

An institution's eligible premiums would include eligible premiums paid by a predecessor.

How the Dividend Allocation Method Would Affect Different Institutions

The proposed dividend allocation method would affect institutions differently depending upon their 1996 assessment base and the amount of eligible premiums charged during the five years before a dividend is declared. Assume, for example, that a hypothetical dividend of $1 billion were awarded based upon the 2018 Reserve Ratio. Of the $1 billion total dividend, $200 million-one-fifth (20 percent)—would be allocated based upon 1996 assessment base shares and $800 million—four-fifths (80 percent)—would be allocated based upon eligible premium shares.[14] An institution that held 0.1 percent of the 1996 assessment base and had made 0.05 percent of total eligible premiums from 2014 through 2018 would receive a dividend of $600,000 (0.1 percent of $200 million—which equals $200,000—plus 0.05 percent of $800 million—which equals $400,000). An institution that had no 1996 assessment base but had made the identical percentage (0.05 percent) of total eligible premiums from 2014 through 2018 would receive $400,000.

An institution that consistently paid the lowest rate applicable to Risk Category I would receive a smaller dividend than one that paid the highest rate applicable to Risk Category I, assuming identical future assessment bases and identical 1996 assessment base shares, since the institution paying the higher rate would have paid higher premiums and would have a larger eligible premium share. However, an institution that consistently paid a rate outside of Risk Category I (for example, the Risk Category II rate) would receive the same dividend as an institution that paid the highest rate applicable to Risk Category I, again assuming identical future assessment bases and identical 1996 assessment base shares.

An addendum explains the dividend allocation calculation in greater detail.

Predecessor Insured Depository Institutions

Under the proposed rule, consistent with the requirements of the Reform Act, the allocation of dividends to an insured depository institution would in part be based on the 1996 assessment base ratio of, and the post-l996 assessments paid by, insured depository institutions of which the insured depository institution is the successor. As in the Temporary Final Rule, the proposed rule would define a predecessor insured depository institution by cross referencing the definition of successor insured depository institution in the one-time assessment credit rule. (See 12 CFR 327, subpart B.) In effect, a predecessor institution is the mirror image of a successor institution. Notably, the definition of successor in the one-time credit regulation includes a de facto rule, applicable in transactions in which an insured depository institution assumes substantially all of the deposit liabilities and acquires substantially all of the assets of another insured depository institution.

D. Notification and Payment of Dividends

Under the proposed rule, the FDIC would advise each institution of its dividend amount as soon as practicable after the Board's declaration of a dividend on or before May 10th. Individual dividend amounts would be paid to institutions no later than 45 days, or as soon as practicable, after the issuance of the special notice. This timeframe would allow the FDIC to freeze payment of an individual institution's dividend amount, if that amount is in dispute.

Depending on the timing of the Board's declaration, which could occur prior to May 10th, and the expiration of the 30-day period for requesting review (explained below), it is possible that dividends could be paid at the same time as the collection of the quarterly assessment and would offset those payments. Dividends would be paid through the Automated Clearing House (''ACH''). If they are paid at the time of assessment payments, offsets would be made. If the institution owes assessments in excess of the dividend amount, there would be a net debit (resulting in payment to the FDIC). Conversely, if the FDIC owes an additional dividend amount in excess of the assessment to the institution, there would be a net credit (resulting in payment from the FDIC). The FDIC plans to notify institutions whether dividends would offset the next assessment payments with the next invoice.

Under the proposed rule, the FDIC would freeze the payment of the disputed portion of dividend amounts involved in requests for review. In the absence of such action, institutions would receive the amount indicated on the notice. Any adjustment to an individual institution's dividend amount resulting from its request for review would be handled through ACH in the same manner as existing procedures for underpayment or overpayment of assessments.

The FDIC intends, beginning no later than 2010, to include with its quarterly assessment invoices to insured depository institutions the institution's 1996 assessment base share and its rolling five-year eligible premium share.

E. Requests for Review

The Reform Act requires the FDIC to include in its dividend regulations provisions allowing an insured depository institution a reasonable opportunity to challenge administratively the amount of its dividend. The FDIC's determination under such procedures is to be final and not subject to judicial review.

The request-for-review provisions of the proposed rule, for dividend amounts, are similar to those in the Temporary Final Rule, but they reflect

[13] If the year-end reserve ratio in 2009 or 2010 exceeds 1.35 percent and the FDIC declares a dividend for that year, the 5-year look-back period would include years before 2007. Institutions in what is now termed Risk Category I (formerly the ''1A'' risk classification), however, were charged a zero rate from 1997 through 2006. Thus, under the proposal, no premium paid before 2007 would be eligible.

[14] Again, the dividend would actually be awarded and paid in 2019.

the FDIC's intention to provide, beginning in 2010, quarterly dividend-related information with each institution's assessment invoice. If a dividend were declared before 2010, an institution would have 30 days from the date of the notice advising it of its dividend amount to request review. Review could be requested if an institution disagrees with the computation of the dividend or if it believes that it does not accurately reflect appropriate adjustments to the institution's 1996 assessment base ratio or eligible premium share, such as for a purchase and assumption transaction that triggers application of the de facto rule for purposes of determining any predecessor institutions. Once the quarterly invoice updates become available as contemplated under the proposed rule, an institution generally would have 90 days from the date of the invoice to request review of that dividend-related information, except in a year in which a dividend is declared. If the FDIC were to declare a dividend, the institution would have 30 days from the date of its notice of dividend amount to request review either of that amount or of any dividend-related information in its March invoice for that year; the institution would not have the full 90-day period following the March invoice to request review.

An institution must timely request review of its dividend-related information and must request review within 90 days of the first invoice that fails to reflect accurate information. If an institution does not submit a timely request for review of its dividend-related information, it would be barred from subsequently requesting review of that information.

The requirement that insured depository institutions monitor their dividend-related information quarterly and promptly request review is necessitated by the proposed timing for the payment of dividends. In the absence of such a strict quarterly requirement, the FDIC would need to reconsider both the timing of dividend payment and possibly the look-back period for calculating institutions' dividend shares, which at 5 years is longer than the 3-year recordkeeping requirement in the FDI Act and longer than the 3-year statute of limitations for bringing action on assessment underpayments and overpayments.

As under the current rule, at the time of the request for review, the requesting institution also would be required to notify all other institutions of which it knew or had reason to believe would be directly and materially affected by granting the request for review and would be required to provide those institutions with copies of the request for review, supporting documentation, and the FDIC's procedures for these requests for review. In addition, the FDIC would make reasonable efforts, based on its official systems of records, to determine that such institutions have been identified and notified.

These institutions would then have 30 days to submit a response and any supporting documentation to the FDIC's Division of Finance, copying the institution making the original request for review. If an institution notified through this process does not submit a timely response, that institution would be foreclosed from subsequently disputing the information submitted by any other institution on the transaction(s) at issue in the review process. Also under the proposed rule, the FDIC could request additional information as part of its review, and the institution from which such information is requested would be required to supply that information within 21 days of the date of the FDIC's request.

The proposed rule would require a written response from the FDIC's Director of the Division of Finance (''Director''), or his or her designee, notifying the requesting institution and any materially affected institutions of the determination of the Director as to whether the requested change is warranted, whenever feasible: (1) Within 60 days of receipt by the FDIC of the request for revision; (2) if additional institutions are notified by the requesting institution or the FDIC, within 60 days of the date of the last response to the notification; or (3) if the FDIC has requested additional information, within 60 days of its receipt of the additional information, whichever is latest.

If a requesting institution disagrees with the determination of the Director, that institution could appeal its dividend determination to the FDIC's Assessment Appeals Committee (''AAC''). Under the proposed rule, an appeal to the AAC must be filed within 30 calendar days of the date of the Director's written determination. Notice of the procedures applicable to appeals of the Director's determination to the AAC would be included with the written response. The AAC's determination would be final and not subject to judicial review.

As noted, and as under the Temporary Final Rule, the FDIC proposes to freeze temporarily the distribution of the dividend amount in dispute for the institutions involved in the challenge until the challenge is resolved.

IV. Request for Comments

The FDIC requests comments on all aspects of the proposed rule. Comments are specifically requested on the proposed dividend allocation method.

V. 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. We invite your comments on how to make this proposal easier to understand. For example:

- Have we 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 we do to make the regulation easier to understand?

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') requires a federal agency publishing a notice of proposed rulemaking to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities. 5 U.S.C. 603(a). Pursuant to regulations issued by the Small Business Administration (13 CFR 121.201), a ''small entity'' includes a bank holding company, commercial bank or savings association with assets of $165 million or less (collectively, small banking organizations). The RFA provides that an agency is not required to prepare and publish a regulatory flexibility analysis if the agency certifies that the proposed rule would not have a significant impact on a substantial number of small entities. 5 U.S.C. 605(b).

Pursuant to section 605(b) of the RFA, the FDIC certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule, if adopted in final form, would provide the procedures for the FDIC's declaration, distribution, and payment of dividends to insured depository institutions under the circumstances set forth in the FDI Act. While each insured depository institution would have the opportunity to request review of the amount of its dividend each time a dividend is declared, the proposed rule would rely on information already collected and maintained by the FDIC in the regular course of business. The proposed rule, if adopted, would not directly or indirectly impose any reporting, recordkeeping or compliance requirements on insured depository institutions.

C. Paperwork Reduction Act

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

D. 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 (Pub. L. 105–277, 112 Stat. 2681).

Addendum

The illustrations below provide a more detailed description of the dividend allocation calculation. Both illustrations again assume that a hypothetical dividend of $1 billion is awarded based upon a hypothetical 2018 Reserve Ratio. In the illustrations, Institution A and Institution B are assumed to be identical except that A has a 1996 assessment base, and B does not. They both pay Risk Category I premiums at the same rate. Institution C is identical to Institution A (it has a 1996 assessment base), but it differs from both A and B in that it pays the higher Risk Category II assessment rate.

ILLUSTRATION 1.—DIVIDEND OF $1 BILLION BASED ON 2018 RESERVE RATIO

20 percent ($200 million) allocated based on 1996 assessment base shares
80 percent ($800 million) allocated based upon eligible premium shares

Bank A's 1996 assessment base = $400 million (0.01203% of industry total)
Bank B's 1996 assessment base = $0
Banks have identical assessment bases and pay the lowest assessment rate applicable to Risk Category I (assumed to be 2 basis points) [15]

Year	Assessment base ($000)	Rate (B.P.)	Premium ($000)	Eligible premium ($000)
2014	500,000	2	100	100
2015	522,500	2	105	105
2016	546,013	2	109	109
2017	570,583	2	114	114
2018	596,259	2	119	119
5-year sum				547
Industry 5-year sum				12,000,000
Each bank's share of industry 5-year eligible premium				0.00456%
Bank A's dividend ($000) = 0.01203% of $200 million + 0.00456% of $800 million:				60.531
Bank B's dividend ($000) = 0.0456% of $800 million:				36.471

ILLUSTRATION 2.—DIVIDEND OF $1 BILLION BASED ON 2018 RESERVE RATIO

[20 percent ($200 million) allocated based on 1996 assessment base shares]
[80 percent ($800 million) allocated based upon eligible premium shares]

Bank C's 1996 assessment base = $400 million (0.01203% of industry total).
Bank C's 1996 assessment base is identical to Banks A and B (Illustration 1).
Pays rate applicable to Risk Category II (assumed to be 7 basis points).

Year	Assessment base ($000)	Rate (B.P.)	Premium ($000)	Eligible premium ($000)
2014	500,000	7	350	200
2015	522,500	7	366	209
2016	546,013	7	382	218
2017	570,583	7	417	239
2018	596,259	7	417	239
5-year sum				1,094
Industry 5-year sum				12,000,000
Bank C's share of industry 5-year eligible premium				0.00912%
Bank C's dividend ($000) = 0.01203% of $200 million + 0.00912% of $800 million:				97.003

[15] The illustrations assume that assessment rates charged in 2014–2018 equal the base assessment rates adopted by the Board at the end of 2006: 2–4 basis points for Risk Category I and 7 basis points for Risk Category II.

List of Subjects in 12 CFR Part 327

Bank deposit insurance, Banks, Banking, Savings associations.

Authority and Issuance

For the reasons set forth in the preamble, chapter III of title 12 of the Code of Federal Regulations is amended by revising subpart C to read as follows:

PART 327—ASSESSMENTS

Subpart C—Implementation of Dividend Requirements

Subpart C—Implementation of Dividend Requirements

Authority: 12 U.S.C. 1817(e)(2), (4).

§ 327.50 Purpose and scope.

(a) Scope. This subpart C of part 327 implements the dividend provisions of section 7(e)(2) of the Federal Deposit Insurance Act, 12 U.S.C. 1817(e)(2), and applies to insured depository institutions.

(b) Purpose. This subpart C of part 327 provides the rules for:

(1) The FDIC's annual determination of whether to declare a dividend and the aggregate amount of any dividend;

(2) The FDIC's determination of the amount of each insured depository institution's share of any declared dividend;

(3) The time and manner for the FDIC's payments of dividends; and

(4) An institution's appeal of the FDIC's determination of its dividend amount.

§ 327.51 Definitions.

For purposes of this subpart:

(a) *Assessment base share* means an *insured depository institution's 1996 assessment base ratio* divided by the total of all existing, eligible insured depository institution's shares of the 1996 assessment base (rounded to seven decimal places).

(b) *Board* has the same meaning as under subpart B of this part.

(c) *DIF* means the Deposit Insurance Fund.

(d) An *eligible premium* means an assessment paid by an insured depository institution (or its predecessor) that did not exceed, for the applicable assessment period, the maximum assessment applicable in that assessment period to a Risk Category 1 institution under subpart A of this part.

(e) An insured depository institution's *eligible premium share* means that institution's cumulative eligible premiums over the previous five years (ending on December 31st of the year prior to the year in which the dividend is declared) divided by the cumulative total of all eligible premiums paid by all existing insured depository institutions or their predecessors over that five-year period (rounded to seven decimal places).

(f) An *insured depository institution's 1996 assessment base ratio* means an institution's 1996 assessment base ratio, as determined pursuant to the § 327.33 of subpart B of this part, adjusted as necessary to reflect subsequent transactions in which the institution succeeds to another institution's assessment base ratio, or a transfer of the assessment base ratio pursuant to § 327.34. The 1996 assessment base ratio shall be rounded to seven decimal places.

(g) *Predecessor,* when used in the context of insured depository institutions, refers to the institution merged with or into a resulting institution or acquired by an institution under § 327.33(c) of subpart B under the de facto rule, consistent with the definition of *successor* in section 327.31.

§ 327.52 Annual dividend determination.

(a) On or before May 10th of each calendar year, beginning in 2007, the Board shall determine whether to declare a dividend based upon the reserve ratio of the DIF as of December 31st of the preceding year, and the amount of the dividend, if any.

(b) Except as provided in paragraph (d) of this section, if the reserve ratio of the DIF equals or exceeds 1.35 percent of estimated insured deposits and does not exceed 1.50 percent, the Board shall declare the amount that is equal to one-half of the amount in excess of the amount required to maintain the reserve ratio at 1.35 percent as the aggregate dividend to be paid to insured depository institutions.

(c) If the reserve ratio of the DIF exceeds 1.50 percent of estimated insured deposits, except as provided in paragraph (d), the Board shall declare the amount in excess of the amount required to maintain the reserve ratio at 1.50 percent as the aggregate dividend to be paid to insured depository institutions and shall declare a dividend under paragraph (b) of this section.

(d) (1) The Board may suspend or limit a dividend otherwise required to be paid if the Board determines that:

(i) A significant risk of losses to the DIF exists over the next one-year period; and

(ii) It is likely that such losses will be sufficiently high as to justify the Board concluding that the reserve ratio should be allowed:

(A) To grow temporarily without requiring dividends when the reserve ratio is between 1.35 and 1.50 percent; or

(B) To exceed 1.50 percent.

(2) In making a determination under this paragraph, the Board shall consider:

(i) National and regional conditions and their impact on insured depository institutions;

(ii) Potential problems affecting insured depository institutions or a specific group or type of depository institution;

(iii) The degree to which the contingent liability of the FDIC for anticipated failures of insured institutions adequately addresses concerns over funding levels in the DIF; and

(iv) Any other factors that the Board may deem appropriate.

(3) Within 270 days of making a determination under this paragraph, the Board shall submit a report to the Committee on Financial Services and the Committee on Banking, Housing, and Urban Affairs, providing a detailed explanation of its determination, including a discussion of the factors considered.

(e) The Board shall annually review any determination to suspend or limit dividend payments and must either:

(1) Make a new finding justifying the renewal of the suspension or limitation under paragraph (d) of this section, and submit a report as required under paragraph (d)(3) of this section; or

(2) Reinstate the payment of dividends as required by paragraph (b) or (c) of this section.

§ 327.53 Allocation and payment of dividends.

(a) (1) The allocation of any dividend among insured depository institutions shall be based on the institution's 1996 assessment base share and the institution's eligible premium share.

(2) As set forth in the following table, the part of a dividend allocated based upon an institution's 1996 assessment base share shall decline steadily from 100 percent to zero over fifteen years, and the part of a dividend allocated based upon an institution's eligible premium share shall increase steadily over the same fifteen-year period from zero to 100 percent. The 15-year period shall begin as if it had applied to a dividend based upon the reserve ratio at

the end of 2006 and shall end with respect to any dividend based upon the reserve ratio at the end of 2021. Dividends based upon the reserve ratio as of December 31, 2021, and thereafter shall be allocated among insured depository institutions based solely on eligible premium shares.

TOTAL DIF DIVIDEND DISTRIBUTION TABLE

Based upon the DIF reserve ratio at year-end	Part of total DIF dividend determined by:	
	1996 Assessment base shares	Eligible premium shares
2006	1 (100.0%)	0 (0%)
2007	14/15 (93.3%)	1/15 (6.7%)
2008	13/15 (86.7%)	2/15 (13/3%)
2009	4/5 (80.0%)	1/5 (20.0%)
2010	11/15 (73.3%)	4/15 (26.7%)
2011	2/3 (66.7%)	1/3 (33.3%)
2012	3/5 (60.0%)	2/5 (40.0%)
2013	8/15 (53.3%)	7/15 (46.7%)
2014	7/15 (46.7%)	8/15 (53.3%)
2015	2/5 (40.0%)	3/5 (60.0%)
2016	1/3 (33.3%)	2/3 (66.7%)
2017	4/15 (26.7%)	11/15 (73.3%)
2018	1/5 (20.0%)	4/5 (80.0%)
2019	2/15 (13.3%)	13/15 (86.7%)
2020	1/15 (6.7%)	14/15 (93.3%)
2021	0 (0%)	1 (100.0%)
Thereafter	0 (0%)	1 (100%)

The 15-year period shall be computed as if it had applied to dividends based upon the reserve ratios at the end of 2006 and 2007.

(b) The FDIC shall notify each insured depository institution of the amount of such institution's dividend payment based on its share as determined pursuant to paragraph (a) of this section. Notice shall be given as soon as practicable after the Board's declaration of a dividend through a special notice of dividend.

(c) The FDIC shall pay individual dividend amounts, unless they are the subject of a request for review under § 327.54 of this subpart, to insured depository institutions no later than 45 days, or as soon as practicable thereafter, after the issuance of the special notices of dividend. The FDIC shall notify institutions whether dividends will offset the next collection of assessments at the time of the invoice. An institution's dividend amount may be remitted with that institution's assessment or paid separately. If remitted with the institution's assessment, any excess dividend amount will be a net credit to the institution and will be deposited into the deposit account designated by the institution for assessment payment purposes pursuant to subpart A of this part. If remitted with the institution's assessment and the dividend amount is less than the amount of assessment due, then the institution's account will be directly debited by the FDIC to reflect the net amount owed to the FDIC as an assessment.

(d) If an insured depository institution's dividend amount is subject to review under § 327.54, and that request is not finally resolved prior to the dividend payment date, the FDIC shall withhold the payment of the disputed portion of the dividend amount involved in the request for review. Adjustments to an individual institution's dividend amount based on the final determination of a request for review will be handled in the same manner as assessment underpayments and overpayments.

§ 327.54 Requests for review.

(a) An insured depository institution may submit a request for review of the FDIC's determination of the institution's 1996 assessment base share and/or its eligible premium share as shown on the institution's quarterly assessment invoice. Such requests shall be subject to the provisions of § 327.3(f)(3) of subpart A of this part, except for the invoice provided by the FDIC in March of any calendar year in which the FDIC declares a dividend. If the FDIC declares a dividend, any request for review of an institution's 1996 assessment base share and/or its eligible premium share as shown on the institution's March quarterly assessment invoice must be filed within 30 days of the date that the FDIC notifies the institution of its dividend amount. If an institution does not submit a timely request for review for the first invoice in which the dividend-related information that forms the basis for the request appears, the institution shall be barred from subsequently requesting review of that information.

(b) An insured depository institution may submit a request for review of the FDIC's determination of the institution's dividend amount as shown on the special notice of dividend. Such review may be requested if:

(1) The institution disagrees with the calculation of the dividend as stated on the special notice of dividend; or

(2) The institution believes that the 1996 assessment base ratio attributed to the institution has not been adjusted to include the 1996 assessment base ratio of an institution acquired by merger or transfer pursuant to §§ 327.33 and 327.34 of subpart B of this part and § 327.51(g) of this subpart, and the institution has not had a prior opportunity to request review or appeal under subpart B of this part or paragraph (a) of this section; or

(3) The institution believes that the special notice does not fully or accurately reflect its eligible premiums or those of any of its predecessors and the institution has not had a prior opportunity to request review or appeal under subpart B of this part or paragraph (a) of this section.

(c) Any such request for review under paragraph (b) of this section must be submitted within 30 days of the date of the special notice of dividend for which a change is requested. The request for review shall be submitted to the

Division of Finance and shall provide documentation sufficient to support the change sought by the institution. If an institution does not submit a timely request for review, that institution may not subsequently request review of its dividend amount, subject to paragraph (d) of this section. At the time of filing with the FDIC, the requesting institution shall notify, to the extent practicable, any other insured depository institution that would be directly and materially affected by granting the request for review and provide such institution with copies of the request for review, the supporting documentation, and the FDIC's procedures for requests under this subpart. The FDIC shall make reasonable efforts, based on its official systems of records, to determine that such institutions have been identified and notified.

(d) During the FDIC's consideration of a request for review, the amount of dividend in dispute will not be available for use by any institution.

(e) Within 30 days of receiving notice of the request for review under paragraph (b) of this section, those institutions identified as potentially affected by the request for review may submit a response to such request, along with any supporting documentation, to the Division of Finance, and shall provide copies to the requesting institution. If an institution that was notified under paragraph (c) of this section does not submit a response to the request for review, that institution may not subsequently:

(1) Dispute the information submitted by any other institution on the transaction(s) at issue in that review process; or

(2) Appeal the decision by the Director of the Division of Finance.

(f) If additional information is requested of the requesting or affected institutions by the FDIC, such information shall be provided by the institution within 21 days of the date of the FDIC's request for additional information.

(g) Any institution submitting a timely request for review under paragraph (b) of this section will receive a written response from the FDIC's Director of the Division of Finance (''Director''), or his or her designee, notifying the affected institutions of the determination of the Director as to whether the requested change is warranted, whenever feasible:

(1) Within 60 days of receipt by the FDIC of the request for revision;

(2) If additional institutions have been notified by the requesting institution or the FDIC, within 60 days of the date of the last response to the notification; or

(3) If additional information has been requested by the FDIC, within 60 days of receipt of the additional information, whichever is later. Notice of the procedures applicable to appeals under paragraph (g) of this section will be included with the Director's written determination.

(h) An insured depository institution may appeal the determination of the Director to the FDIC's Assessment Appeals Committee on the same grounds as set forth under paragraph (b) of this section. Any such appeal must be submitted within 30 calendar days from the date of the Director's written determination. The decision of the Assessment Appeals Committee shall be the final determination of the FDIC.

Dated at Washington, DC, this 14th day of March, 2008.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. E8–5670 Filed 3–21–08; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Lender Oversight and Credit Risk Management Program; Public Comment Meetings

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Public Comment Meetings.

SUMMARY: The U.S. Small Business Administration (SBA) announces that it will be holding a series of public comment meetings on SBA's proposed lender oversight/credit risk management rule. These public comment meetings will be held in selected cities across the country. The purpose of the meetings is to broaden the opportunity for public participation in the rulemaking. Comments presented at these public comment meetings will become part of the administrative record for SBA's consideration in promulgating SBA's lender oversight/credit risk management regulations.

DATES: The public comment meetings will be held on the dates, times and at the locations specified in the Meetings Schedule section below. All attendees should register at least one week prior to the scheduled meeting date.

ADDRESSES: Parties interested in commenting at or attending a public comment meeting must register by providing a request to Keri Pessagno, SBA Office of Credit Risk Management, at *keri.pessagno@SBA.gov,* or (202) 205–6496, or by facsimile to (202) 481–0744.

FOR FURTHER INFORMATION CONTACT: Bryan Hooper, Director, SBA Office of Credit Risk Management, at *bryan.hooper@SBA.gov,* or (202) 205–3049, or by facsimile (202) 205–6891.

SUPPLEMENTARY INFORMATION:

I. Background

On October 31, 2007, SBA published a proposed rule to incorporate SBA's risk based lender oversight program into SBA regulations (72 FR 61752) and, on December 20, 2007, extended the comment period on the proposed rule to February 29, 2008. (72 FR 72264). SBA included in the proposed rule a proposed regulatory framework for SBA's oversight of participants in the 7(a), 504 and Microloan lending programs. This regulatory framework would enhance SBA's Office of Credit Risk Management's (OCRM) ability to maximize the efficiency of SBA's lending programs by effectively managing program credit risk, monitoring lender performance, and enforcing lending program requirements. It is SBA's intent that the proposed framework would also incorporate the mission of SBA to assist small business access to credit. While the comments received on the proposed rule are greatly assisting SBA with its deliberations, SBA would like to broaden public participation by offering the public an opportunity to meet with SBA in person and communicate their comments. This Notice provides information on the purpose, format, scheduling, and registration for the public comment meetings.

II. Public Comment Meetings

The purpose of these public comment meetings is to broaden the opportunity for public participation in the rulemaking by providing a mechanism beyond the single written round of notice and comment and enable SBA to more fully comprehend the views of the public. SBA considers public comment meetings a valuable component of its deliberations and believes that these comment meetings will allow for constructive input by the lending community, their appointed representatives, and other members of the public. The comments conveyed would assist SBA in assessing and refining SBA's proposed rule.

The format will consist of a panel of SBA representatives who will represent the Agency and moderate the oral comments. The panel will listen to the views of the oral commenters on the proposed regulations. SBA respectfully