

Accounting Office so that the final rule may be reviewed.

### Impact on Families

The FDIC has determined that the final 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).

### 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. The FDIC requested comments on this issue but received none.

### List of Subjects in 12 CFR Part 337

Banks, Banking, Reporting and recordkeeping requirements, Savings associations, Securities.

■ For the reasons stated above, the Board of Directors of the Federal Deposit Insurance Corporation amends part 337 of title 12 of the Code of Federal Regulations as follows:

### PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

■ 1. The authority citation for part 337 is revised to read as follows:

**Authority:** 12 U.S.C. 375a(4), 375b, 1816, 1818(a), 1818(b), 1819, 1820(d)(10), 1821(f), 1828(j)(2), 1831, 1831f.

■ 2. In § 337.6:

- a. Paragraph (b)(2)(ii)(B) is revised to read as set forth below.
- b. Paragraph (b)(4) is removed.
- c. Paragraph (e) is added to read as set forth below.

#### § 337.6 Brokered deposits.

\* \* \* \* \*

- (b) \* \* \*
- (2) \* \* \*
- (ii) \* \* \*

(B) The national rate paid on deposits of comparable size and maturity for deposits accepted outside the institution's normal market area. For purposes of this paragraph (b)(2)(ii)(B), the national rate shall be a simple average of rates paid by all insured depository institutions and branches for which data are available. This rate shall be determined by the FDIC.

\* \* \* \* \*

(e) A market is any readily defined geographical area in which the rates offered by any one insured depository institution soliciting deposits in that

area may affect the rates offered by other insured depository institutions operating in the same area. The effective yield on a deposit with an odd maturity shall be determined by interpolating between the yields offered by other insured depository institutions on deposits of the next longer and shorter maturities offered in the market. For purposes of this § 337.6, a presumption shall exist that the prevailing rate or effective yield in the relevant market is the national rate as defined in paragraph (b)(2)(ii)(B) of this section unless the FDIC determines, in its sole discretion based on available evidence, that the effective yield in that market differs from the national rate. Evidence of the effective yield in a particular market may include (but is not limited to) the following:

(1) Evidence as to the rates paid by other insured depository institutions in the same State, county or metropolitan statistical area (though the FDIC shall not be obligated to recognize each State, county or metropolitan statistical area as a separate market area);

(2) Evidence as to the rates paid by credit unions in the same market area if the FDIC determines that the insured depository institution competes directly with these credit unions; and

(3) Evidence as to the different rates paid on different deposit products in the same market area (though the FDIC shall not be obligated to recognize all alleged distinctions among various deposit products). (*Example:* For a particular market, evidence exists that the rates on money market deposit accounts (MMDAs) differ from the rates on negotiable order of withdrawal (NOW) accounts. MMDAs are distinguishable from NOW accounts in that the two types of accounts are subject to different legal requirements. Under these circumstances, for this market, the FDIC could recognize that the prevailing rate on MMDAs is different than the prevailing rate on NOW accounts.)

Dated at Washington, DC, this 29th day of May 2009.

Authorized to be published in the **Federal Register** by Order of the Board of Directors of the Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

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### FEDERAL DEPOSIT INSURANCE CORPORATION

#### 12 CFR Part 337

#### Technical Amendments to Interest Rate Restrictions on Insured Depository Institutions That Are Not Well Capitalized; Withdrawal

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

**ACTION:** Final rule; withdrawal.

**SUMMARY:** The Federal Deposit Insurance Corporation published in the **Federal Register** of June 3, 2009 (74 FR 26516), a final rule concerning Interest Rate Restrictions on Insured Depository Institutions That Are Not Well Capitalized. Inadvertently a draft version of the document was published instead of the version adopted by the FDIC Board of Directors. The Federal Deposit Insurance Corporation withdraws the rule published at 74 FR 26516. The correct version of the final rule is published elsewhere in this **Federal Register**.

**DATES:** Effective on June 11, 2009, the final rule amending 12 CFR part 337 published June 3, 2009 (74 FR 26516) is withdrawn.

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**SUPPLEMENTARY INFORMATION:** The Federal Deposit Insurance Corporation published in the **Federal Register** of June 3, 2009, a final rule concerning Interest Rate Restrictions on Insured Depository Institutions That Are Not Well Capitalized. Inadvertently a draft version of the document was published instead of the version adopted by the FDIC Board of Directors. This document is withdrawn and the correct version is published elsewhere in this **Federal Register**. Although the differences in the two versions are not extensive, the correct final rule is being published in its entirety to ensure clarity.

Dated: June 5, 2009.

**Robert E. Feldman,**

*Executive Secretary.*

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