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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064-AF53

Assessments, Mitigating the Deposit Insurance Assessment Effect of Participation in the Paycheck Protection Program (PPP), the PPP Lending Facility, and the Money Market Mutual Fund Liquidity Facility

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation is seeking comment on a proposed rule that would mitigate the deposit insurance assessment effects of participating in the Paycheck Protection Program (PPP) established by the Small Business Administration (SBA), and the Paycheck Protection Program Lending Facility (PPPLF) and Money Market Mutual Fund Liquidity Facility (MMLF) established by the Board of Governors of the Federal Reserve System. The proposed changes would remove the effect of participation in the PPP and PPPLF on various risk measures used to calculate an insured depository institution's assessment rate, remove the effect of participation in the PPPLF and MMLF programs on certain adjustments to an IDI's assessment rate, provide an offset to an insured depository institution's assessment for the increase to its assessment base attributable to participation in the MMLF and PPPLF, and remove the effect of participation in the PPPLF and MMLF programs when classifying

insured depository institutions as small, large, or highly complex for assessment purposes.

DATES: Comments must be received no later than [INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments on the proposed rule, identified by RIN 3064-AF53, using any of the following methods:

- *Agency Website*: https://www.fdic.gov/regulations/laws/federal. Follow the instructions for submitting comments on the agency website.
- *E-mail*: comments@fdic.gov. Include RIN 3064-AF53 on the subject line of the message.
- *Mail*: Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, DC 20429. Include RIN 3064-AF53 in the subject line of the letter.
- *Hand Delivery*: Comments may be hand delivered to the guard station at the rear of the 550 17th Street, NW, building (located on F Street) on business days between 7 a.m. and 5 p.m.
- *Public Inspection*: All comments received, including any personal information provided, will be posted generally without change to https://www.fdic.gov/regulations/laws/federal.

FOR FURTHER INFORMATION CONTACT: Michael Spencer, Associate Director, 202-898-7041, michspencer@fdic.gov; Ashley Mihalik, Chief, Banking and Regulatory Policy, 202-898-3793, amihalik@fdic.gov; Nefretete Smith, Counsel, 202-898-6851, nefsmith@fdic.gov; Samuel Lutz, Counsel, salutz@fdic.gov, 202-898-3773.

SUPPLEMENTARY INFORMATION:

I. Summary

Pursuant to its authority under the Federal Deposit Insurance Act (FDI Act), the FDIC is issuing this notice of proposed rulemaking to mitigate the effects of an insured depository institution's participation in the PPP, MMLF, and PPPLF programs on its deposit insurance assessments.[1] Absent a change to the assessment rules, an IDI that participates in the PPP, PPPLF, or MMLF programs could be subject to increased deposit insurance assessments. To remove the effect of these programs on the risk measures used to determine the deposit insurance assessment rate for each insured depository institution (IDI), the FDIC is proposing to exclude PPP loans, which include loans pledged to the PPPLF, from an institution's loan portfolio; exclude loans pledged to the PPPLF from an institution's total assets; and exclude amounts borrowed from the Federal Reserve Banks under the PPPLF from an institution's liabilities. In addition, because participation in the PPPLF and MMLF programs will have the effect of expanding an IDI's balance sheet (and, by extension, its assessment base), the FDIC is proposing to exclude loans pledged to the PPPLF and assets purchased under the MMLF in the calculation of certain adjustments to an IDI's assessment rate, and to provide an offset to an IDI's total assessment amount for the increase to its assessment base attributable to participation in the MMLF and PPPLF. Finally, in defining IDIs for assessment purposes, the FDIC would exclude from an IDI's total assets the amount of loans pledged to the PPPLF and assets purchased under the MMLF.

II. Background

[1] *See* 12 U.S.C. 1817, 1819 (Tenth).

Recent events have significantly and adversely impacted the global economy and financial markets. The spread of the Coronavirus Disease (COVID-19) has slowed economic activity in many countries, including the United States. Sudden disruptions in financial markets have put increasing liquidity pressure on money market mutual funds (MMFs) and raised the cost of credit for most borrowers. MMFs have faced redemption requests from clients with immediate cash needs and may need to sell a significant number of assets to meet these redemption requests, which could further increase market pressures. Small businesses also are facing severe liquidity constraints and a collapse in revenue streams, as millions of Americans have been ordered to stay home, severely reducing their ability to engage in normal commerce. Many small businesses have been forced to close temporarily or furlough employees. Continued access to financing will be crucial for small businesses to weather economic disruptions caused by COVID-19 and, ultimately, to help restore economic activity.

In order to prevent the disruption in the money markets from destabilizing the financial system, on March 18, 2020, the Board of Governors of the Federal Reserve System (Board of Governors), with approval of the Secretary of the Treasury, authorized the Federal Reserve Bank of Boston (FRBB) to establish the MMLF, pursuant to section 13(3) of the Federal Reserve Act.[2] Under the MMLF, the FRBB is extending non-recourse loans to eligible borrowers to purchase assets from MMFs. Assets purchased from MMFs will be posted as collateral to the FRBB. Eligible borrowers under the MMLF include IDIs. Eligible collateral under the MMLF includes U.S. Treasuries and fully guaranteed agency securities, securities issued by government-sponsored

[2] 12 U.S.C. 343(3).

enterprises, and certain types of commercial paper. The MMLF is scheduled to terminate on September 30, 2020, unless extended by the Board of Governors.

As part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and in recognition of the exigent circumstances faced by small businesses, Congress created the PPP.[3] PPP loans are fully guaranteed as to principal and accrued interest by the Small Business Administration (SBA), the amount of each being determined at the time the guarantee is exercised. As a general matter, SBA guarantees are backed by the full faith and credit of the U.S. Government. PPP loans also afford borrowers forgiveness up to the principal amount of the PPP loan, if the proceeds of the PPP loan are used for certain expenses. The SBA reimburses PPP lenders for any amount of a PPP loan that is forgiven. PPP lenders are not held liable for any representations made by PPP borrowers in connection with a borrower's request for PPP loan forgiveness.[4]

In order to provide liquidity to small business lenders and the broader credit markets, and to help stabilize the financial system, on April 8, 2020, the Board of Governors, with approval of the Secretary of the Treasury, authorized each of the Federal Reserve Banks to extend credit under the PPPLF, pursuant to section 13(3) of the Federal Reserve Act.[5] Under the PPPLF, Federal Reserve Banks are extending non-recourse loans to institutions that are eligible to make PPP loans, including IDIs. Under the PPPLF, only PPP loans that are guaranteed by the SBA with respect to both principal and interest and that are originated by an eligible institution may be pledged as collateral to

[3] Pub. L. 116-136 (Mar. 27, 2020).
[4] Under the PPP, eligible borrowers generally include businesses with fewer than 500 employees or that are otherwise considered by the SBA to be small, including individuals operating sole proprietorships or acting as independent contractors, certain franchisees, nonprofit corporations, veterans' organizations, and Tribal businesses. The loan amount under the PPP would be limited to the lesser of $10 million and 250 percent of a borrower's average monthly payroll costs. For more information on the Paycheck Protection Program, see https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp.
[5] 12 U.S.C. 343(3).

the Federal Reserve Banks (loans pledged to the PPPLF). The maturity date of the extension of credit under the PPPLF[6] equals the maturity date of the PPP loans pledged to secure the extension of credit.[7] No new extensions of credit will be made under the PPPLF after September 30, 2020, unless extended by the Board of Governors and the Department of the Treasury.

To facilitate use of the MMLF and PPPLF, the FDIC, Board of Governors, and Comptroller of the Currency (together, the agencies) adopted interim final rules on March 23, 2020, and April 13, 2020, respectively, to allow banking organizations to neutralize the regulatory capital effects of purchasing assets through the MMLF program and loans pledged to the PPPLF.[8] Consistent with Section 1102 of the CARES Act, the April 2020 interim final rule also required banking organizations to apply a zero percent risk weight to PPP loans originated by the banking organization under the PPP for purposes of the banking organization's risk-based capital requirements.

Deposit Insurance Assessments

Pursuant to Section 7 of the FDI Act, the FDIC has established a risk-based assessment system through which it charges all IDIs an assessment amount for deposit insurance.[9] Under the FDIC's regulations, an IDI's assessment is equal to its assessment base multiplied by its risk-based assessment rate.[10] An IDI's assessment base and

[6] The maturity date of the extension of credit under the PPPLF will be accelerated if the underlying PPP loan goes into default and the eligible borrower sells the PPP Loan to the SBA to realize the SBA guarantee. The maturity date of the extension of credit under the PPPLF also will be accelerated to the extent of any PPP loan forgiveness reimbursement received by the eligible borrower from the SBA.
[7] Under the SBA's interim final rule, a lender may request that the SBA purchase the expected forgiveness amount of a PPP loan or pool of PPP loans at the end of week seven of the covered period. See Interim Final Rule "Business Loan Program Temporary Changes;
Paycheck Protection Program," 85 FR 20811, 20816 (Apr. 15, 2020).
[8] *See* 85 FR 16232 (Mar. 23, 2020) and 85 FR 20387 (Apr. 13, 2020).
[9] *See* 12 U.S.C. 1817(b).
[10] *See* 12 CFR 327.3(b)(1).

assessment rate are determined each quarter based on supervisory ratings and information collected on the Consolidated Reports of Condition and Income (Call Report) or the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002), as appropriate. Generally, an IDI's assessment base equals its average consolidated total assets minus its average tangible equity.[11] An IDI's assessment rate is calculated using different methods based on whether the IDI is a small, large, or highly complex institution.[12] For assessment purposes, a large bank is generally defined as an institution with $10 billion or more in total assets, a small bank is generally defined as an institution with less than $10 billion in total assets, and a highly complex bank is generally defined as an institution that has $50 billion or more in total assets and is controlled by a parent holding company that has $500 billion or more in total assets, or is a processing bank or trust company.[13]

Assessment rates for established small banks are calculated based on eight risk measures that are statistically significant in predicting the probability of an institution's failure over a three-year horizon.[14] Large banks are assessed using a scorecard approach that combines CAMELS ratings and certain forward-looking financial measures to assess the risk that a large bank poses to the deposit insurance fund (DIF).[15] All institutions are subject to adjustments to their assessment rates for certain liabilities that can increase or

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[11] *See* 12 CFR 327.5.

[12] *See* 12 CFR 327.16(a) and (b).

[13] 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 Federal Deposit Insurance Act (FDI Act), 12 U.S.C. 1813(c)(2). As used in this proposed rule, the term "small bank" is synonymous with the term "small institution" and the term "large bank" is synonymous with the term "large institution" or "highly complex institution," as the terms are defined in 12 CFR 327.8.

[14] *See* 12 CFR 327.16(a); *see also* 81 FR 32180 (May 20, 2016).

[15] *See* 12 CFR 327.16(b); *see also* 76 FR 10672 (Feb. 25, 2011) and 77 FR 66000 (Oct. 31, 2012).

reduce loss to the DIF in the event the bank fails.[16] In addition, the FDIC may adjust a large bank's total score, which is used in the calculation of its assessment rate, based upon significant risk factors not adequately captured in the appropriate scorecard.[17]

Absent a change to the assessment rules, an IDI that participates in the PPP, PPPLF, or MMLF programs could be subject to increased deposit insurance assessments. For example, an institution that holds PPP loans, including loans pledged to the PPPLF, would increase its total loan portfolio, all else equal, which may increase its assessment rate. An IDI that receives funding through the PPPLF would increase the total assets on its balance sheet (equal to the amount of PPP pledged to the Federal Reserve Banks), and increase its liabilities by the same amount, which would increase the IDI's assessment base and also may increase its assessment rate. Similarly, an IDI that participates in the MMLF would increase its total assets by the amount of assets purchased from MMFs under the MMLF and increase its liabilities by the same amount, which in turn would increase its assessment base and may also increase its assessment rate.

III. The Proposed Rule

A. Summary

The FDIC, under its general rulemaking authority in Section 9 of the FDI Act, and its specific authority under Section 7 of the FDI Act to establish a risk-based assessment system and set assessments,[18] is proposing to mitigate the deposit insurance assessment effects of holding PPP loans, pledging loans to the PPPLF, and purchasing assets under the MMLF. Under the proposal, an IDI generally would not be subject to a higher

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[16] *See* 12 CFR 327.16(e).

[17] *See* 12 CFR 327.16(b)(3); *see also Assessment Rate Adjustment Guidelines for Large and Highly Complex Institutions*, 76 FR 57992 (Sept. 19, 2011).

[18] 12 U.S.C. 1817 and 12 U.S.C. 1819 (Tenth).

deposit insurance assessment rate solely due to its participation in the PPP, PPPLF, or MMLF. In addition, the FDIC would provide an offset against an IDI's assessment amount for the increase to its assessment base attributable to participation in the MMLF and PPPLF.

Changes to reporting requirements applicable to the Consolidated Reports of Condition and Income (Call Report), the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks, and their respective instructions, would be required in order to make the proposed adjustments to the assessment system. These changes are concurrently being effectuated in coordination with the other member entities of the Federal Financial Institutions Examination Council.[19]

B. *Mitigating the Effects of Loans Pledged to the PPPLF and of PPP Loans Held by an IDI on an IDI's Assessment Rate*

To mitigate the assessment effect of PPP loans, including loans pledged to the PPPLF, the FDIC is proposing to exclude PPP loans held by an IDI from its loan portfolio for purposes of calculating the IDI's deposit insurance assessment rate.[20]

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[19] As discussed in greater detail in the section on the Paperwork Reduction Act, the agencies have submitted requests for seven additional items on the Call Report (FFIEC 031, FFIEC 041, and FFIEC 051): (1) the outstanding balance of PPP loans; (2) the outstanding balance of loans pledged to the PPPLF as of quarter-end; (3) the quarterly average amount of loans pledged to the PPPLF; (4) the outstanding balance of borrowings from the Federal Reserve Banks under the PPPLF with a remaining maturity of one year or less, as of quarter-end; (5) the outstanding balance of borrowings from the Federal Reserve Banks under the PPPLF with a remaining maturity of greater than one year, as of quarter-end; (6) the outstanding amount of assets purchased from MMFs under the MMLF as of quarter-end; and (7) the quarterly average amount of assets purchased under the MMLF. In addition, the agencies have submitted requests for two additional items on the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002): the quarterly average amount of loans pledged to the PPPLF and the quarterly average amount of assets purchased from MMFs under the MMLF. The FDIC is requesting these items in order to make the proposed adjustments described below.

[20] The FDIC is not proposing to modify its assessment pricing system with respect to the Tier 1 leverage ratio, which is one of the measures used to determine the assessment rate for both large and small IDIs. In accordance with the agencies' April 13, 2020, interim final rule, banking organizations are required to neutralize the regulatory capital effects of assets pledged to the PPPLF on leverage capital ratios. *See* 85 FR 20387 (April 13, 2020). Therefore, the effects of participation in the PPPLF will be automatically

Consistent with the substantial protections from risk provided by the Federal Reserve, the FDIC is also proposing to modify various risk measures to exclude loans pledged to the PPPLF from total assets and to exclude borrowings from the Federal Reserve Banks under the PPPLF from total liabilities when calculating an IDI's deposit insurance assessment rate.

Based on data from the SBA and on the terms of the PPP, the FDIC expects that most PPP loans will be categorized as Commercial and Industrial (C&I) Loans.[21] PPP loans may also be reported in other loan types, including Agricultural Loans and All Other Loans.[22] Under the proposed rule, and to minimize reporting burden, the FDIC would therefore exclude outstanding PPP loans, which includes loans pledged to the PPPLF, from an IDI's loan portfolio using assumptions under a waterfall approach. First, the FDIC would exclude the balance of PPP loans outstanding, which includes loans pledged to the PPPLF, from the balance of C&I Loans. In the unlikely event that the outstanding balance of PPP loans, which includes loans pledged to the PPPLF, exceeds the balance of C&I Loans, the FDIC would exclude any remaining balance of these loans from the balance of All Other Loans, up to the balance of All Other Loans, then exclude any remaining balance of PPP loans from the balance of Agricultural Loans, up to the total amount of Agricultural Loans. As described below, the FDIC proposes to apply this

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incorporated in an IDI's regulatory capital reporting and the FDIC does not need to make any adjustments to an IDI's deposit insurance assessment.

[21] At least 75 percent of the PPP loan proceeds shall be used for payroll costs, and collateral is not required to secure the loans. Therefore, the FDIC expects that PPP loans will not be included in other loan categories, such as those that are secured by real estate or consumer loans, in measures used to determine an IDI's deposit insurance assessment rate. *See* 85 FR 20811 (Apr. 15, 2020) and Slide 5, Industry by NAICS Subsector, Paycheck Protection Program (PPP) Report: Approvals through 12 PM EST, April 16, 2020, Small Business Administration, available at: https://home.treasury.gov/system/files/136/SBA%20PPP%20Loan%20Report%20Deck.pdf.

[22] According to the instruction for the Call Report, All Other Loans includes loans to finance agricultural production and other loans to farmers and loans to nondepository financial institutions.

waterfall approach, as appropriate, in the calculation of the Loan Mix Index (LMI) for small banks, and in the calculation of the growth-adjusted portfolio concentration measure and loss severity measure for large or highly complex banks.

Question 1: The FDIC invites comment on its proposal to apply a waterfall approach in excluding PPP loans, which include loans pledged to the PPPLF, from C&I Loans, All Other Loans, and Agricultural Loans in the calculation of an IDI's assessment rate. Is the assumption that all PPP loans are C&I Loans appropriate, or should these loans be distributed across loan categories in another manner? Should the FDIC collect additional data on how PPP loans are categorized in order to more accurately mitigate the deposit insurance assessment effects of these loans? Alternatively, should institutions report PPP loans as a separate loan category instead of including them in C&I Loans or other loan categories, thus providing data that would reduce the need for the FDIC to rely on certain assumptions, reduce the amount of necessary changes to specific risk measures and other factors, and potentially more accurately mitigate the deposit insurance assessment effects of an IDI's participation in the program? Would this be overly burdensome for institutions?

1. Established Small Institutions

a. Exclusion of Loans Pledged to the PPPLF in Various Risk Measures

For established small banks, the outstanding balance of loans pledged to the PPPLF would be excluded from total assets in the calculation of six risk measures: the net income before taxes to total assets ratio,[23] the nonperforming loans and leases to gross

[23] The FDIC expects that IDIs that participate in the PPP, PPPLF, and MMLF will earn additional income from participation in these programs. To minimize additional reporting burden, however, the FDIC is not

assets ratio, the other real estate owned to gross assets ratio, the brokered deposit ratio, the one-year asset growth measure, and the LMI.

b. Exclusion of PPP Loans and Loans Pledged to the PPPLF in the LMI

The LMI is a measure of the extent to which a bank's total assets include higher-risk categories of loans. In its calculation of the LMI, the FDIC is proposing to exclude PPP loans, which include loans pledged to the PPPLF, from an institution's loan portfolio, based on the waterfall approach described above. Under the proposed rule, the FDIC would therefore exclude outstanding PPP loans, which includes loans pledged to the PPPLF, from the balance of C&I Loans in the calculation of the LMI. In the unlikely event that the outstanding balance of PPP loans, which includes loans pledged to the PPPLF, exceeds the balance of C&I Loans, the FDIC would exclude any remaining balance of these loans from the balance of Agricultural Loans, up to the total amount of Agricultural Loans, in the calculation of the LMI.[24] The FDIC is also proposing to exclude loans pledged to the PPPLF from total assets in the calculation of the LMI.

2. Large and Highly Complex Institutions

For IDIs defined as large or highly complex for deposit insurance assessment purposes, the FDIC is proposing to exclude the outstanding balance of loans pledged to the PPPLF and borrowings from the Federal Reserve Banks under the PPPLF from five risk measures used in the scorecard method: the core earnings ratio, the core deposit ratio,

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proposing to exclude income related to participation in these programs from the net income before taxes to total assets ratio in the calculation of an IDI's deposit insurance assessment rate.

[24] All Other Loans are not included in the LMI; therefore, the FDIC proposes to exclude the outstanding balance of PPP loans, which include loans pledged to the PPPLF, first from the balance of C&I Loans, followed by Agricultural Loans. The loan categories used in the Loan Mix Index are: Construction and Development, Commercial and Industrial, Leases, Other Consumer, Real Estate Loans Residual, Multifamily Residential, Nonfarm Nonresidential, 1-4 Family Residential, Loans to Depository Banks, Agricultural Real Estate, Agricultural Loans. 12 CFR 327.16(a)(1)(ii)(B).

the balance sheet liquidity ratio, the average short-term funding ratio and the loss severity measure. For four risk measures – the growth-adjusted portfolio concentration measure, the balance sheet liquidity ratio, the trading asset ratio, and the loss severity measure – the FDIC is proposing to treat the outstanding balance of PPP loans, which includes loans pledged to the PPPLF, as riskless. These measures are described in more detail below.

a. Core Earnings Ratio

For the core earnings ratio, the FDIC divides the four-quarter sum of merger-adjusted core earnings by the average of five quarter-end total assets (most recent and four prior quarters).[25] The FDIC is proposing to exclude the outstanding balance of loans pledged to the PPPLF at quarter-end from total assets for the applicable quarter-end periods prior to averaging.[26]

b. Core Deposit Ratio

The core deposit ratio is defined as total domestic deposits excluding brokered deposits and uninsured non-brokered time deposits divided by total liabilities.[27] For purposes of this calculation, the FDIC is proposing to exclude from total liabilities borrowings from Federal Reserve Banks under the PPPLF.

c. Balance Sheet Liquidity Ratio

The balance sheet liquidity ratio measures the amount of highly liquid assets needed to cover potential cash outflows in the event of stress.[28] In calculating this ratio,

[25] Appendix A to subpart A of 12 CFR part 327.

[26] The FDIC expects that IDIs that participate in the PPP, PPPLF, and MMLF will earn additional income from participation in these programs. To minimize additional reporting burden, the FDIC is not proposing to exclude earnings related to participation in these programs from the core earnings ratio in the calculation of an IDI's deposit insurance assessment rate.

[27] Appendix A to subpart A of 12 CFR part 327.

[28] The balance sheet liquidity ratio is defined as the sum of cash and balances due from depository institutions, federal funds sold and securities purchased under agreements to resell, and the market value of available-for-sale and held-to-maturity agency securities (excludes agency mortgage-backed securities but

the FDIC is proposing to treat the outstanding balance of PPP loans as of quarter-end that exceed borrowings from the Federal Reserve Banks under the PPPLF as riskless and to treat them as highly liquid assets. The FDIC is also proposing to exclude from the ratio an IDI's reported borrowings from the Federal Reserve Banks under the PPPLF with a remaining maturity of one year or less.

d. Average Short-term Funding Ratio

The ratio of average short-term funding to average total assets is one of the measures used to determine the assessment rate for a highly complex IDI.[29] In calculating the average short-term funding ratio, the FDIC is proposing to reduce the quarterly average of total assets by the quarterly average amount of loans pledged to the PPPLF.

e. Growth-adjusted Portfolio Concentrations

The growth-adjusted portfolio concentration measure is one of the measures used to determine a large IDI's overall concentration measure.[30] Under the proposal, the FDIC would apply a waterfall approach as described above and assume that all outstanding PPP loans, which include loans pledged to the PPPLF, are categorized as C&I Loans and

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includes all other agency securities issued by the U.S. Treasury, U.S. government agencies, and U.S. government sponsored enterprises) divided by the sum of federal funds purchased and repurchase agreements, other borrowings (including FHLB) with a remaining maturity of one year or less, 5 percent of insured domestic deposits, and 10 percent of uninsured domestic and foreign deposits. Appendix A to subpart A of 12 CFR part 327.

[29] Appendix A to subpart A of 12 CFR part 327 describes the average short-term funding ratio.

[30] For large banks, the concentration measure is the higher of the ratio of higher-risk assets to Tier 1 capital and reserves, and the growth-adjusted portfolio measure. For highly complex institutions, the concentration measure is the highest of three measures: the ratio of higher risk assets to Tier 1 capital and reserves, the ratio of top 20 counterparty exposure to Tier 1 capital and reserves, and the ratio of the largest counterparty exposure to Tier 1 capital and reserves. *See* Appendix A to subpart A of part 327.

would exclude these loans from C&I Loans in the calculation of the portfolio growth rate calculations for this measure.[31]

f. Trading Asset Ratio

For highly complex IDIs, the trading asset ratio is used to determine the relative weights assigned to the credit quality measure and the market risk measure.[32] In calculating this ratio, the FDIC is proposing to reduce the balance of loans by the outstanding balance as of quarter-end of PPP loans, which includes loans pledged to the PPPLF.[33]

g. Loss Severity Measure

The loss severity measure estimates the relative magnitude of potential losses to the DIF in the event of an IDI's failure.[34] In calculating the loss severity score, the FDIC is proposing to remove the total amount of borrowings from the Federal Reserve Banks under the PPPLF from short- and long-term secured borrowings, as appropriate. The FDIC also would exclude PPP loans, which include loans pledged to the PPPLF, using a waterfall approach, described above. Under this approach, the FDIC would exclude PPP loans, which include loans pledged to the PPPLF, from an IDI's balance of C&I Loans. In the unlikely event that the outstanding balance of PPP loans exceeds the balance of C&I Loans, the FDIC would exclude any remaining balance from All Other Loans, up to

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[31] All Other Loans and Agricultural Loans are not included in the growth-adjusted portfolio concentration measure; therefore, the FDIC proposes to exclude the outstanding balance of PPP loans, which include loans pledged to the PPPLF, from the balance of C&I Loans. The loan concentration categories used in the growth-adjusted portfolio concentration measure are: construction and development, other commercial real estate, first lien residential mortgages (including non-agency residential mortgage-backed securities), closed-end junior liens and home equity lines of credit, commercial and industrial loans, credit card loans, and other consumer loans. Appendix C to subpart A of 12 CFR part 327.

[32] *See* 12 CFR 327.16(b)(2)(ii)(A)(2)(vii).

[33] To minimize reporting burden, the FDIC would reduce average loans by the outstanding balance of PPP loans, which includes loans pledged to the PPPLF, as of quarter-end, rather than requiring institutions to additionally report the average balance of PPP loans and the average balance of loans pledged to the PPPLF.

[34] Appendix D to subpart A of 12 CFR 327 describes the calculation of the loss severity measure.

the total amount of All Other Loans, followed by Agricultural Loans, up to the total amount of Agricultural Loans. To the extent that an IDI's outstanding PPP loans exceeds its borrowings under the PPPLF, and consistent with the treatment of these loans as riskless, the FDIC would then add outstanding PPP loans in excess of borrowings under the PPPLF to cash.

Question 2: The FDIC invites comment on its proposal to exclude PPP loans from C&I Loans, All Other Loans, and Agricultural Loans in the calculation of an IDI's assessment rate. Is the assumption that all PPP loans are C&I loans appropriate, or should these loans be distributed across loan categories in another manner? If so, how and why? Should the FDIC collect additional data on how PPP loans are categorized?

Question 3: The FDIC invites comment on advantages and disadvantages of mitigating the effects of participating in the PPP and PPPLF on deposit insurance assessments. How does the approach in the proposed rule support or not support the objectives of the Paycheck Protection Program and the associated liquidity facility?

C. Mitigating the Effects of Loans Pledged to the PPPLF and Assets Purchased under the MMLF on Certain Adjustments to an IDI's Assessment Rate

The FDIC proposes to exclude the quarterly average amount of loans pledged to the PPPLF and the quarterly average amount of assets purchased under the MMLF from the calculation of the unsecured debt adjustment, depository institution debt adjustment, and the brokered deposit adjustment. These adjustments would continue to be applied to an IDI's initial base assessment rate, as applicable, for purposes of calculating the IDI's total base assessment rate.[35]

D. Offset to Deposit Insurance Assessment Due to Increase in the Assessment Base Attributable to Assets Pledged to the PPPLF and Assets Purchased under the MMLF

Under the proposed rule, the FDIC would provide an offset to an IDI's total assessment amount due for the increase to its assessment base attributable to participation in the PPPLF and MMLF.[36] To determine this offset amount, the FDIC would calculate the total of the quarterly average amount of assets pledged to the PPPLF and the quarterly average amount of assets purchased under the MMLF, multiply that amount by an IDI's total base assessment rate (after excluding the effect of participation in the MMLF and PPPLF, as proposed), and subtract the resulting amount from an IDI's total assessment amount.[37]

Question 4: The FDIC invites comment on the advantages and disadvantages of adjusting an IDI's assessment to offset the increase in its assessment base due to

[35] For certain IDIs, adjustments include the unsecured debt adjustment and the depository institution debt adjustment (DIDA). The unsecured debt adjustment decreases an IDI's total assessment rate based on the ratio of its long-term unsecured debt to its assessment base. The DIDA increases an IDI's total assessment rate if it holds long-term, unsecured debt issued by another IDI. In addition, large banks that meet certain criteria and new small banks are subject to the brokered deposit adjustment. The brokered deposit adjustment increases the total assessment rate of large IDIs that hold significant concentrations of brokered deposits and that are less than well capitalized, not CAMELS composite 1- or 2-rated, as well as new, small IDIs that are not assigned to Risk Category I. *See* 12 CFR 327.16 (e).

[36] Under the proposed rule, the offset to the total assessment amount due for the increase to the assessment base attributable to participation in the PPPLF and MMLF would apply to all IDIs, including new small institutions as defined in 12 CFR 327.8(w), and insured U.S. branches and agencies of foreign banks.

[37] Currently, an IDI's total assessment amount on its quarterly certified statement invoice is equal to the product of the institution's assessment base (calculated in accordance with 12 CFR 327.5) multiplied by the institution's assessment rate (calculated in accordance with 12 CFR 327.4 and 12 CFR 327.16). *See* 12 CFR 327.3(b)(1).

participation in the MMLF and PPPLF. How does the approach in the proposed rule support or not support the objectives of the Facilities?

E. Classification of IDIs as Small, Large, or Highly Complex for Assessment Purposes

In defining IDIs for assessment purposes, the FDIC would exclude from an IDI's total assets the amount of loans pledged to the PPPLF and assets purchased under the MMLF. As a result, the FDIC would not reclassify a small institution as large or a large institution as a highly complex institution solely due to participation in the PPPLF and MMLF programs, which would otherwise have the effect of expanding an IDI's balance sheet. In addition, an institution with total assets between $5 billion and $10 billion, excluding the amount of loans pledged to the PPPLF and assets purchased under the MMLF, may request that the FDIC determine its assessment rate as a large institution.

F. Other Conforming Amendments to the Assessment Regulations

The FDIC is proposing to make conforming amendments to the FDIC's assessment regulations to effectuate the modifications described above. These conforming amendments would ensure that the proposed modifications to an IDI's assessment rate and the proposed offset to an IDI's assessment payment are properly incorporated into the assessment regulation provisions governing the calculation of an IDI's quarterly deposit insurance assessment.

G. Expected Effects

To facilitate participation in the PPP and use of PPPLF and MMLF, the FDIC is proposing to mitigate the deposit insurance assessment effects of PPP loans, loans pledged to the PPPLF, and assets purchased under the MMLF. Because IDIs are not yet reporting the necessary data, the FDIC does not have sufficient data on the distribution of loans among IDIs and other non-bank financial institutions made under the PPP, loans pledged to the PPPLF, and dollar volume of assets purchased under the MMLF by IDIs, nor on the loan categories of PPP loans held. Therefore, the FDIC has estimated the potential effects of these programs on deposit insurance assessments based on certain assumptions. Although this estimate is subject to considerable uncertainty, the FDIC estimates that absent the proposed rule, PPP loans, loans pledged to the PPPLF, and assets purchased under the MMLF could increase quarterly assessment revenue from IDIs by approximately $90 million, based on the assumptions described below.

The FDIC anticipates that PPP loans will be held by both IDIs and non-IDIs, and that some IDIs will hold PPP loans without pledging them to the PPPLF, although the rate of IDI participation in the PPP and PPPLF is uncertain. Based on Call Report data as of December 31, 2019, and assuming that (1) $600 billion of PPP loans are held by IDIs, (2) the PPP loans that are held by IDIs are evenly distributed across all IDIs that have C&I loans, which results in a 27 percent increase in those loans, (3) 25 percent of PPP loans held by IDIs are pledged to the PPPLF, (4) 100 percent of loans pledged to the PPPLF are matched by borrowings from the Federal Reserve Banks with maturities greater than one year, and (5) large and highly complex banks hold approximately $50 billion in assets pledged under the MMLF,[38] the FDIC estimates that quarterly deposit insurance assessments would increase by approximately $90 million.

[38] These assumptions reflect current participation in the PPP and PPPLF and an expectation of increased participation in the PPPLF over time, based on data published by the SBA and Federal Reserve Board. These assumptions use SBA data to estimate the participation in the PPP program of nonbank lenders including CDFI funds, CDCs, Microlenders, Farm Credit Lenders, and FinTechs. *See* Paycheck Protection Program (PPP) Report: Second Round, Approvals from 4/27/2020 through 05/01/2020, Small Business Administration, available at: https://www.sba.gov/sites/default/files/2020-05/PPP2%20Data%2005012020.pdf; Factors Affecting Reserve Balances, Federal Reserve statistical

The actual effect of these programs on deposit insurance assessments will vary depending on participation in the programs by IDIs and non-IDIs, the maturity of borrowings from the Federal Reserve Banks under these programs, and the types of loans held under the PPP, as described above.

H. Alternatives Considered

The FDIC considered the reasonable and possible alternatives described below. On balance, the FDIC believes the current proposal would mitigate the deposit insurance assessments effects of an IDI's participation in the PPP, PPPLF, and MMLF in the most appropriate and straightforward manner.

One alternative would be to leave in place the current assessment regulations. As a result, participation in the PPP, PPPLF, and MMLF could have the effect of increasing an IDI's quarterly deposit insurance assessment. This option, however, would not accomplish the policy objective of mitigating the assessment effects of holding PPP loans, pledging loans to the PPPLF, and purchasing assets under the MMLF and would potentially lead to sharp increases in assessments for an individual IDI solely due to its participation in programs intended to provide liquidity to small businesses and stabilize the financial system.

As described above, a second alternative is that the FDIC could require that institutions report PPP loans as a separate loan category instead of including them in C&I Loans or other loan categories, as appropriate, depending on the nature of the loan. Under the current proposal, the FDIC would exclude PPP loans from C&I Loans, Agricultural Loans, and All Other Loans using a waterfall approach in the calculation of

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release H.4.1, as of May 7, 2020, available at: https://www.federalreserve.gov/releases/h41/current/, and Board of Governors of the Federal Reserve System as of April 1, 2020, available at https://fred.stlouisfed.org/series/H41RESPPALDBNWW.

an IDI’s assessment rate, and would have to apply certain assumptions to do so. Under this approach, the FDIC would assume that all PPP loans are C&I Loans, and to the extent that balance of PPP loans exceed the balance of C&I Loans, any excess loan amounts are assumed to be categorized as either All Other Loans or Agricultural Loans, as applicable for a given measure. Under the alternative considered, institutions would report PPP loans as a separate loan category, thus providing data that would reduce the need for the FDIC to rely on certain assumptions, reduce the amount of necessary changes to specific risk measures and other factors, and potentially more accurately mitigate the deposit insurance assessment effects of an IDI′s participation in the program. The FDIC did not propose this alternative due to concerns that it may shift additional reporting burden onto IDIs in comparison to the current proposal, which would achieve a similar result with less burden. However, as mentioned below, the FDIC is interested in feedback on this alternative.

The FDIC also considered excluding the effects of participation in the MMLF from measures used to determine an IDI’s deposit insurance assessment rate. For example, an IDI that participates in the MMLF could increase its total assets by the amount of assets that are eligible collateral pledged to the FRBB, and increase its liabilities by the amount of borrowings received from the FRBB through the MMLF. With respect to the MMLF, the FDIC expects a limited number of IDIs to participate in the program, and that all of these IDIs are priced as large or highly complex institutions. Furthermore, the FDIC expects that participation in the MMLF will have minimal to no effect on an IDI’s deposit insurance assessment rate. The MMLF is scheduled to cease on September 30, 2020, and eligible collateral includes a variety of assets, including U.S.

Treasuries and fully guaranteed agency securities, Certificates of Deposit, securities issued by government-sponsored enterprises, and certain types of commercial paper. Given the minimal expected effect of participation in the MMLF on an IDI's assessment rate and the short duration of the program, and to minimize the additional reporting burden associated with the variety of potential assets in the program, the FDIC decided not to propose this alternative. Under the proposal, the FDIC would exclude loans pledged to the PPPLF and assets purchased from the MMLF from the calculation of certain adjustments to an IDI's assessment rate, and would provide an offset to an IDI's assessment for the increase to its assessment base attributable to participation in the MMLF and PPPLF. In addition, an IDI that is priced as large or highly complex may request an adjustment to its total score, used in determining an institution's assessment rate, based on supporting data reflecting its participation in the MMLF.[39]

Question 5: The FDIC invites comment on the reasonable and possible alternatives described in this proposed rule. Should the FDIC consider other reasonable and possible alternatives?

I. Comment Period, Proposed Effective Date and Application Date

The FDIC is issuing this proposal with a 7-day comment period, in order to allow sufficient time for the FDIC to consider comments and ensure publication of a final rule before June 30, 2020 (the end of the second quarterly assessment period).

As stated above, in response to recent events which have significantly and adversely impacted global financial markets along with the spread of COVID-19, which has slowed economic activity in many countries, including the United States, the agencies

[39] *See Assessment Rate Adjustment Guidelines for Large and Highly Complex Institutions*, 76 FR 57992 (Sept. 19, 2011).

moved quickly due to exigent circumstances and issued two interim final rules to allow banking organizations to neutralize the regulatory capital effects of purchasing assets through the MMLF program and loans pledged to the PPPL Facility. Since the implementation of the PPP, PPPLF, and MMLF, the FDIC has observed uncertainty from the public and the banking industry and wants to provide clarity on how, if at all, these programs would affect the assessments of IDIs which participate in these programs. Because PPP loans must be issued by June 30, 2020, the full assessment impact of these programs will first occur in the second quarterly assessment period. Congress has also given indications that implementation of these programs is an urgent policy matter, instructing the SBA to issue regulations for the PPP within 15 days of the CARES Act's enactment.[40] The FDIC has therefore concluded that rapid administrative action is critical and warrants an abbreviated comment period.

The 7-day comment period will afford the public and affected institutions with an opportunity to review and comment on the proposal, and will allow the FDIC sufficient time to consider and respond to comments received. In addition, a proposed effective date by June 30, 2020 and a proposed application date of April 1, 2020 will enable the FDIC to provide the relief contemplated in this rulemaking as soon as practicable, starting with the second quarter of 2020, and provide certainty to IDIs regarding the assessment effects of participating in the PPP, PPPLF, or MMLF for the second quarter of 2020, which is the first assessment quarter in which the assessments will be affected.

IV. Request for Comment

[40] *See* CARES Act, § 1114.

The FDIC is requesting comment on all aspects of the notice of proposed rulemaking, in addition to the specific requests for comment above.

V. Administrative Law Matters

A. Administrative Procedure Act

Under the Administrative Procedure Act (APA),[41] "[t]he required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except as otherwise provided by the agency for good cause found and published with the rule."[42] Under this proposal, the amendments to the FDIC's deposit insurance assessment regulations would be effective upon publication of a final rule in the *Federal Register*. It is anticipated that the FDIC would find good cause that the publication of a final rule implementing the proposal can be less than 30 days before its effective date in order to fully effectuate the intent of ensuring that IDIs benefit from the mitigation effects to their deposit insurance assessments as soon as practicable, and to provide banks with certainty regarding the assessment effects of participating in the PPP, PPPLF, or MMLF for the second quarter of 2020, which is the first assessment quarter in which the assessments will be affected.

As explained in the Supplementary Information section, the FDIC expects that an IDI that participates in either the PPP, the PPPLF, or the MMLF program could be subject to increased deposit insurance assessments, beginning with the second quarter of 2020. The FDIC invoices for quarterly deposit insurance assessments in arrears. As a result, invoices for the second quarterly assessment period of 2020 (i.e., April 1-June 30)

[41] 5 U.S.C. 553.
[42] 5 U.S.C. 553(d).

would be made available to IDIs in September 2020, with a payment due date of September 30, 2020.

While it is anticipated that the FDIC would find good cause to issue the final rule with an immediate effective date, the FDIC is interested in the views of the public and requests comment on all aspects of the proposal.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities.[43] However, a regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined "small entities" to include banking organizations with total assets of less than or equal to $600 million.[44] Generally, the FDIC considers a significant effect to be a quantified effect in excess of 5 percent of total annual salaries and benefits per institution, or 2.5 percent of total non-interest expenses. The FDIC believes that effects in excess of these thresholds typically represent significant effects for FDIC-insured institutions. Certain types of rules, such as rules of particular applicability relating to rates or corporate or financial structures, or practices relating to such rates or structures, are expressly excluded from

[43] 5 U.S.C. 601 *et seq.*

[44] The SBA defines a small banking organization as having $600 million or less in assets, where an organization's "assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year." *See* 13 CFR 121.201 (as amended, effective August 19, 2019). In its determination, the SBA "counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates." 13 CFR 121.103. Following these regulations, the FDIC uses a covered entity's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is "small" for the purposes of RFA.

the definition of "rule" for purposes of the RFA.[45] The proposed rule relates directly to the rates imposed on IDIs for deposit insurance and to the deposit insurance assessment system that measures risk and determines each established small bank's assessment rate and is, therefore, not subject to the RFA. Nonetheless, the FDIC is voluntarily presenting information in this RFA section.

Based on quarterly regulatory report data as of December 31, 2019, the FDIC insures 5,186 depository institutions, of which 3,841 are defined as small entities by the terms of the RFA.[46] The proposed rule applies to all FDIC-insured institutions, but is expected to affect only those institutions that participate in the PPP, PPPLF, and MMLF. The FDIC does not presently have access to information that would enable it to identify which institutions are participating in these programs and lending facilities.

As previously discussed in this Notice, to facilitate participation in the PPP and use of PPPLF and MMLF, the FDIC is proposing to mitigate the deposit insurance assessment effects of PPP loans, loans pledged to the PPPLF, and assets purchased under the MMLF. Therefore, the FDIC estimated the potential effects of these programs on deposit insurance assessments based on certain assumptions. Based on Call Report data as of December 31, 2019, assuming that (1) $600 billion of PPP loans are held by IDIs, (2) the PPP loans that are held by IDIs are evenly distributed across all IDIs that have C&I loans, which results in a 27 percent increase in those loans, (3) 25 percent of PPP loans held by IDIs are pledged to the PPPLF, and (4) 100 percent of loans pledged to the PPPLF are matched by borrowings from the Federal Reserve Banks with maturities

[45] 5 U.S.C. 601.

[46] FDIC Call Report data, as of December 31, 2019.

greater than one year,[47], the FDIC estimates that the proposal would save small IDIs approximately $5 million in quarterly deposit insurance assessments.

The actual effect of these programs on deposit insurance assessments will vary depending on IDI's participation in the PPP and Federal Reserve Facilities, the maturity of borrowings from the Federal Reserve Banks under these programs, and the types of loans held under the PPP.

The FDIC invites comments on all aspects of the supporting information provided in this RFA section. In particular, would this proposed rule have any significant effects on small entities that the FDIC has not identified?

C. Riegle Community Development and Regulatory Improvement Act

Section 302 of the Riegle Community Development and Regulatory Improvement Act (RCDRIA) requires that the Federal banking agencies, including the FDIC, in determining the effective date and administrative compliance requirements of new regulations that impose additional reporting, disclosure, or other requirements on IDIs, consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures,

[47] These assumptions reflect current participation in the PPP and PPPLF and an expectation of increased participation in the PPPLF over time, based on data published by the SBA and Federal Reserve Board. These assumptions use SBA data to estimate the participation in the PPP program of nonbank lenders including CDFI funds, CDCs, Microlenders, Farm Credit Lenders, and FinTechs. *See* Paycheck Protection Program (PPP) Report: Second Round, Approvals from 4/27/2020 through 05/01/2020, Small Business Administration, available at: https://www.sba.gov/sites/default/files/2020-05/PPP2%20Data%2005012020.pdf; Factors Affecting Reserve Balances, Federal Reserve statistical release H.4.1, as of May 7, 2020, available at: https://www.federalreserve.gov/releases/h41/current/, and Board of Governors of the Federal Reserve System as of April 1, 2020, available at https://fred.stlouisfed.org/series/H41RESPPALDBNWW

or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form, with certain exceptions, including for good cause.[48] The FDIC invites comments that will further inform its consideration of RCDRIA.

D. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid OMB control number.[49] The proposed rule affects the agencies' current information collections for the Call Report (FFIEC 031, FFIEC 041, and FFIEC 051). The agencies' OMB control numbers for the Call Reports are: Comptroller of the Currency OMB No. 1557-0081; Board of Governors OMB No. 7100-0036; and FDIC OMB No. 3064-0052. The proposed rule also affects the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002), which the Federal Reserve System collects and processes on behalf of the three agencies (Board of Governors OMB No. 7100-0032). Submissions will be made by the agencies to OMB for their respective information collections. The changes to the Call Report, the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks, and their respective instructions, will be addressed in a separate *Federal Register* notice or notices.

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[48] 5 U.S.C. 553(b)(B).
[48] 5 U.S.C. 553(d).
[48] 5 U.S.C. 601 *et seq.*
[48] 5 U.S.C. 801 *et seq.*
[48] 5 U.S.C. 801(a)(3).
[48] 5 U.S.C. 804(2).
[48] 5 U.S.C. 808(2).
[48] 12 U.S.C. 4802(a).
[48] 12 U.S.C. 4802(b).
[49] 4 U.S.C. 3501-3521.

E. Plain Language

Section 722 of the Gramm-Leach-Bliley Act[50] requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the Federal Register after January 1, 2000. The FDIC invites your comments on how to make this proposed rule easier to understand. For example:

- Has the FDIC organized the material to suit your needs? If not, how could the material be better organized?
- Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be stated more clearly?
- Does the proposed rule contain language or jargon that is unclear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed rule easier to understand?

List of Subjects in 12 CFR Part 327

Bank deposit insurance, Banks, banking, Savings associations

Authority and Issuance

For the reasons stated above, the Federal Deposit Insurance Corporation proposes to amend 12 CFR part 327 as follows:

PART 327—ASSESSMENTS

1. The authority citation for part 327 is revised to read as follows:

Authority: 12 U.S.C. 1813, 1815, 1817-19, 1821.

[50] 12 U.S.C. 4809.

2. Amend §327.3 by revising paragraph (b)(1) to read as follows:

§ 327.3 Payment of assessments.

* * * * *

(b) * * *

(1) *Quarterly certified statement invoice*. Starting with the first assessment period of 2007, no later than 15 days prior to the payment date specified in paragraph (b)(2) of this section, the Corporation will provide to each insured depository institution a quarterly certified statement invoice showing the amount of the assessment payment due from the institution for the prior quarter (net of credits or dividends, if any), and the computation of that amount. Subject to paragraph (e) of this section and § 327.17, the invoiced amount on the quarterly certified statement invoice shall be the product of the following: the assessment base of the institution for the prior quarter computed in accordance with § 327.5 multiplied by the institution's rate for that prior quarter as assigned to the institution pursuant to §§ 327.4(a) and 327.16.

* * * * *

3. Amend §327.16 by adding introductory text to read as follows:

§ 327.16 Assessment pricing methods—beginning the first assessment period after June 30, 2016, where the reserve ratio of the DIF as of the end of the prior assessment period has reached or exceeded 1.15 percent.

Subject to the modifications described in § 327.17, the following pricing methods shall apply beginning in the first assessment period after June 30, 2016, where the reserve ratio of the DIF as of the end of the prior assessment period has reached or exceeded 1.15 percent, and for all subsequent assessment periods.

* * * * *

4. Add § 327.17 to read as follows:

§ 327.17 Mitigating the Deposit Insurance Assessment Effect of participation in the Money Market Mutual Fund Liquidity Facility, the Paycheck Protection Program Lending Facility, and the Paycheck Protection Program.

(a) *Mitigating the assessment effects of Paycheck Protection Program loans for established small institutions*. Effective as of April 1, 2020, the FDIC will take the following actions when calculating the assessment rate for established small institutions under § 327.16:

(1) *Exclusion from net income before taxes ratio, nonperforming loans and leases ratio, other real estate owned ratio, brokered deposit ratio, and one-year asset growth measure.* Notwithstanding any other section of this part, and as described in Appendix E to this subpart, the FDIC will exclude the outstanding balance of loans that are pledged as collateral to the Paycheck Protection Program Lending Facility, as reported on the Consolidated Report of Condition and Income, from the total assets in the calculation of the following risk measures: net income before taxes ratio, the nonperforming loans and leases ratio, the other real estate owned ratio, the brokered deposit ratio, and the one-year asset growth measure, which are described in § 327.16(a)(1)(ii)(A).

(2) *Exclusion from Loan Mix Index.* Notwithstanding any other section of this part, and as described in appendix E to this subpart A, when calculating the loan mix index described in § 327.16(a)(1)(ii)(B), the FDIC will exclude:

(i) The outstanding balance of loans that are pledged as collateral to the Paycheck Protection Program Lending Facility, as reported on the Consolidated Report of Condition and Income, from the total assets; and

(ii) The amount of outstanding loans provided as part of the Paycheck Protection Program, including loans pledged to the Paycheck Protection Program Lending Facility, as reported on the Consolidated Report of Condition and Income, from an established small institution's balance of commercial and industrial loans. To the extent that the outstanding balance of loans provided as part of the Paycheck Protection Program, including loans pledged to the Paycheck Protection Program Lending Facility, exceeds an established small institution's balance of commercial and industrial loans, the FDIC will exclude any remaining balance of these loans from the balance of agricultural loans, up to the amount of agricultural loans, in the calculation of the loan mix index.

(b) *Mitigating the assessment effects of Paycheck Protection Program loans for large or highly complex institutions*. Effective as of April 1, 2020, the FDIC will take the following actions when calculating the assessment rate for large institutions and highly complex institutions under §327.16:

(1) *Exclusion from average short-term funding ratio.* Notwithstanding any other section of this part, and as described in appendix E of this subpart, the FDIC will exclude the quarterly average amount of loans that are pledged as collateral to the Paycheck Protection Program Lending Facility, as reported on the Consolidated Report of Condition and Income, from the calculation of the average short-term funding ratio, which is described in appendix E to this subpart.

(2) *Exclusion from core earnings ratio*. Notwithstanding any other section of this part, and as described in appendix E of this subpart, the FDIC will exclude the outstanding balance of loans that are pledged as collateral to the Paycheck Protection Program Lending Facility as of quarter-end, as reported on the Consolidated Report of Condition and Income, from the calculation of the core earnings ratio, which is described in appendix E to this subpart.

(3) *Exclusion from core deposit ratio*. Notwithstanding any other section of this part, and as described in appendix E of this subpart, the FDIC will exclude the amount of borrowings from the Federal Reserve Banks under the Paycheck Protection Program Lending Facility, as reported on the Consolidated Report of Condition and Income, from the calculation of the core deposit ratio, which is described in appendix E to this subpart.

(4) *Exclusion from growth-adjusted portfolio concentration measure and trading asset ratio.* Notwithstanding any other section of this part, and as described in appendix E to this subpart, the FDIC will exclude, as applicable, the outstanding balance of loans provided under the Paycheck Protection Program, including loans pledged to the Paycheck Protection Program Lending Facility, as reported on the Consolidated Report of Condition and Income, from the calculation of the growth-adjusted portfolio concentration measure and the trading asset ratio, which are described in appendix E to this subpart.

(5) *Balance sheet liquidity ratio*. Notwithstanding any other section of this part, and as described in appendix E to this subpart, when calculating the balance sheet liquidity measure described under appendix A to this subpart, the FDIC will include the outstanding balance of loans provided under the Paycheck Protection Program that

exceed total borrowings from the Federal Reserve Banks under the Paycheck Protection Program Lending Facility, as reported on the Consolidated Report of Condition and Income in highly liquid assets, and exclude the amount of borrowings from the Federal Reserve Banks under the Paycheck Protection Program Lending Facility with a remaining maturity of one year or less, as reported on the Consolidated Report of Condition and Income from other borrowings with a remaining maturity of one year or less.

(6) *Exclusion from loss severity measure*. Notwithstanding any other section of this part, and as described in appendix E to this subpart, when calculating the loss severity measure described under appendix A to this subpart, the FDIC will exclude the total amount of borrowings from the Federal Reserve Banks under the Paycheck Protection Program Lending Facility from short- and long-term secured borrowings, as appropriate. The FDIC will exclude the total amount of outstanding loans provided as part of the Paycheck Protection Program, as reported on the Consolidated Report of Condition and Income, from an institution's balance of commercial and industrial loans. To the extent that the outstanding balance of loans provided as part of the Paycheck Protection Program exceeds an institution's balance of commercial and industrial loans, the FDIC will exclude any remaining balance from all other loans, up to the total amount of all other loans, followed by agricultural loans, up to the total amount of agricultural loans. To the extent that an institution's outstanding loans under the Paycheck Protection Program exceeds its borrowings under the Paycheck Protection Program Loan Facility, the FDIC will add outstanding loans under the Paycheck Protection Program in excess of

borrowings under the Paycheck Protection Program Loan Facility to cash and interest-bearing balances.

(c) *Mitigating the effects of loans pledged to the PPPLF and assets purchased under the MMLF on the unsecured adjustment, depository institution debt adjustment, and the brokered deposit adjustment to an IDI's assessment rate*. Notwithstanding any other section of this part, and as described in appendix E to this subpart, when calculating an insured depository institution's unsecured debt adjustment, depository institution debt adjustment, or the brokered deposit adjustment described in § 327.16(e), as applicable, the FDIC will exclude the quarterly average amount of loans pledged to the Paycheck Protection Program Lending Facility and the quarterly average amount of assets purchased under the Money Market Mutual Fund Liquidity Facility, as reported on the Consolidated Report of Condition and Income.

(d) *Mitigating the effects on the assessment base attributable to the Paycheck Protection Program Lending Facility and the Money Market Mutual Fund Liquidity Facility*. Notwithstanding any other section of this part, and as described in appendix E to this subpart, when calculating an insured depository institution's quarterly deposit insurance assessment payment due under this part, the FDIC will provide an offset to an institution's assessment for the increase to its assessment base attributable to participation in the Money Market Mutual Fund Liquidity Facility and the Paycheck Protection Program Lending Facility.

(1) *Calculation of offset amount*. To determine the offset amount, the FDIC will take the sum of the quarterly average amount of loans pledged to the Paycheck Protection Program Lending Facility and the quarterly average amount of assets purchased under the

Money Market Mutual Fund Liquidity Facility, and multiply the sum by an institution's total base assessment rate, as calculated under § 327.16, including any adjustments under § 327.16(e).

(2) *Calculation of assessment amount due*. Notwithstanding any other section of this part, the FDIC will subtract the offset amount described in § 327.17(d)(1) from an insured depository institution's total assessment amount.

(e) *Definitions*. For the purposes of this section:

(1) *Paycheck Protection Program*. The term "Paycheck Protection Program" means the program that was created in section 1102 of the Coronavirus Aid, Relief, and Economic Security Act.

(2) *Paycheck Protection Program Liquidity Facility*. The term "Paycheck Protection Program Liquidity Facility" means the program of that name that was announced by the Board of Governors of the Federal Reserve System on April 9, 2020.

(3) *Money Market Mutual Fund Liquidity Facility*. The term "Money Market Mutual Fund Liquidity Facility" means the program of that name announced by the Board of Governors of the Federal Reserve System on March 18, 2020.

5. Add Appendix E to subpart A of part 327 to read as follows:

Appendix E to Subpart A of Part 327--Mitigating the Deposit Insurance Assessment Effect of Participation in the Money Market Mutual Fund Liquidity Facility, the Paycheck Protection Program Lending Facility, and the Paycheck Protection Program.

I. Mitigating the Assessment Effects of Paycheck Protection Program Loans for Established Small Institutions

Table E.1—Exclusions from Certain Risk Measures Used to Calculate the Assessment Rate for Established Small Institutions

Variables	Description	Exclusions
Leverage Ratio (%)	Tier 1 capital divided by adjusted average assets. (Numerator and denominator are both based on the definition for prompt corrective action.)	No Exclusion
Net Income before Taxes/Total Assets (%)	Income (before applicable income taxes and discontinued operations) for the most recent twelve months divided by total assets.[1]	Exclude from total assets the balance of loans pledged to the PPPLF outstanding at end of quarter
Nonperforming Loans and Leases/ Gross Assets (%)	Sum of total loans and lease financing receivables past due 90 or more days and still accruing interest and total nonaccrual loans and lease financing receivables (excluding, in both cases, the maximum amount recoverable from the U.S. Government, its agencies or government-sponsored enterprises, under guarantee or insurance provisions) divided by gross assets.[2]	Exclude from total assets the balance of loans pledged to the PPPLF outstanding at end of quarter
Other Real Estate Owned/Gross Assets (%)	Other real estate owned divided by gross assets.[2]	Exclude from total assets the balance of loans pledged to the PPPLF outstanding at end of quarter
Brokered Deposit Ratio	The ratio of the difference between brokered deposits and 10 percent of total assets to total assets. For institutions that are well capitalized and have a CAMELS composite rating of 1 or 2, brokered reciprocal deposits as defined in § 327.8(q) are deducted from brokered deposits. If the ratio is less than zero, the value is set to zero.	Exclude from total assets (in both numerator and denominator) the balance of loans pledged to the PPPLF outstanding at end of quarter
Weighted Average of C, A, M, E, L, and S Component Ratings	The weighted sum of the "C," "A," "M," "E", "L", and "S" CAMELS components, with weights of 25 percent each for the "C" and "M" components, 20 percent for the "A" component, and 10 percent each for the "E", "L" and "S" components.	No Exclusion
Loan Mix Index	A measure of credit risk described paragraph (A) of this section.	Exclusions are described in paragraph (A) of this section.
One-Year Asset Growth (%)	Growth in assets (adjusted for mergers[3]) over the previous year in excess of 10 percent.[4] If growth is less than 10 percent, the value is set to zero.	Exclude from total assets (in both numerator and denominator) the balance of loans pledged to the PPPLF outstanding at end of quarter

[1]The ratio of Net Income before Taxes to Total Assets is bounded below by (and cannot be less than) -25 percent and is bounded above by (and cannot exceed) 3 percent.

[2]Gross assets are total assets plus the allowance for loan and lease financing receivable losses (ALLL) or allowance for credit losses, as applicable.

[3]Growth in assets is also adjusted for acquisitions of failed banks.

[4]The maximum value of the Asset Growth measure is 230 percent; that is, asset growth (merger adjusted) over the previous year in excess of 240 percent (230 percentage points in excess of the 10 percent threshold) will not further increase a bank's assessment rate.

(A) *Definition of Loan Mix Index.* The Loan Mix Index assigns loans in an institution's loan portfolio to the categories of loans described in the following table. Exclude from the balance of commercial and industrial loans the balance of PPP loans, which includes loans pledged to the PPPLF, outstanding at end of quarter. In the event that the balance of outstanding PPP loans, which includes loans pledged to the PPPLF, exceeds the balance of commercial and industrial loans, exclude the remaining balance from the balance of agricultural loans, up to the total amount of agricultural loans. The Loan Mix Index is calculated by multiplying the ratio of an institution's amount of loans in a particular loan category to its total assets, excluding the balance of loans pledged to the PPPLF outstanding at end of quarter by the associated weighted average charge-off rate for that loan category, and summing the products for all loan categories. The table gives the weighted average charge-off rate for each category of loan. The Loan Mix Index excludes credit card loans.

LOAN MIX INDEX CATEGORIES AND WEIGHTED CHARGE-OFF RATE PERCENTAGES

	Weighted charge-off rate percent
Construction & Development	4.4965840
Commercial & Industrial	1.5984506
Leases	1.4974551
Other Consumer	1.4559717

Real Estate Loans Residual	1.0169338
Multifamily Residential	0.8847597
Nonfarm Nonresidential	0.7289274
I--4 Family Residential	0.6973778
Loans to Depository banks	0.5760532
Agricultural Real Estate	0.2376712
Agriculture	0.2432737

II. Mitigating the Assessment Effects of Paycheck Protection Program Loans for Large or Highly Complex Institutions.

Table E.2—Exclusions from Certain Risk Measures Used to Calculate the Assessment Rate for Large or Highly Complex Institutions

Scorecard Measures[1]	Description	Exclusions
Leverage Ratio	Tier 1 capital for Prompt Corrective Action (PCA) divided by adjusted average assets based on the definition for prompt corrective action.	No Exclusion
Concentration Measure for Large Insured depository institutions (excluding Highly Complex Institutions)	The concentration score for large institutions is the higher of the following two scores:	
(1) Higher-Risk Assets/Tier 1 Capital and Reserves	Sum of construction and land development (C&D) loans (funded and unfunded), higher-risk commercial and industrial (C&I) loans (funded and unfunded), nontraditional mortgages, higher-risk consumer loans, and higher-risk securitizations divided by Tier 1 capital and reserves. See Appendix C for the detailed description of the ratio.	No Exclusion
(2) Growth-Adjusted Portfolio Concentrations	The measure is calculated in the following steps:	
	(1) Concentration levels (as a ratio to Tier 1 capital and reserves) are calculated for each broad portfolio category:	
	• Constructions and land development (C&D),	
	• Other commercial real estate loans,	
	• First lien residential mortgages (including non-agency residential mortgage-backed securities),	

	• Closed-end junior liens and home equity lines of credit (HELOCs),	
	• Commercial and industrial loans (C&I),	
	• Credit card loans, and	
	• Other consumer loans.	
	(2) Risk weights are assigned to each loan category based on historical loss rates.	
	(3) Concentration levels are multiplied by risk weights and squared to produce a risk-adjusted concentration ratio for each portfolio.	
	(4) Three-year merger-adjusted portfolio growth rates are then scaled to a growth factor of 1 to 1.2 where a 3-year cumulative growth rate of 20 percent or less equals a factor of 1 and a growth rate of 80 percent or greater equals a factor of 1.2. If three years of data are not available, a growth factor of 1 will be assigned.	Exclude from C&I loan growth rate the amount of PPP loans, which includes loans pledged to the PPPLF, outstanding at end of quarter
	(5) The risk-adjusted concentration ratio for each portfolio is multiplied by the growth factor and resulting values are summed.	
	See Appendix C for the detailed description of the measure.	
Concentration Measure for Highly Complex Institutions	Concentration score for highly complex institutions is the highest of the following three scores:	
(1) Higher-Risk Assets/Tier 1 Capital and Reserves	Sum of C&D loans (funded and unfunded), higher-risk C&I loans (funded and unfunded), nontraditional mortgages, higher-risk consumer loans, and higher-risk securitizations divided by Tier 1 capital and reserves. See Appendix C for the detailed description of the measure.	No Exclusion
(2) Top 20 Counterparty Exposure/Tier 1 Capital and Reserves	Sum of the 20 largest total exposure amounts to counterparties divided by Tier 1 capital and reserves. The total exposure amount is equal to the sum of the institution's exposure amounts to one counterparty (or borrower) for derivatives, securities financing transactions (SFTs), and cleared transactions, and its gross lending exposure (including all unfunded commitments) to that counterparty (or borrower). A counterparty includes an entity's own affiliates. Exposures to entities that are affiliates of each other are treated as exposures to one counterparty (or borrower). Counterparty exposure excludes all counterparty exposure to the U.S. Government and departments or agencies of the U.S. Government that is unconditionally guaranteed by the full faith and credit of the United States. The exposure amount for derivatives, including OTC derivatives, cleared transactions that are derivative contracts, and netting sets of derivative contracts, must be calculated using the methodology set forth in 12 CFR 324.34(b), but without any reduction for collateral other than cash collateral that is all or part of variation margin and	No Exclusion

	that satisfies the requirements of 12 CFR 324.10(c)(4)(ii)(C)(1)(ii) and (iii) and 324.10(c)(4)(ii)(C)(3) through (7). The exposure amount associated with SFTs, including cleared transactions that are SFTs, must be calculated using the standardized approach set forth in 12 CFR 324.37(b) or (c). For both derivatives and SFT exposures, the exposure amount to central counterparties must also include the default fund contribution.	
(3) Largest Counterparty Exposure/Tier 1 Capital and Reserves	The largest total exposure amount to one counterparty divided by Tier 1 capital and reserves. The total exposure amount is equal to the sum of the institution's exposure amounts to one counterparty (or borrower) for derivatives, SFTs, and cleared transactions, and its gross lending exposure (including all unfunded commitments) to that counterparty (or borrower). A counterparty includes an entity's own affiliates. Exposures to entities that are affiliates of each other are treated as exposures to one counterparty (or borrower). Counterparty exposure excludes all counterparty exposure to the U.S. Government and departments or agencies of the U.S. Government that is unconditionally guaranteed by the full faith and credit of the United States. The exposure amount for derivatives, including OTC derivatives, cleared transactions that are derivative contracts, and netting sets of derivative contracts, must be calculated using the methodology set forth in 12 CFR 324.34(b), but without any reduction for collateral other than cash collateral that is all or part of variation margin and that satisfies the requirements of 12 CFR 324.10(c)(4)(ii)(C)(1)(ii) and (iii) and 324.10(c)(4)(ii)(C)(3) through (7). The exposure amount associated with SFTs, including cleared transactions that are SFTs, must be calculated using the standardized approach set forth in 12 CFR 324.37(b) or (c). For both derivatives and SFT exposures, the exposure amount to central counterparties must also include the default fund contribution.	No Exclusion
Core Earnings/Average Quarter-End Total Assets	Core earnings are defined as net income less extraordinary items and tax-adjusted realized gains and losses on available-for-sale (AFS) and held-to-maturity (HTM) securities, adjusted for mergers. The ratio takes a four-quarter sum of merger-adjusted core earnings and divides it by an average of five quarter-end total assets (most recent and four prior quarters). If four quarters of data on core earnings are not available, data for quarters that are available will be added and annualized. If five quarters of data on total assets are not available, data for quarters that are available will be averaged.	Prior to averaging, exclude from total assets for the applicable quarter-end periods the balance of loans pledged to the PPPLF outstanding at end of quarter
Credit Quality Measure[1]	The credit quality score is the higher of the following two scores:	
(1) Criticized and Classified Items/Tier 1 Capital and Reserves	Sum of criticized and classified items divided by the sum of Tier 1 capital and reserves. Criticized and classified items include items an institution or its	

	primary federal regulator have graded "Special Mention" or worse and include retail items under Uniform Retail Classification Guidelines, securities, funded and unfunded loans, other real estate owned (ORE), other assets, and marked-to-market counterparty positions, less credit valuation adjustments. Criticized and classified items exclude loans and securities in trading books, and the amount recoverable from the U.S. government, its agencies, or government-sponsored enterprises, under guarantee or insurance provisions.	No Exclusion
(2) Underperforming Assets/Tier 1 Capital and Reserves	Sum of loans that are 30 days or more past due and still accruing interest, nonaccrual loans, restructured loans (including restructured 1--4 family loans), and ORE, excluding the maximum amount recoverable from the U.S. government, its agencies, or government-sponsored enterprises, under guarantee or insurance provisions, divided by a sum of Tier 1 capital and reserves.	No Exclusion
Core Deposits/Total Liabilities	Total domestic deposits excluding brokered deposits and uninsured non-brokered time deposits divided by total liabilities.	Exclude from total liabilities borrowings from Federal Reserve Banks under the PPPLF with a maturity of one year or less and borrowings from the Federal Reserve Banks under the PPPLF with a maturity of greater than one year, outstanding at end of quarter.
Balance Sheet Liquidity Ratio	Sum of cash and balances due from depository institutions, federal funds sold and securities purchased under agreements to resell, and the market value of available for sale and held to maturity agency securities (excludes agency mortgage-backed securities but includes all other agency securities issued by the U.S. Treasury, U.S. government agencies, and U.S. government sponsored enterprises) divided by the sum of federal funds purchased and repurchase agreements, other borrowings (including FHLB) with a remaining maturity of one year or less, 5 percent of insured domestic deposits, and 10 percent of uninsured domestic and foreign deposits.	Include in highly liquid assets the outstanding balance of PPP loans that exceed borrowings from the Federal Reserve Banks under the PPPLF at end of quarter. Exclude from other borrowings with a remaining maturity of one year or less the balance of borrowings from the Federal Reserve Banks under the PPPLF with a remaining maturity of one year or less outstanding at end of quarter.
Potential Losses/Total Domestic Deposits (Loss Severity Measure)	Potential losses to the DIF in the event of failure divided by total domestic deposits. Paragraph [A] of this section describes the calculation of the loss severity measure in detail.	Exclusions are described in paragraph (A) of this section.
Market Risk Measure for Highly Complex Institutions	The market risk score is a weighted average of the following three scores:	
(1) Trading Revenue Volatility/Tier 1 Capital	Trailing 4-quarter standard deviation of quarterly trading revenue (merger-adjusted) divided by Tier 1 capital.	No Exclusion
(2) Market Risk Capital/Tier 1 Capital	Market risk capital divided by Tier 1 capital.	No Exclusion

(3) Level 3 Trading Assets/Tier 1 Capital	Level 3 trading assets divided by Tier 1 capital.	No Exclusion
Average Short-term Funding/Average Total Assets	Quarterly average of federal funds purchased and repurchase agreements divided by the quarterly average of total assets as reported on Schedule RC-K of the Call Reports.	Exclude from the quarterly average of total assets the quarterly average amount of loans pledged to the PPPLF.

[1] The credit quality score is the greater of the criticized and classified items to Tier 1 capital and reserves score or the underperforming assets to Tier 1 capital and reserves score. The market risk score is the weighted average of three scores--the trading revenue volatility to Tier 1 capital score, the market risk capital to Tier 1 capital score, and the level 3 trading assets to Tier 1 capital score. All of these ratios are described in appendix A of this subpart and the method of calculating the scores is described in appendix B of this subpart. Each score is multiplied by its respective weight, and the resulting weighted score is summed to compute the score for the market risk measure. An overall weight of 35 percent is allocated between the scores for the credit quality measure and market risk measure. The allocation depends on the ratio of average trading assets to the sum of average securities, loans and trading assets (trading asset ratio) as follows: (1) Weight for credit quality score = 35 percent * (1 - trading asset ratio); and, (2) Weight for market risk score = 35 percent * trading asset ratio. In calculating the trading asset ratio, exclude from the balance of loans the balance of PPP loans, which includes loans pledged to the PPPLF, outstanding as of quarter-end.

(A) *Description of the loss severity measure.* The loss severity measure applies a standardized set of assumptions to an institution's balance sheet to measure possible losses to the FDIC in the event of an institution's failure. To determine an institution's loss severity rate, the FDIC first applies assumptions about uninsured deposit and other unsecured liability runoff, and growth in insured deposits, to adjust the size and composition of the institution's liabilities. Exclude from liabilities total borrowings from Federal Reserve Banks under the PPPLF from short-and long-term secured borrowings outstanding at end of quarter, as appropriate. Assets are then reduced to match any reduction in liabilities Exclude from commercial and industrial loans included in assets PPP loans, which include loans pledged to the PPPLF, outstanding at end of quarter. In the event that the outstanding balance of PPP loans exceeds the balance of C&I loans, exclude any remaining balance first from the balance of all other loans, up to the total amount of all other loans, followed by the balance of agricultural loans, up to the total amount of agricultural loans. Increase cash and interest-bearing balances by outstanding PPP loans exceeding total borrowings under the PPPLF, if any. The institution's asset values are then further reduced so that the Leverage ratio reaches 2 percent.   In both cases, assets are adjusted pro rata to preserve the institution's asset composition. Assumptions regarding loss rates at failure for a given asset category and the extent of secured liabilities are then applied to estimated assets and liabilities at failure to determine whether the institution has enough unencumbered assets to cover domestic deposits. Any projected shortfall is divided by current domestic deposits to obtain an end-of-period loss severity ratio. The loss severity measure is an average loss severity ratio for the three most recent quarters of data available.

Runoff and Capital Adjustment Assumptions

Table E.3 contains run-off assumptions.

Table E.3—Runoff Rate Assumptions

Liability type	**Runoff rate* (percent)**
Insured Deposits	(10)
Uninsured Deposits	58
Foreign Deposits	80
Federal Funds Purchased	100
Repurchase Agreements	75
Trading Liabilities	50
Unsecured Borrowings < = 1 Year	75
Secured Borrowings < = 1 Year, excluding outstanding borrowings from the Federal Reserve Banks under the PPPLF < = 1 Year	25
Subordinated Debt and Limited Liability Preferred Stock	15

* A negative rate implies growth.

Given the resulting total liabilities after runoff, assets are then reduced pro rata to preserve the relative amount of assets in each of the following asset categories and to achieve a Leverage ratio of 2 percent:

- Cash and Interest Bearing Balances, including outstanding PPP loans in excess of borrowings under the PPPLF;
- Trading Account Assets;
- Federal Funds Sold and Repurchase Agreements;
- Treasury and Agency Securities;
- Municipal Securities;
- Other Securities;
- Construction and Development Loans
- Nonresidential Real Estate Loans;
- Multifamily Real Estate Loans;
- 1--4 Family Closed-End First Liens;
- 1--4 Family Closed-End Junior Liens;
- Revolving Home Equity Loans; and
- Agricultural Real Estate Loans

Recovery Value of Assets at Failure

Table E.4 shows loss rates applied to each of the asset categories as adjusted above.

Table E.4—Asset Loss Rate Assumptions

Asset category	Loss rate (percent)

Cash and Interest Bearing Balances, including outstanding PPP loans in excess of borrowings under the PPPLF	0.0
Trading Account Assets	0.0
Federal Funds Sold and Repurchase Agreements	0.0
Treasury and Agency Securities	0.0
Municipal Securities	10.0
Other Securities	15.0
Construction and Development Loans	38.2
Nonresidential Real Estate Loans	17.6
Multifamily Real Estate Loans	10.8
1--4 Family Closed-End First Liens	19.4
1--4 Family Closed-End Junior Liens	41.0
Revolving Home Equity Loans	41.0
Agricultural Real Estate Loans	19.7
Agricultural Loans, excluding outstanding PPP loans, which include loans pledged to the PPPLF, as applicable	11.8
Commercial and Industrial Loans, excluding outstanding PPP loans, which include loans pledged to the PPPLF, as applicable	21.5
Credit Card Loans	18.3
Other Consumer Loans	18.3
All Other Loans, excluding outstanding PPP loans, which include loans pledged to the PPPLF, as applicable	51.0
Other Assets	75.0

Secured Liabilities at Failure

Federal home loan bank advances, secured federal funds purchased and repurchase agreements are assumed to be fully secured. Foreign deposits are treated as fully secured because of the potential for ring fencing.

Exclude outstanding borrowings from the Federal Reserve Banks under the PPPLF.

Loss Severity Ratio Calculation

The FDIC's loss given failure (LGD) is calculated as:

$$LGD = \frac{InsuredDeposits_{Failure}}{DomesticDeposits_{Failure}} \times \left(\text{DomesticDeposits}_{\text{Failure}} - \text{RecoveryValueofAssets}_{\text{Failure}} + \text{SecuredLiabilities}_{\text{Failure}}\right)$$

An end-of-quarter loss severity ratio is LGD divided by total domestic deposits at quarter-end and the loss severity measure for the scorecard is an average of end-of-period loss severity ratios for three most recent quarters.

III. Mitigating the Effects of Loans Pledged to the PPPLF and Assets Purchased under the MMLF on the Unsecured Adjustment, Depository Institution Debt Adjustment, and the Brokered Deposit Adjustment to an IDI's Assessment Rate.

Table E.5—Exclusions from Adjustments to the Initial Base Assessment Rate

Adjustment	Calculation	Exclusion
Unsecured debt adjustment	The unsecured debt adjustment shall be determined as the sum of the initial base assessment rate plus 40 basis points; that sum shall be multiplied by the ratio of an insured depository institution's long-term unsecured debt to its assessment base. The amount of the reduction in the assessment rate due to the adjustment is equal to the dollar amount of the adjustment divided by the amount of the assessment base.	Exclude the quarterly average amount of assets purchased under MMLF and quarterly average amount of loans pledged to the PPPLF
Depository institution debt adjustment	An insured depository institution shall pay a 50 basis point adjustment on the amount of unsecured debt it holds that was issued by another insured depository institution to the extent that such debt exceeds 3 percent of the institution's Tier 1 capital. This amount is divided by the institution's assessment base. The amount of long-term unsecured debt issued by another insured depository institution shall be calculated using the same valuation methodology used to calculate the amount of such debt for reporting on the asset side of the balance sheets.	Exclude the quarterly average amount of assets purchased under MMLF and quarterly average amount of loans pledged to the PPPLF outstanding
Brokered deposit adjustment	The brokered deposit adjustment shall be determined by multiplying 25 basis points by the ratio of the difference between an insured depository institution's brokered deposits and 10 percent of its domestic deposits to its assessment base.	Exclude the quarterly average amount of assets purchased under MMLF and quarterly average amount of loans pledged to the PPPLF outstanding

IV. Mitigating the Effects on the Assessment Base Attributable to the Paycheck Protection Program Lending Facility and the Money Market Mutual Fund Liquidity Facility.

Total Assessment Amount Due = Total Assessment Amount LESS: (SUM (Quarterly average amount of assets pledged to the PPPLF and quarterly average amount of assets purchased under the MMLF) * Total Base Assessment Rate)

Federal Deposit Insurance Corporation.
By order of the Board of Directors.

Dated at Washington, DC, on May 12, 2020.

Robert E. Feldman,
Executive Secretary.
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