Federal Deposit Insurance Corporation

MEMO

TO: The Board of Directors

FROM: Patrick Mitchell
Director, Division of Insurance and Research

DATE: May 11, 2023

RE: Notice of Proposed Rulemaking on Special Assessments Pursuant to Systemic Risk Determination

RECOMMENDATION

Staff recommend that the FDIC's Board of Directors (Board) adopt and authorize publication of the attached notice of proposed rulemaking (NPR or proposal) with a 60-day comment period. The NPR would impose special assessments to recover the loss to the Deposit Insurance Fund (DIF or Fund) arising from the protection of uninsured depositors in connection with the systemic risk determination announced on March 12, 2023, following the closures of Silicon Valley Bank, Santa Clara, CA, and Signature Bank, New York, NY, as required by the Federal Deposit Insurance Act (FDI Act).[1]

The assessment base for the special assessments would be equal to an insured depository institution's (IDI) estimated uninsured deposits, reported as of December 31, 2022, adjusted to exclude the first $5 billion in estimated uninsured deposits from the IDI, or for IDIs that are part of a holding company with one or more subsidiary IDIs, at the banking organization level. Under the proposal, the FDIC would collect special assessments at an annual rate of approximately 12.5 basis points, over eight quarterly assessment periods, which would result in estimated total revenue of $15.8 billion. Because the estimated loss pursuant to the systemic risk determination will be periodically adjusted, the FDIC would retain the ability to cease collection early, extend the special assessment collection period one or more quarters beyond the initial eight-quarter collection period to collect the difference between estimated or actual losses and the amounts collected, and impose a final shortfall special assessment on a one-time basis after the receiverships for Silicon Valley Bank and Signature Bank terminate.

BACKGROUND

On March 10, 2023, Silicon Valley Bank was closed by the California Department of Financial Protection and Innovation, followed by the closure of Signature Bank by the New York State Department of Financial

[1] 12 U.S.C. 1823(c)(4)(G)(ii)(I).

Concur:

Harrel M. Pettway
General Counsel

Services on March 12, 2023. The FDIC was appointed as the receiver for both institutions.[2, 3]

Section 13(c)(4)(G) of the FDI Act permits the FDIC to take action or provide assistance to an IDI for which the FDIC has been appointed receiver as necessary to avoid or mitigate adverse effects on economic conditions or financial stability, following a recommendation by the FDIC Board of Directors (Board), with the written concurrence of the Board of Governors of the Federal Reserve System (Board of Governors), and a determination of systemic risk by the Secretary of the U.S. Department of Treasury (Treasury) (in consultation with the President).[4]

On March 12, 2023, the Secretary of the Treasury, acting on the recommendation of the FDIC Board and Board of Governors and after consultation with the President, invoked the statutory systemic risk exception to allow the FDIC to complete its resolution of both Silicon Valley Bank and Signature Bank in a manner that fully protects all depositors.[5] The full protection of all depositors, rather than imposing losses on uninsured depositors, was intended to strengthen public confidence in the nation's banking system.

On March 12 and 13, 2023, the FDIC transferred all deposits—both insured and uninsured—and substantially all assets of these banks to newly created, full-service FDIC-operated bridge banks, Silicon Valley Bridge Bank, N.A. (Silicon Valley Bridge Bank) and Signature Bridge Bank, N.A. (Signature Bridge Bank), in an action designed to protect all depositors of these banks.[6] The transfer of all deposits was completed under the systemic risk exception declared on March 12.

On March 19, 2023, the FDIC announced it entered into a purchase and assumption agreement for substantially all deposits and certain loan portfolios of Signature Bridge Bank.[7] On March 27, 2023, the FDIC entered into a purchase and assumption agreement for all deposits and loans of Silicon Valley Bridge Bank. This announcement also disclosed that the FDIC and First-Citizens Bank & Trust Company (First Citizens) entered into

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[2] FDIC PR-16-2023. "FDIC Creates a Deposit Insurance National Bank of Santa Clara to Protect Insured Depositors of Silicon Valley Bank, Santa Clara, California." March 10, 2023. *https://www.fdic.gov/news/press-releases/2023/pr23016.html*.

[3] FDIC PR-18-2023. "FDIC Establishes Signature Bridge Bank, N.A., as Successor to Signature Bank, New York, NY." March 12, 2023. *https://www.fdic.gov/news/press-releases/2023/pr23018.html*.

[4] 12 U.S.C. 1823(c)(4)(G). As used in this proposed rule, the term ''bank'' is synonymous with the term "insured depository institution" as it is used in section 3(c)(2) of the FDI Act, 12 U.S.C. 1813(c)(2).

[5] 12 U.S.C. 1823(c)(4)(G). *See also:* FDIC PR-17-2023. "Joint Statement by the Department of the Treasury, Federal Reserve, and FDIC." March 12, 2023. *https://www.fdic.gov/news/press-releases/2023/pr23017.html*. *See also*: "Remarks by Chairman Martin J. Gruenberg on Recent Bank Failures and the Federal Regulatory Response before the Committee on Banking, Housing, and Urban Affairs, United States Senate." March 27, 2023. *https://www.fdic.gov/news/speeches/2023/spmar2723.html*.

[6] A bridge bank is a chartered national bank that operates under a board appointed by the FDIC. It assumes the deposits and certain other liabilities and purchases certain assets of a failed bank. The bridge bank structure is designed to "bridge" the gap between the failure of a bank and the time when the FDIC can stabilize the institution and implement an orderly resolution.

[7] FDIC PR-21-2023. "Subsidiary of New York Community Bancorp, Inc. to Assume Deposits of Signature Bridge Bank, N.A., From the FDIC." March 19, 2023. *https://www.fdic.gov/news/press-releases/2023/pr23021.html*. The purchase and assumption agreement did not include approximately $4 billion of deposits related to the former Signature Bank's digital-asset banking business. The FDIC announced that it would provide these deposits directly to customers whose accounts are associated with the digital-asset banking business.

a loss-share transaction on the commercial loans it purchased from Silicon Valley Bridge Bank.[8]

Legal Authority and Policy Objectives

Under section 13(c)(4)(G) of the FDI Act, the loss to the DIF arising from the use of a systemic risk exception must be recovered from one or more special assessments on IDIs, depository institution holding companies (with the concurrence of the Secretary of the Treasury with respect to holding companies), or both, as the FDIC determines to be appropriate.[9] As required by the FDI Act, the proposed special assessment, detailed below, is intended and designed to recover the losses to the DIF incurred as the result of the actions taken by the FDIC to protect the uninsured depositors of Silicon Valley Bank and Signature Bank following a determination of systemic risk.[10]

Section 13(c)(4)(G) of the FDI Act provides the FDIC with discretion in the design and timeframe for any special assessments to recover the losses to the DIF as a result of the systemic risk determination. As detailed in the sections that follow, in recommending the proposed special assessments under section 13(c)(4)(G) of the FDI Act, staff considered the types of entities that benefit from any action taken or assistance provided under the determination of systemic risk, economic conditions, the effects on the industry, and such other factors deemed appropriate and relevant to the action taken or assistance provided.[11]

Estimated Special Assessment Amount

By statute, the FDIC is required to recover through special assessments any losses to the DIF incurred as a result of the actions of the FDIC pursuant to the determination of systemic risk, which, in the case of the determination pursuant to the closures of Silicon Valley Bank and Signature Bank, was to protect uninsured depositors.[12] To determine the amount of the cost of the failures attributable to the cost of covering uninsured deposits, the FDIC determined the percentage of deposits that were uninsured at the time of failure and applied that percentage to the total cost of the failure for each bank. At Signature Bank, for which 67 percent of deposits were uninsured at the point of failure, the portion of the total estimated loss of $2.4 billion that is attributable to the protection of uninsured depositors is $1.6 billion.

At Silicon Valley Bank, for which 88 percent of deposits were uninsured at the point of failure, the portion of the total estimated loss of $16.1 billion that is attributable to the protection of uninsured depositors is $14.2 billion. The cost estimate for the sale of the Silicon Valley Bridge Bank to First Citizens has been revised from the original estimate of $20.0 billion to approximately $16.1 billion due to a decrease in the amount of liabilities assumed by First Citizens relative to the initial estimate, higher anticipated recoveries from certain other assets in receivership, and an increase in the market value of receivership securities. This revised cost estimate forms the basis for the Silicon Valley Bank portion of the current special assessment calculation, and, as with all failed bank receiverships, will be periodically adjusted as assets are sold, liabilities are satisfied, and receivership expenses are incurred. As noted below, the amount of the special assessment will be adjusted as the loss estimate changes.

In total, of the $18.5 billion in estimated losses at the two banks and incurred by the DIF in the first

[8] FDIC PR-23-2023. “First-Citizens Bank & Trust Company, Raleigh, NC, to Assume All Deposits and Loans of Silicon Valley Bridge Bank, N.A., From the FDIC.” March 26, 2023. *https://www.fdic.gov/news/press-releases/2023/pr23023.html*.
[9] 12 U.S.C. 1823(c)(4)(G)(ii)(I).
[10] 12 U.S.C. 1823(c)(4)(G)(ii)(III).
[11] 12 U.S.C. 1823(c)(4)(G)(ii)(III).
[12] 12 U.S.C. 1823(c)(4)(G)(ii).

quarter of 2023, the estimated loss attributable to the protection of uninsured depositors was $15.8 billion.

DISCUSSION OF THE PROPOSAL

Overview

Staff recommend that the Board, under its general rulemaking authority in Section 9 of the FDI Act, adopt and authorize for publication this proposal that would impose special assessments to recover the loss to the DIF arising from the protection of uninsured depositors in connection with the systemic risk determination announced on March 12, 2023, following the closures of Silicon Valley Bank and Signature Bank, as required by the FDI Act. The total amount collected for the special assessments would be approximately equal to the losses attributable to the protection of uninsured depositors at these two failed banks, which are currently estimated to total $15.8 billion.

Rate for the Special Assessments

The proposal would impose an annual special assessment rate of approximately 12.5 basis points. The special assessment rate was derived by dividing the current loss estimate attributable to the protection of uninsured depositors of $15.8 billion by the proposed assessment base calculated for all IDIs subject to special assessments as of December 31, 2022, totaling $6.3 trillion. As described in detail below, the proposed assessment base is equal to estimated uninsured deposits reported as of December 31, 2022, after applying the $5 billion deduction. The resulting rate is then divided by two to reflect the two year (eight-quarter) collection period, as described below, resulting in an annual rate of approximately 12.5 basis points, or a quarterly rate of 3.13 basis points. The special assessment rate is subject to change prior to any final rule depending on any adjustments to the loss estimate, mergers or failures, or amendments to reported estimates of uninsured deposits.[13] Over the eight-quarter collection period, staff estimate that the FDIC would collect an amount sufficient to recover estimated losses attributable to the protection of uninsured depositors of Silicon Valley Bank and Signature Bank, which are currently estimated to total $15.8 billion, totaling approximately $2.0 billion per quarter.

Assessment Base for the Special Assessments

Under the proposal, each IDI's assessment base for the special assessments would be equal to estimated uninsured deposits as reported in the Consolidated Reports of Condition and Income (Call Report) or Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002) as of December 31, 2022, with certain adjustments.[14] The assessment base for the special assessments would be adjusted to exclude the first $5 billion from estimated uninsured deposits reported as of December 31, 2022, applicable either to the IDI, if an IDI is not a subsidiary of a holding company, or at the banking organization level, to the

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[13] Estimates of the special assessment rate and expected effects in this proposed rule generally reflect any amendments to data reported through February 21, 2023, for the reporting period ending December 31, 2022. However, given the closure of First Republic Bank, San Francisco, CA announced on May 1, 2023, estimates in this proposed rule exclude First Republic Bank in addition to Silicon Valley Bank and Signature Bank. *See* FDIC: PR-34-2023. "JPMorgan Chase Bank, National Association, Columbus, Ohio Assumes All the Deposits of First Republic Bank, San Francisco, California." May 1, 2023. *https://www.fdic.gov/news/press-releases/2023/pr23034.html*.

[14] Estimated uninsured deposits are reported in Memoranda Item 2 on Schedule RC-O, Other Data for Deposit Insurance Assessments of both the Call Report and FFIEC 002.

extent that an IDI is part of a holding company with one or more subsidiary IDIs.[15] If an IDI is part of a holding company with one or more subsidiary IDIs, the $5 billion deduction would be apportioned based on its estimated uninsured deposits as a percentage of total estimated uninsured deposits held by all IDI affiliates in the banking organization.[16, 17]

Estimated uninsured deposits as of December 31, 2022, are the most recently available data reflecting the amount of uninsured deposits in each institution near or at the time the determination of systemic risk was made and the uninsured depositors of the failed institutions were protected. Using estimated uninsured deposits as of December 31, 2022, in calculating special assessments would result in institutions that had the largest amounts of uninsured deposits at the time of the determination of systemic risk paying a larger share of the special assessments.

Defining the assessment base for the special assessment as estimated uninsured deposits reported as of December 31, 2022, and deducting $5 billion from an IDI or banking organization's assessment base, would have the result that any banking organization that reported less than $5 billion in uninsured deposits would not be subject to the special assessment. In general, large banks and regional banks, and particularly those with large amounts of uninsured deposits, were the banks most exposed to and likely would have been the most affected by uninsured deposit runs. Indeed, shortly after Silicon Valley Bank was closed, a number of institutions with large amounts of uninsured deposits reported that depositors had begun to withdraw their funds. The failure of Silicon Valley Bank and the impending failure of Signature Bank raised concerns that, absent immediate assistance for uninsured depositors, there could be negative knock-on consequences for similarly situated institutions, depositors and the financial system more broadly. Generally speaking, larger banks benefited the most from the stability provided to the banking industry under the systemic risk determination.

The adjustments to the assessment base for the special assessments would serve several purposes. First, IDIs without affiliates and banking organizations that reported $5 billion or less in estimated uninsured deposits as of December 31, 2022, would not contribute to the special assessments. IDIs and banking organizations that reported more than $5 billion in estimated uninsured deposits would pay based on the marginal amounts of uninsured deposits they reported, helping to mitigate a "cliff effect" that might otherwise apply if a different method, such as an asset size threshold, were used to determine applicability, and thereby ensuring more equitable treatment. Otherwise, a banking organization just over a particular size threshold would pay special assessments, while a banking organization just below such size threshold would pay none. With the adjustments to the assessment base, the banks that benefited the most would be responsible for paying special assessments.

Second, the proposed methodology also would result in most small IDIs and IDIs that are part of a small banking organization not paying anything towards the special assessments. As proposed, staff estimate that the special assessments would not be applicable to any banking organizations with total assets under $5 billion.

Finally, deducting $5 billion from the assessment base of estimated uninsured deposits at the banking organization level for those with more than one IDI would ensure that banking organizations with similar

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[15] As used in this proposal, the term "banking organization" includes IDIs that are not subsidiaries of a holding company as well as holding companies with one or more subsidiary IDIs.
[16] As used in this proposal, the term "affiliate" has the same meaning as defined in section 3 of the FDIC Act, 12 U.S.C. 1813(w)(6), which references the Bank Holding Company Act ("any company that controls, is controlled by, or is under common control with another company"). *See* 12 U.S.C. 1841(k).
[17] IDIs with less than $1 billion in total assets as of June 30, 2021, were not required to report the estimated amount of uninsured deposits on the Call Report for December 31, 2022. Therefore, for IDIs that had less than $1 billion in total assets as of June 30, 2021, the amount and share of estimated uninsured deposits as of December 31, 2022, would be zero.

amounts of estimated uninsured deposits pay a similar special assessment. For example, a banking organization with multiple IDIs with large amounts of estimated uninsured deposits would not have an advantage over other similarly-positioned IDIs that are not subsidiaries of a holding company because instead of excluding $5 billion of estimated uninsured deposits for each IDI in one banking organization, the $5 billion deduction would be distributed across multiple affiliated IDIs.

The proposed methodology ensures that the banks that benefited most from the assistance provided under the systemic risk determination would be charged special assessments to recover losses to the DIF resulting from the protection of uninsured depositors, with banks of larger asset sizes and that hold greater amounts of uninsured deposits paying higher special assessments.

Collection Period for Special Assessments

Under the proposal, the special assessments would be collected beginning with the first quarterly assessment period of 2024 (i.e., January 1 through March 31, 2024, with an invoice payment date of June 28, 2024). In order to preserve liquidity at IDIs, and in the interest of consistent and predictable assessments, the special assessments would be collected over eight quarters.

The estimated loss attributable to the protection of uninsured depositors pursuant to the systemic risk determination is currently estimated to total $15.8 billion. However, loss estimates for failed banks are periodically adjusted as assets are sold, liabilities are satisfied, and receivership expenses are incurred. The exact amount of losses incurred will be determined when the FDIC terminates the receiverships.

If, prior to the end of the eight-quarter collection period, the FDIC expects the loss to be lower than the amount it expects to collect from the special assessments, the FDIC would cease collection in the quarter after it has collected enough to recover actual or estimated losses.[18] Alternatively, if at the end of the eight-quarter collection period, the estimated or actual loss exceeds the amount collected, the FDIC would extend the collection period over one or more quarters, as needed, to recover the difference between the amount collected and the estimated or actual loss, at a rate that would not exceed the 3.13 basis point quarterly special assessment rate applied during the initial eight-quarter collection period.

Receiverships are terminated once the FDIC has completed the disposition of the receivership's assets and has resolved all obligations, claims, and other impediments. The termination of the receiverships to which the March 12, 2023 systemic risk determination applied may occur years after the initial eight-quarter collection period and any extended collection period. In the likely event that the final loss amount at the termination of the receiverships is not determined until after the special assessments have been collected, and if the actual losses calculated as of the termination of the receiverships exceed the amount collected through such special assessments, the FDIC would impose a one-time final shortfall special assessment to collect the amount of actual losses in excess of the amount of special assessments collected, if any.

ANALYSIS

The following summarizes the factors considered in recommending special assessments as proposed.[19]

The Types of Entities that Benefit

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[18] The FDIC is required by statute to place any amount of special assessments collected in excess of actual losses in the DIF.
[19] In prescribing special assessments, the FDIC is required by statute to consider:

With the rapid collapse of Silicon Valley Bank and Signature Bank in the space of 48 hours, concerns arose that risk could spread more widely to other institutions and that the financial system as a whole could be placed at risk. Shortly after Silicon Valley Bank was closed on March 10, 2023, a number of institutions with large amounts of uninsured deposits reported that depositors had begun to withdraw their funds. The extent to which IDIs rely on uninsured deposits for funding varies significantly. Uninsured deposits were used to fund nearly three-quarters of the assets at Silicon Valley Bank and Signature Bank. On average, the largest banking organizations by asset size fund a larger share of assets with uninsured deposits, based on data as of December 31, 2022. Among banking organizations that report uninsured deposits, those with total assets between $1 billion and $5 billion are generally the least reliant on uninsured deposits for funding, with uninsured deposits averaging 28.1 percent of assets, compared with the largest banking organizations with total assets greater than $250 billion, which had uninsured deposits that averaged 35.8 percent of assets.

Deposits are the most common funding source for many institutions; however, other liability sources such as borrowings can also provide funding. Deposits and other liability sources are often differentiated by their stability and customer profile characteristics. While some uninsured deposit relationships remain stable when a bank is in good condition, such relationships might become less stable due to their uninsured status if a bank experiences financial problems or if the banking industry experiences stress events.

Uninsured deposit concentrations of IDIs, meaning the percentage of domestic deposits that are uninsured, also vary significantly. At Silicon Valley Bank, 88 percent of deposits were uninsured at the point of failure compared to 67 percent at Signature Bank. On average, the largest banking organizations by asset size reported significantly greater uninsured deposit concentrations relative to smaller banking organizations, based on data as of December 31, 2022. Banking organizations with total assets between $1 billion and $5 billion generally reported the lowest percentage of uninsured deposits to total domestic deposits, averaging 33.2 percent, compared with the largest banking organizations with total assets greater than $250 billion, which averaged 51.8 percent.

On March 12, 2023, the FDIC Board and the Board of Governors voted unanimously to recommend, and the Treasury Secretary, in consultation with the President, determined that the FDIC could use emergency systemic risk authorities under the FDI Act to complete its resolution of both Silicon Valley Bank and Signature Bank in a manner that fully protects all depositors.[20] The full protection of all depositors, rather than imposing losses on uninsured depositors, was intended to strengthen public confidence in the nation's banking system.

Based on Federal Reserve data reported by a sample of domestically chartered banks, domestic deposits declined by over 2 percent during the first two months of 2023, predominately among the top 25 commercial banks by asset size. This followed similar declines in domestic deposits over the prior three quarters, likely driven by the shift of certain types of deposits into higher-yielding alternatives. Following the March 2023 bank failures and the determination of systemic risk, deposits of the top 25 commercial banks grew slightly while deposit outflows rapidly accelerated, with banks outside of the top 25 experiencing a four percent decline in two weeks. Since late March, Federal Reserve data indicates that deposit flows have stabilized, with some reversal of prior outflows.[21] First quarter earnings releases of select regional banks confirmed sizeable

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(i) The types of entities that benefit from any action taken or assistance provided.
(ii) Economic conditions.
(iii) The effects on the industry.
(iv) Such other factors as the FDIC deems appropriate and relevant to the action taken or assistance provided. Section 13(c)(4)(G) of the FDI Act.

[20] 12 U.S.C. 1823(c)(4)(G). *See also:* FDIC PR-17-2023. "Joint Statement by the Department of the Treasury, Federal Reserve, and FDIC." March 12, 2023. *https://www.fdic.gov/news/press-releases/2023/pr23017.html*.

[21] Board of Governors of the Federal Reserve System. Assets and Liabilities of Commercial Banks in the United States – H.8. Available at: *https://www.federalreserve.gov/releases/h8/default.htm*.

outflows of deposits, while other large and regional banks reported more modest declines or inflows.

In the weeks that followed the determination of systemic risk, efforts to stabilize the banking system and stem potential contagion from the failures of Silicon Valley Bank and Signature Bank ensured that depositors would continue to have access to their savings, that small businesses and other employers could continue to make payrolls, and that other banks could continue to extend credit to borrowers and serve as a source of support.

In general, large banks and regional banks, and particularly those with large amounts of uninsured deposits, were the banks most exposed to and likely would have been the most affected by uninsured deposit runs. Indeed, shortly after Silicon Valley Bank was closed, a number of institutions with large amounts of uninsured deposits reported that depositors had begun to withdraw their funds. The failure of Silicon Valley Bank and the impending failure of Signature Bank raised concerns that, absent immediate assistance for uninsured depositors, there could be negative knock-on consequences for similarly situated institutions, depositors and the financial system more broadly. Generally speaking, larger banks benefited the most from the stability provided to the banking industry under the systemic risk determination. Under the proposal, the banks that benefited most from the assistance provided under the systemic risk determination would be charged special assessments to recover losses to the DIF resulting from the protection of uninsured depositors, with banks of larger asset sizes and that hold greater amounts of uninsured deposits paying higher special assessments.

Effects on the Industry

In calculating the assessment base for the special assessments, the FDIC would deduct $5 billion from each IDI or banking organization's aggregate estimated uninsured deposits reported as of December 31, 2022. As a result, any institution that did not report any uninsured deposits as of December 31, 2022, would not be subject to the special assessment. Additionally, most small IDIs and IDIs that are part of a small banking organization would not pay anything towards the special assessment. Some small and mid-size IDIs would be subject to the special assessment if they were subsidiaries of a banking organization with more than $5 billion in uninsured deposits and such IDIs reported positive amounts of uninsured deposits after application of the deduction, or if they directly held more than $5 billion in estimated uninsured deposits as of December 31, 2022, which for smaller institutions would constitute heavy reliance on uninsured deposits.

Based on data reported as of December 31, 2022, and as captured in Table 1 below, staff estimate that 113 banking organizations would be subject to special assessments, including 48 banking organizations with total assets over $50 billion and 65 banking organizations with total assets between $5 and $50 billion. No banking organizations with total assets under $5 billion would pay special assessments, based on data reported as of December 31, 2022.[22] It is anticipated that the same banking organizations subject to special assessments would also be subject to any extended special assessments or final shortfall special assessment, absent the effects of any mergers, consolidations, failures, or other terminations of deposit insurance that occur through the determination of such extended special assessments or final shortfall special assessment.

[22] The number of banking organizations subject to special assessments may change prior to any final rule depending on any adjustments to the loss estimate, mergers or failures, or similar activities, or amendments to reported estimates of uninsured deposits.

Table 1 – Banking Organizations Required to Pay Special Assessments, Based on Data Reported as of December 31, 2022

Asset Size of Banking Organization	**Number of Banking Organizations Required to Pay Special Assessments**	**Percentage of Banking Organizations Required to Pay Special Assessments** [Percent]	**Share of Special Assessments** [Percent]	**Share of Industry Assets** [Percent]
Greater than $50 billion	48	1.1	95.2	76.0
Between $5 and $50 billion	65	1.5	4.8	7.0
Under $5 billion	0	0.0	0.0	0.0
Total	113	2.6	100.0	83.0

Capital and Earnings Analysis

Staff estimate that the FDIC would collect through special assessments the estimated loss from protecting uninsured depositors at Silicon Valley Bank and Signature Bank of approximately $15.8 billion, over the eight-quarter collection period. Banking organizations would recognize the accrual of a liability and an estimated loss (i.e., expense) from a loss contingency for the special assessment when the institution determines that the conditions for accrual under generally accepted accounting principles (GAAP) have been met. This analysis assumes that the effects on capital and income of the entire amount of the special assessments to be collected over eight quarters would occur in one quarter only.

To estimate the effects of the special assessments relative to a banking organization's capital, the analysis considers the effective pre-tax cost of special assessments, and assumes that an institution will maintain its dividend rate (that is, dividends as a percentage of net income) unchanged from the weighted average rate reported over the four quarters ending December 31, 2022.[23] Given the assumptions in the analysis, and based on data as of December 31, 2022, staff estimate that, on average, the proposed special assessments would decrease the dollar amount of Tier 1 capital of banking organizations that would be required to pay special assessments by an estimated 61 basis points.[24] No banking organizations are estimated to fall below the minimum capital requirement (a four percent Tier 1 capital-to-assets ratio) as a result of the proposed special

[23] For purposes of this analysis, Tier 1 capital to assets is used as the measure of capital adequacy. In the event that the ratio of Tier 1 capital to assets falls below four percent, however, this assumption is modified such that an institution retains the amount necessary to reach a four percent minimum and distributes any remaining funds according to the dividend payout rate. The analysis uses four percent as the threshold because IDIs generally need to maintain a Tier 1 leverage ratio of 4.0 percent or greater to be considered "adequately capitalized" under Prompt Corrective Action Standards. *See* 12 CFR 324.403(b)(2). Additionally, Federal Reserve Board-regulated institutions must generally must maintain a Tier 1 leverage ratio of 4.0 percent or greater to meet the minimum capital requirements. *See* 12 CFR 217.10(a)(1).
[24] Estimated effects on capital are calculated based on data reported as of December 31, 2022, on the Call Report and the Consolidated Financial Statements for Holding Companies (FR Y-9C), respectively, for IDIs that are not subsidiaries of a holding company or that are part of a banking organization with only one subsidiary IDI required to pay special assessments, and for banking organizations, to the extent that an IDI is part of a holding company with more than one subsidiary IDI required to pay special assessments.

assessments.

The banking industry reported full-year 2022 net income lower than full-year 2021 net income, but still above the pre-pandemic average. While special assessments are allocated based on estimated uninsured deposits reported at the banking organization level, IDIs will be responsible for payment of the special assessments. Staff analyzed the effect of the special assessments on income reported at the IDI-level for IDIs subject to special assessments that are not subsidiaries of a holding company or that are subsidiaries of a holding company with only one IDI subsidiary. For IDIs that are subsidiaries of a holding company with more than one IDI subsidiary, staff analyzed the effect of the special assessments by aggregating the income reported by all IDIs subject to special assessments within each banking organization since the IDIs will be responsible for payment.

Staff analyzed the impact of the special assessments on banking organizations that were profitable based on their average quarterly income from January 1, 2022 to December 31, 2022.[25] The effects on income of the entire amount of special assessments to be collected over eight quarters are assumed to occur in one quarter only. Given the assumptions and the estimated loss amount, staff estimate that the proposed special assessments would result in an average one-quarter reduction in income of 17.5 percent for banking organizations subject to special assessments.[26] Approximately 66 percent of profitable banking organizations subject to the proposal are projected to have special assessments of less than 20 percent of income, including 23 percent with special assessments of less than 5 percent of income. Another 34 percent of profitable banking organizations subject to the proposal are projected to have special assessments equal to or exceeding 20 percent of income.

Economic Conditions

On February 28, 2023, the FDIC released the results of the Quarterly Banking Profile, which provided a comprehensive summary of financial results for all FDIC-insured institutions for the fourth quarter of 2022. Overall, key banking industry metrics remained favorable in the quarter.[27]

Loan growth continued, net interest income grew, and asset quality measures remained favorable. Further, the industry remained well capitalized and highly liquid, but the report also highlighted a key weakness in elevated levels of unrealized losses on investment securities due to rapid increases in market interest rates. Unrealized losses on available-for-sale and held-to-maturity securities totaled $620 billion as of December 31, 2022, and unrealized losses on available-for-sale securities have meaningfully reduced the reported equity capital of the banking industry. The combination of a high level of longer-term asset maturities and a moderate decline in total deposits underscored the risk that unrealized losses could become actual losses should banks need to sell securities to meet liquidity needs.

The financial system continues to face significant downside risks from the effects of inflation, rising market interest rates, and a weak economic outlook. Credit quality and profitability may weaken due to these risks, potentially resulting in tighter loan underwriting, slower loan growth, higher provision expenses, and liquidity constraints. Additional short-term interest rate increases, combined with longer asset maturities may

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[25] There were no banking organizations that would be required to pay special assessments that were unprofitable based on average quarterly income from January 1, 2022 to December 31, 2022.
[26] Earnings or income are quarterly income before assessments and taxes. Quarterly income is assumed to equal average income from January 1, 2022 through December 31, 2022.
[27] FDIC Quarterly Banking Profile, Fourth Quarter 2022. *https://www.fdic.gov/analysis/quarterly-banking-profile/qbp/2022dec/*.

continue to increase unrealized losses on securities and affect bank balance sheets in coming quarters.

Despite these downside risks, in the weeks that followed the failure of Silicon Valley Bank and Signature Bank, the state of the U.S. financial system remained sound and institutions are well positioned to absorb a special assessment.[28]

ALTERNATIVES

Staff considered alternatives to this proposal to collect special assessments to recover the loss to the DIF arising from the protection of all uninsured depositors in connection with the systemic risk determination announced on March 12, 2023, as required by the FDI Act. In staff's view, the proposal reflects an appropriate balancing of the goal of applying special assessments to the types of entities that benefited the most from the protection of uninsured depositors provided under the determination of systemic risk while ensuring equitable, transparent, and consistent treatment based on the amounts of uninsured deposits at the time of the determination of systemic risk.

The first alternative would be to impose a one-time special assessment at the end of the quarter following the effective date. Calculation of the special assessment, including the special assessment rate, would be the same as proposed, but instead of collecting the amount over eight quarters, the FDIC would collect the entire amount in one quarter. While under both the proposal and this alternative, the estimated amount of the special assessment would be recognized with the accrual of a liability and an estimated loss (i.e., expense) from a loss contingency when the institution determines that the conditions for accrual under GAAP have been met, which impacts capital and earnings, this alternative would additionally require payment of the entire amount in the second quarter of 2024, and would impact liquidity significantly in one quarter.

The second alternative would be to base applicability on an asset size threshold instead of deducting the first $5 billion in estimated uninsured deposits in calculating an IDI or banking organization's assessment base for the special assessment. As described previously, in implementing special assessments, the FDI Act requires the FDIC to consider the types of entities that benefit from any action taken or assistance provided pursuant to determination of systemic risk.[29] Large banks and regional banks, and particularly those with large amounts of uninsured deposits, were the banks most exposed to and likely would have been the most affected by uninsured deposit runs had those occurred as a result of the bank failures. Larger banks also benefited the most from the stability provided to the banking industry under the systemic risk determination. While both the proposal, including the $5 billion deduction from estimated uninsured deposits, and an asset-size-based applicability threshold would effectively remove the smallest institutions from eligibility, the proposed deduction of $5 billion from each banking organization's estimated uninsured deposits in calculating the special assessment would help to mitigate a "cliff effect" relative to applying a different threshold for applicability, such as applying an asset size threshold, thereby ensuring more equitable treatment. With an asset size threshold, an IDI just above such threshold would pay a significant amount in special assessments, while an IDI just below such threshold would pay none.

A third alternative would be to eliminate the proposed $5 billion deduction from the assessment base for the special assessment, and therefore allocate the special assessments among IDIs based on each IDI or banking organization's estimated uninsured deposits as of December 31, 2022. This alternative would result in special assessments imposed on every IDI that reported a non-zero amount of estimated uninsured deposits as

[28] Statement of Martin J. Gruenberg, Chairman of the FDIC on "Recent Bank Failures and the Federal Regulatory Response," before the United States Senate Committee on Banking, Housing, and Urban Affairs. March 28, 2023. *https://www.banking.senate.gov/imo/media/doc/Gruenberg%20Testimony%203-28-23.pdf*.
[29] 12 U.S.C. 1823(c)(4)(G)(ii)(III).

of December 31, 2022, or nearly 100 percent of all IDIs with total assets of $1 billion or more.[30] Relative to the proposal, more IDIs would pay special assessments under this alternative, and IDIs with greater amounts of uninsured deposits would generally pay lower special assessments relative to the proposal since the special assessments would be allocated across a significantly larger number of institutions. However, given the FDIC's statutory requirement to consider the types of entities that benefit from any action taken or assistance provided under the determination of systemic risk in implementing special assessments, this alternative would not allocate special assessments to the larger banks that benefited the most from the stability provided to the banking industry under the systemic risk determination.

A fourth alternative would be to allocate the special assessments among IDIs based on each IDI's estimated uninsured deposits as a percentage of their total domestic deposits reported as of December 31, 2022, as a proxy for reliance on uninsured deposits at the time the determination of systemic risk was made and uninsured depositors of the failed institutions were protected. Similar to the third alternative, this would result in a special assessment imposed on every IDI that reported a non-zero amount of estimated uninsured deposits as of December 31, 2022, or nearly 100 percent of IDIs with total assets of $1 billion or more.[31] Under this alternative, IDIs with a greater reliance on uninsured deposits would generally pay the greatest amount of special assessments; however, the special assessments would be allocated across a large number of institutions. This alternative would result in institutions of vastly different asset sizes paying a similar dollar amount of special assessments. It also would result in some smaller IDIs and banking organizations paying potentially significant amounts of special assessments, and the larger banks that have high amounts of uninsured deposits and benefited the most from the stability provided to the banking industry under the systemic risk determination, but that do not have high uninsured deposit concentrations, paying a smaller share of special assessments.

A fifth alternative would be to collect 50 percent of the special assessments during the initial four-quarter collection period based on estimated uninsured deposits reported by all IDIs as of December 31, 2022, and collect the remaining special assessments for an additional four quarter collection period based on an updated estimate of losses pursuant to the systemic risk determination and estimated uninsured deposits reported by all IDIs as of December 31, 2023. Under this alternative, for the initial four-quarter collection period the special assessment would be allocated to all IDIs based on each IDI or banking organization's estimated uninsured deposits as a share of estimated uninsured deposits reported by all IDIs as of December 31, 2022, as a proxy for the amount of uninsured deposits in each institution at the time the determination of systemic risk was made and uninsured depositors of the failed institutions were protected. Such methodology would allocate the special assessments to the institutions that had the largest amounts of uninsured deposits at the time of the determination of systemic risk. The remaining special assessments would be based on an updated estimate of losses as of December 31, 2023, and would be allocated to IDIs with total assets of $1 billion or more, based on each IDI or banking organization's estimated uninsured deposits as a share of estimated uninsured deposits reported by all IDIs as of December 31, 2023, in order to reflect amounts of uninsured deposits that did not run off following the determination of systemic risk. This alternative could incentivize IDIs to reduce their amount of uninsured deposits ahead of the December 31, 2023 reporting date, which may result in unintended market dislocations and reduced liquidity in the banking sector. This alternative may also change the timing of accrual

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[30] IDIs with less than $1 billion in total assets as of June 30, 2021, were not required to report the estimated amount of uninsured deposits on the Call Report for December 31, 2022. Therefore, for IDIs that had less than $1 billion in total assets as of June 30, 2021, the amount and share of estimated uninsured deposits as of December 31, 2022, would be zero.

[31] IDIs with less than $1 billion in total assets as of June 30, 2021, were not required to report the estimated amount of uninsured deposits on the Call Report for December 31, 2022. Therefore, for IDIs that had less than $1 billion in total assets as of June 30, 2021, the amount and share of estimated uninsured deposits as of December 31, 2022, would be zero.

of the contingent liability by banks. In contrast, the proposal's allocation methodology based on amounts of uninsured deposits as of December 31, 2022, would result in transparent and consistent payments, and a more simplified framework for calculating special assessments.

A final alternative would be to apply a special assessment rate to an institution's regular quarterly deposit insurance assessment base (regular assessment base) for that quarter, with or without applying a $5 billion deduction at the banking organization level. Generally, an IDI's assessment base equals its average consolidated total assets minus its average tangible equity.[32] Under this alternative, staff estimate that the FDIC would need to charge an annual assessment rate of 3.76 basis points over two years to recover estimated losses without the $5 billion deduction, or 4.57 basis points with the $5 billion deduction; however, a significantly larger number of banking organizations would be subject to the special assessments relative to the proposal. Under this alternative, the IDIs with the largest assessment base would pay the greatest amount of special assessments. IDIs for which certain assets are excluded in the calculation of the regular assessment base would pay lower special assessments due to their smaller assessment base. This alternative would result in smaller IDIs and banking organizations, regardless of reliance on uninsured deposits for funding, paying potentially significant amounts of special assessments. Further, IDIs engaged in trust activities, or with fiduciary and custody and safekeeping assets, and for which certain assets are excluded from their regular assessment base, would pay lower amounts of special assessments due to these exclusions, despite holding significant amounts of uninsured deposits.

In staff's view, the proposal reflects an appropriate balancing of the goal of applying special assessments to the types of entities that benefited the most from the protection of uninsured depositors provided under the determination of systemic risk while ensuring equitable, transparent, and consistent treatment based on amounts of uninsured deposits at the time of the determination of systemic risk. The proposal also allows for payments to be collected over an extended period of time in order to mitigate the liquidity effects of the special assessments by requiring smaller, consistent quarterly payments. On balance, in staff's view, the proposal best promotes maintenance of liquidity, which will allow institutions to absorb any potential unexpected setbacks while continuing to meet the credit needs of the U.S. economy.

COMMENT PERIOD, EFFECTIVE DATE, AND APPLICATION DATE

Staff recommend issuing this proposal with a 60-day comment period. Following the comment period, staff expect that a final rule would be issued with an effective date of January 1, 2024. The special assessment would be collected beginning with the first quarterly assessment period of 2024 (i.e., January 1 through March 31, 2024, with an invoice payment date of June 28, 2024), and would continue to be collected for an anticipated total of eight quarterly assessment periods. Because the estimated loss pursuant to the systemic risk determination will be periodically adjusted, the FDIC would retain the ability to cease collection early, impose an extended special assessment collection period after the initial eight-quarter collection period to collect the

[32] *See* 12 CFR 327.5.

difference between losses and the amounts collected, and impose a final shortfall special assessment after both receiverships terminate.

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