



12 CFR Part 327

RIN 3064-AF83

Assessments, Revised Deposit Insurance Assessment Rates

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The FDIC is adopting a final rule to increase initial base deposit insurance assessment rate schedules by 2 basis points, beginning the first quarterly assessment period of 2023. The increase in the assessment rate schedules will increase the likelihood that the reserve ratio will reach the statutory minimum of 1.35 percent by the statutory deadline of September 30, 2028, consistent with the FDIC's Amended Restoration Plan, and is intended to support growth in the Deposit Insurance Fund (DIF or fund) in progressing toward the FDIC's long-term goal of a 2 percent Designated Reserve Ratio (DRR).

DATES: The final rule is effective January 1, 2023.

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SUPPLEMENTARY INFORMATION:

I. Background

A. Legal Authority and Policy Objectives

The FDIC, under its general rulemaking authority in Section 9 of the Federal Deposit Insurance Act (FDI Act), and its specific authority under Section 7 of the FDI

Act to set assessments, is adopting a final rule to increase initial base deposit insurance assessment rate schedules by 2 basis points, effective January 1, 2023, and beginning the first quarterly assessment period of 2023 (i.e., January 1 through March 31, 2023).¹

The increase in the initial base assessment rate schedules will increase assessment revenue in order to rebuild the DIF, which is used to pay deposit insurance in the event of failure of an insured depository institution (IDI), and is intended to achieve complementary objectives.

Most immediately, the increase in the assessment rate schedules is intended to increase the likelihood that the reserve ratio will reach the statutory minimum of 1.35 percent within the deadline set by statute, consistent with the Restoration Plan, as amended by the FDIC's Board of Directors (Board) on June 21, 2022 (Amended Restoration Plan).² Once the DIF reaches 1.35 percent, the FDIC will no longer operate under a restoration plan. Any subsequent decline in the reserve ratio below the statutory minimum would, therefore, require the Board to establish a new restoration plan with an additional eight years to restore the reserve ratio. Alternatively, in the event that the industry experiences a downturn before the FDIC has exited its current Restoration Plan, the FDIC might have to consider larger assessment increases to meet the statutory requirement in a more compressed timeframe and under less favorable conditions.

Additionally, the increase in assessment rate schedules would support growth in the DIF in progressing toward the 2 percent DRR. Therefore, the assessment rate schedules adopted as part of this final rule will remain in effect unless and until the reserve ratio meets or exceeds 2 percent, absent further Board action. Progressively lower assessment rate schedules will become effective when the reserve ratio exceeds 2 percent

¹ See 12 U.S.C. 1817 and 1819.

² Under the FDI Act, a restoration plan must restore the reserve ratio to at least 1.35 percent within 8 years of establishing the restoration plan, absent extraordinary circumstances. See 12 U.S.C. 1817(b)(3)(E). The reserve ratio is calculated as the ratio of the net worth of the DIF to the value of the aggregate estimated insured deposits at the end of a given quarter. See 12 U.S.C. 1813(y)(3). See also 87 FR 39518 (July 1, 2022).

and 2.5 percent.³ This continued growth in the DIF is intended to reduce the likelihood that the FDIC would need to consider a potentially pro-cyclical assessment rate increase, and to increase the likelihood of the DIF remaining positive through potential future periods of significant losses due to bank failures, consistent with the FDIC's long-term fund management plan.⁴ A sufficiently large fund is a necessary precondition to maintaining a positive fund balance during a banking crisis and allowing for long-term, steady assessment rates. Accomplishing these objectives will continue to ensure public confidence is maintained in federal deposit insurance.

B. Restoration Plan

Extraordinary growth in insured deposits during the first and second quarters of 2020 caused the DIF reserve ratio to decline below the statutory minimum of 1.35 percent.⁵ On June 30, 2020, the reserve ratio was 1.30 percent. The FDI Act requires that the Board adopt a restoration plan when the DIF reserve ratio falls below the statutory minimum of 1.35 percent or is expected to within 6 months.⁶ On September 15, 2020, the Board adopted the Restoration Plan to restore the DIF to at least 1.35 percent by September 30, 2028.⁷

In its June 21, 2022, semiannual update to the Board, FDIC projections of the reserve ratio under different scenarios indicated that the reserve ratio was at risk of not reaching 1.35 percent by September 30, 2028, the end of the statutory 8-year period.⁸ The scenarios were based on data and analysis updated through March 31, 2022, the most recent data available at the time of the semiannual update, and incorporated different

³ See 12 CFR 327.10(c) and (d).

⁴ See 75 FR 66273 (Oct. 27, 2010) and 76 FR 10672 (Feb. 25, 2011). As used in this final rule, the term “bank” is synonymous with the term “insured depository institution” as it is used in section 3(c)(2) of the FDI Act, 12 U.S.C. 1813(c)(2).

⁵ See 12 U.S.C. 1817(b)(3)(B).

⁶ See 12 U.S.C. 1817(b)(3)(E).

⁷ See 85 FR 59306 (Sept. 21, 2020).

⁸ See FDIC Restoration Plan Semiannual Update, June 21, 2022. Available at <https://www.fdic.gov/news/board-matters/2022/2022-06-21-notice-sum-b-mem.pdf>.

rates of insured deposit growth and weighted average assessment rates, including sustained elevated insured deposit balances and lower assessment rates than previously anticipated. On June 21, 2022, the Board approved the Amended Restoration Plan, which reflects an increase in initial base deposit insurance assessment rate schedules of 2 basis points, beginning the first quarterly assessment period of 2023.⁹

Under the Amended Restoration Plan, the FDIC will update its analysis and projections for the fund balance and reserve ratio at least semiannually and, if necessary, recommend modifications to the Amended Restoration Plan.

C. Designated Reserve Ratio

The FDI Act requires that the Board designate a reserve ratio for the DIF and publish the DRR before the beginning of each calendar year.¹⁰ The Board must set the DRR in accordance with its analysis of certain statutory factors: risk of losses to the DIF; economic conditions generally affecting IDIs; preventing sharp swings in assessment rates; and any other factors that the Board determines to be appropriate.¹¹

In 2010, the FDIC proposed and later adopted a comprehensive, long-term management plan for the DIF with the following goals: (1) reduce the pro-cyclicality in the existing risk-based assessment system by allowing moderate, steady assessment rates throughout economic and credit cycles; and (2) maintain a positive fund balance even during a banking crisis by setting an appropriate target fund size and a strategy for assessment rates and dividends.¹² Based on the FDIC's experience through two banking crises, the analysis concluded that a long-term moderate, steady assessment rate of 5.29 basis points would have been sufficient to prevent the fund from becoming negative during the crises.¹³ The FDIC also found that the fund reserve ratio would have had to

⁹ See 87 FR 39518 (July 1, 2022).

¹⁰ Section 7(b)(3)(A) of the FDI Act, 12 U.S.C. 1817(b)(3)(A). The DRR is expressed as a percentage of estimated insured deposits.

¹¹ Section 7(b)(3)(C) of the FDI Act, 12 U.S.C. 1817(b)(3)(C).

¹² See 75 FR 66272 (Oct. 27, 2010) (October 2010 NPR) and 76 FR 10672 (Feb. 25, 2011).

¹³ See 75 FR 66273 and 76 FR 10675.

exceed 2 percent before the onset of the last two crises to achieve these results.¹⁴

The FDIC's comprehensive, long-term fund management plan combines the moderate, steady assessment rate with a DRR of 2 percent. The Board set the DRR at 2 percent in 2010, and following consideration of the statutory factors, it has voted annually since then to maintain the 2 percent DRR. The FDIC is concurrently publishing in the **Federal Register** the Notice of Designated Reserve Ratio for 2023.¹⁵

The DRR was established as part of a plan to maintain a positive DIF balance, even during a banking crisis, by allowing the fund to grow sufficiently large during times of favorable banking conditions. Additionally, in lieu of dividends, the long-term plan prescribes progressively lower assessment rates that will become effective when the reserve ratio exceeds 2 percent and 2.5 percent.¹⁶

D. Risk-Based 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.¹⁷

Under the FDIC's regulations, an IDI's assessment is equal to its assessment base

¹⁴ The analysis set out in the October 2010 NPR sought to determine what assessment rates would have been needed to maintain a positive fund balance during the last two crises. This analysis used an assessment base derived from domestic deposits to calculate assessment income. The Dodd-Frank Wall Street Reform and Consumer Protection Act, however, required the FDIC to change the assessment base to average consolidated total assets minus average tangible equity. In the December 2010 final rule establishing a 2 percent DRR, the FDIC undertook additional analysis to determine how the results of the original analysis would change had the new assessment base been in place from 1950 to 2010. Both the analyses in the October 2010 NPR and the December 2010 final rule show that the fund reserve ratio would have needed to be approximately 2 percent or more before the onset of the crises to maintain both a positive fund balance and stable assessment rates. The updated analysis in the December 2010 final rule, like the analysis in the October 2010 NPR, assumed, in lieu of dividends, that the long-term industry average nominal assessment rate would be reduced by 25 percent when the reserve ratio reached 2 percent, and by 50 percent when the reserve ratio reached 2.5 percent. Eliminating dividends and reducing rates successfully limits rate volatility whichever assessment base is used. *See* 75 FR 66273 and 75 FR 79288 (Dec. 20, 2010) (December 2010 final rule).

¹⁵ *See* 75 FR 79286 (Dec. 20, 2010), codified at 12 CFR 327.4(g), *see also* Notice of Designated Reserve Ratio for 2023, available at <https://www.fdic.gov/news/board-matters/2022/2022-10-18-notice-sum-c-fr.pdf>.

¹⁶ *See* 75 FR 66273 and 75 FR 79287.

¹⁷ *See* 12 U.S.C. 1817(b).

multiplied by its risk-based assessment rate.¹⁸ Generally, an IDI's assessment base equals its average consolidated total assets minus its average tangible equity.¹⁹ An IDI's risk-based assessment rate is 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. An IDI's assessment rate is calculated using different methods based on whether the IDI is a small, large, or highly complex institution.²⁰ For assessment purposes, a small bank is generally defined as an institution with less than \$10 billion in total assets, a large bank is generally defined as an institution with \$10 billion or more 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.²¹

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.²² Large and highly complex institutions are calculated using a scorecard approach that combines CAMELS ratings and certain forward-looking financial measures to assess the risk that a large or highly complex bank poses to the DIF.²³

All institutions are subject to adjustments to their assessment rates for certain liabilities that can increase or reduce loss to the DIF in the event the bank fails.²⁴ In

¹⁸ See 12 CFR 327.3(b)(1).

¹⁹ See 12 CFR 327.5.

²⁰ See 12 CFR 327.16(a) and (b).

²¹ As used in this final 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(e), (f), and (g), respectively.

²² See 12 CFR 327.16(a); see also 81 FR 32180 (May 20, 2016).

²³ See 12 CFR 327.16(b); see also 76 FR 10672 (Feb. 25, 2011) and 77 FR 66000 (Oct. 31, 2012).

²⁴ See 12 CFR 327.16(e).

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.²⁵

E. The Proposed Rule

On June 21, 2022, the Board adopted a notice of proposed rulemaking (the proposed rule, or proposal) to increase initial base deposit insurance assessment rate schedules uniformly by 2 basis points, beginning the first quarterly assessment period of 2023.²⁶ The proposed change was intended to increase assessment revenue in order to raise the reserve ratio to the statutory minimum threshold of 1.35 percent within 8 years of the Restoration Plan's initial establishment, as required by statute, and consistent with the Amended Restoration Plan, and to support growth in the DIF in progressing toward the 2 percent DRR. In lieu of dividends, the progressively lower assessment rate schedules currently in the regulation would remain unchanged and would come into effect without further action by the Board when the fund reserve ratio at the end of the prior assessment period reaches 2 percent and 2.5 percent, respectively.²⁷ The FDIC did not propose changes to the rate schedules that come into effect when the reserve ratio reaches 2 and 2.5 percent.

II. Discussion of Comments Received on the Proposed Rule

In response to the proposed rule, the FDIC received a total of 171 comment letters. Of these, 102 were from IDIs or holding companies of IDIs, 10 were from trade associations, one was from members of Congress, and 58 were from other interested

²⁵ 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).

²⁶ See 87 FR 39388 (July 1, 2022).

²⁷ See 12 CFR 327.10(c) and (d).

parties, primarily individuals affiliated with community banks.²⁸

While many commenters expressed support for the continued strength and resilience of the DIF, the vast majority of the comment letters expressed concern over the burden of the proposed increase in assessment rate schedules of 2 basis points on the banking industry, particularly community banks. Nearly half of all commenters stated that the proposed increase in assessment rate schedules of 2 basis points is unnecessary for the reserve ratio to reach the statutory minimum of 1.35 percent by the statutory deadline, with most disagreeing with one or more of the assumptions underlying the projections that informed the proposal. Many suggested alternatives to adjust, delay or rescind the proposed increase in assessment rate schedules of 2 basis points, or implement a risk- or size-based approach to increasing assessment rates. Two commenters were generally supportive in recognition of the need to restore the reserve ratio to the statutory minimum and to reach the long-term goal of a 2 percent DRR.

Comments on Insured Deposit Growth Assumption

Many commenters disagreed with annual insured deposit growth rates assumed in the scenario analysis that informed the proposal, though many broadly discussed trends in deposits and did not specifically address insured deposits. These commenters generally observed that deposits appear to be declining or normalizing and expect a similar trend going forward. Some commenters maintained that the factors that boosted deposits over the past few years have all reversed. Commenters addressed factors influencing deposit levels including higher interest rates, a normalizing spread between money market rates and deposit rates leading to enhanced competition from money market funds, quantitative tightening, increased costs, reduced savings rates, and the conclusion of pandemic relief-

²⁸ See comments on the proposal. Available at <https://www.fdic.gov/resources/regulations/federal-register-publications/2022/2022-assessments-revised-deposit-insurance-assessment-rates-3064-af83.html>. Two late comment letters were received after the comment period closed on August 20, 2022. The views presented in the comment letters are addressed in this section.

related fiscal stimulus in the first quarter of 2021. One commenter stated that to the extent excess deposits still exist, they are invested in the safest asset classes, mitigating the need for a buffer above the statutory minimum reserve ratio.

The FDIC's analysis and related assumptions focus only on insured deposit growth rather than total deposit growth because the reserve ratio is measured as the net worth of the DIF relative to the value of aggregate estimated insured deposits at the end of a given quarter. While most commenters did not distinguish between total deposits and insured deposits, it is important to note that insured deposit growth is difficult to predict and can differ, sometimes substantially, from total deposit growth in both magnitude and direction. For example, in the first half of 2022, total deposits decreased by 0.7 percent, while insured deposits increased by 1.6 percent.

In the scenario analysis that informed the proposal, and as updated in this final rule and described further in the section on *Projections for the Fund Balance and Reserve Ratio*, the FDIC assumed annual insured deposit growth rates of 3.5 and 4.0 percent. These insured deposit growth rates represent retention of a range of excess insured deposits resulting from the pandemic. The assumption of a 4.0 percent annual growth rate reflects retention of all of the estimated \$1.13 trillion of excess deposits in insured accounts, with this amount not contributing to further growth, while the remaining balance of insured deposits continues to grow at the pre-pandemic average annual rate of 4.5 percent.²⁹ Alternatively, a 3.5 percent annual growth rate assumption reflects banks retaining almost two thirds of the estimated excess insured deposits resulting from the

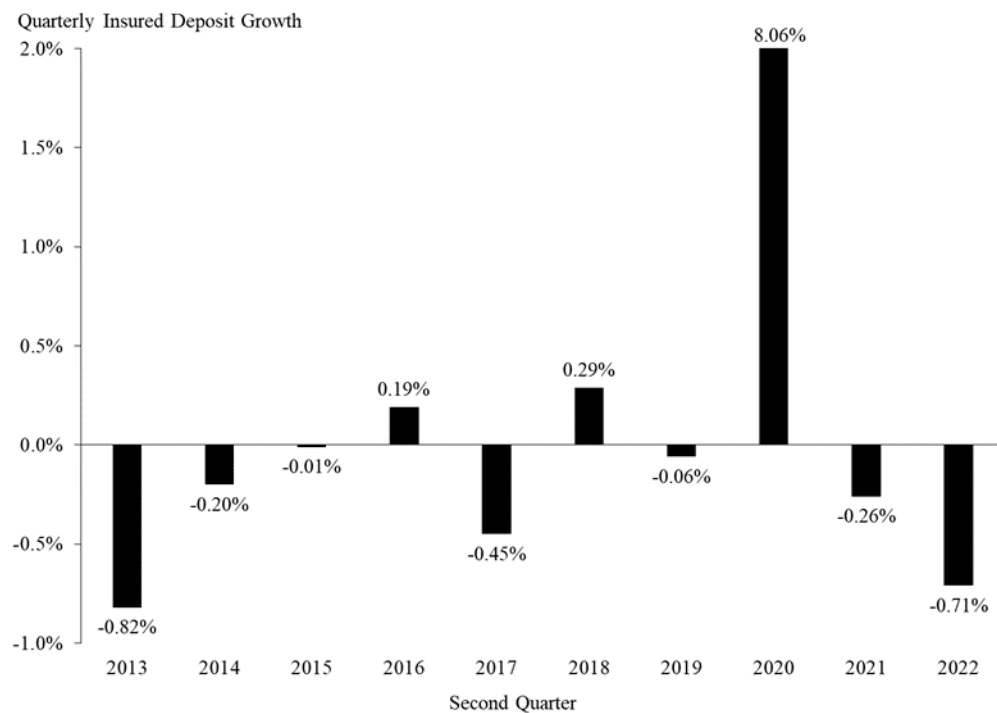
²⁹ In its December 14, 2021, semiannual update to the Board, the FDIC estimated that excess insured deposits that flowed into banks as the result of actions taken by monetary and fiscal authorities, and by individuals, businesses, and financial market participants in response to the pandemic totaled approximately \$1.13 trillion. This estimate reflects the amount of insured deposits as of September 30, 2021, in excess of the amount that would have resulted if insured deposits had grown at the pre-pandemic average rate of 4.5 percent since December 31, 2019. By September 30, 2021, deposit balances would have fully reflected the more significant actions taken by monetary and fiscal authorities in response to the COVID-19 pandemic. September 2021 was also the first month that the personal savings rate declined to a level within the range reported during the year prior to the pandemic. Rather than receding, as previously expected, these excess insured deposits have grown by about \$43 billion through June 30, 2022.

pandemic, with this amount not contributing to further growth, while the remaining balance of insured deposits grows at the pre-pandemic average annual rate of 4.5 percent.

While insured deposits declined by 0.7 percent in the second quarter of 2022, it is the FDIC's view that that the decline does not necessarily indicate that the excess insured deposits that resulted from various fiscal policy programs implemented during the pandemic are receding beyond the scenarios described above in the near-term. In fact, a decline in insured deposits in the second quarter is not unusual. As illustrated in Chart 1, insured deposits declined in the second quarter in six out of the last nine years.

Importantly, even with the decline in insured deposits during the second quarter of 2022, insured deposit balances remain elevated in comparison to what the balance of insured deposits would have been had they grown at the pre-pandemic average annual rate of 4.5 percent, indicating that none of the excess insured deposits resulting from the pandemic have receded. Rather than receding, as previously expected, excess deposits have risen from an estimated \$1.13 trillion at the end of the second quarter of 2021 to \$1.17 trillion through the second quarter of 2022.

Chart 1. Historical Second Quarter Insured Deposit Growth



It is possible that insured deposits could grow faster or slower than the 3.5 percent to 4 percent range assumed for this analysis. If insured deposits grow at a slower rate, as a number of commenters argued would happen, the statutory minimum reserve ratio would be achieved sooner, and if insured deposits grow at a faster rate, the statutory minimum reserve ratio would be achieved later. Generally speaking, this final rule is not based on the assumption that the most favorable future scenarios for the reserve ratio will materialize, but addresses the need to achieve the statutory minimum reserve ratio given the conditions that currently exist.

In this regard, insured deposits increased by 4.3 percent between second quarter 2021 and second quarter 2022, a growth rate that is higher than the rate of insured deposit growth assumed in both scenarios in the analysis supporting the proposal and this final rule. Between the first quarter of 2020 and the first quarter of 2022, annual insured deposit growth rates ranged between 4.8 percent and 16.6 percent, and averaged 10.6 percent, more than double the pre-pandemic average of 4.5 percent. While recent insured deposit growth rates more closely align with historical averages, these growth rates are applied to a total balance of insured deposits that is still elevated from the pandemic response efforts. For these reasons, the FDIC continues to view the assumed annual insured deposit growth rates of 3.5 and 4.0 percent as reasonable, while recognizing that insured deposit growth is difficult to project and depends on several factors detailed in the section on *Deposit Balance Trends* below.

Comments on Investment Income Assumption

Seven commenters disagreed with the FDIC's assumption of zero investment income on the DIF portfolio. Some commenters challenged the assumption based on recent increases in interest rates and the Federal Open Market Committee's outlook for the overnight rate over the longer term. Other commenters generally stated that forecasts do not reflect current conditions and were made at a time when volatility was high and

uncertainty was significant. A few commenters specified that an increase in assessment rates is not warranted because of a decrease in the reserve ratio due to unrealized losses on the DIF portfolio.

In the FDIC's view, an assumption of zero net investment contributions—defined for purposes of this final rule to include both interest income and unrealized gains or losses—remains a reasonably conservative assumption over the near-term. Elevated unrealized losses resulted in negative net investment contributions of \$339 million in the fourth quarter of 2021, and \$1,495 million and \$322 million in the first and second quarters of 2022, respectively.³⁰ Moving into the third quarter of 2022, interest rates have continued to rise and unrealized losses will likely continue to reduce net investment contributions, below the assumed amount of zero. Future market movements may temporarily increase unrealized losses.

While net investment contributions have been relatively flat to slightly negative since the Restoration Plan was first established in September 2020, interest rate increases have gradually lifted interest income on the DIF portfolio in recent months and over time unrealized losses should eventually be outpaced by higher levels of interest income. However, given the uncertainty of the timing and magnitude of interest rate increases and the effects on the DIF portfolio, it is the FDIC's view that zero net investment contributions remains a reasonably conservative assumption over the near-term. In the longer-term, projections for reaching the 2 percent DRR already assume positive net investment contributions after the reserve ratio reaches 1.35 percent, based on market-implied forward rates, and including additional net investment contributions in the near-

³⁰ The FDIC publicly reports on DIF indicators and performance, including investment portfolio performance, each quarter through the FDIC Quarterly Banking Profile and annually in the FDIC's Annual Report. FDIC Quarterly Banking Profile available at <https://www.fdic.gov/analysis/quarterly-banking-profile/index.html>. FDIC Annual Report available at <https://www.fdic.gov/about/financial-reports/reports/index.html>.

term had little effect on the analysis for reaching the 2 percent DRR.³¹ When rates stabilize and interest income begins to outpace unrealized losses on the DIF portfolio, resulting in positive net investment contributions, the FDIC will consider revisiting assumptions in future semiannual updates accordingly.

Net investment contributions have played a secondary role in overall DIF growth, relative to assessment revenue. From 2013 to 2021, for example, assessment revenue was more than eight times net investment contributions. Over that period, the DIF grew by about \$90 billion. Net investment contributions were approximately \$9 billion and assessment revenue was almost \$76 billion, illustrating the importance of assessment revenue relative to net investment contributions in determining the outcome of the DIF. This is consistent with the objectives of the DIF investment portfolio, which prioritize preservation of funds available to absorb losses from bank failures over maximizing investment income. While the FDIC realizes that the larger fund balance and higher interest rate environment relative to those experienced from 2013 to 2021 could result in a more meaningful contribution to the growth of the DIF, the timing and amount are highly uncertain.

For these reasons, the FDIC continues to view the assumption of zero net investment contributions in the near-term as reasonable. Relying on projections based on a higher rate of return in the near-term could prove overly optimistic given the uncertainty in the potential effects of future movements in monetary policy and the potential for further unrealized losses on securities in the DIF portfolio prior to the statutory deadline.

³¹ Projections for reaching the 2 percent DRR assume net investment contributions to the DIF of zero until the reserve ratio reaches 1.35 percent. Net investment contributions assumptions are then based on market-implied forward rates from that point forward. Applying this assumption for the entire projection period does not significantly accelerate the achievement of a 2 percent DRR (the reserve ratio would reach 2 percent in 2031 instead of 2032).

Several commenters additionally asserted that if the FDIC is not able to responsibly manage its investments, the solution should not be to shift the burden to banks.

Management of the DIF portfolio is governed by statute and the Corporate Investment Policy. The FDI Act requires that DIF funds be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.³² In managing the DIF investment portfolio, the Corporation's stated objectives include "managing money in a professional manner, consistent with maintaining confidence in the deposit insurance program and with the Corporation's strategic objective that the Deposit Insurance Fund remains viable."³³ DIF funds may be invested in Treasury securities with maturities up to 12 years; however, current holdings are shorter to ensure liquidity, without necessitating the sale of securities.

Comments on Effect on the Banking Industry

147 commenters expressed concern for the impact to bank profitability, operating expenses, and capital. Most of these commenters requested adjustment, delay, or rescission of the proposed rate increase. A few of these commenters expressed concern that the proposed increase in assessment rate schedules of 2 basis points represented a sharp or dramatic increase in assessment rates, which some of these commenters argued is inconsistent with the legislative language and spirit of the assessment rate-related provisions of the FDI Act. Several commenters also maintained that analysis included in the proposal on the effect of the rate increase on capital and earnings underestimated the potential impact on institutions or did not fully evaluate the potential effects on certain cohorts of institutions, including IDIs with total assets between \$750 million and \$10

³² See 12 U.S.C. 1823(a). The Secretary of the Treasury must approve all such investments in excess of \$100,000 and has granted the FDIC approval to invest the DIF funds only in U.S. Treasury obligations that are purchased or sold exclusively through the Treasury's Bureau of the Fiscal Service's Government Account Series program.

³³ See Federal Deposit Insurance Corporation Corporate Investment Policy (2018), available at <https://www.fdic.gov/deposit/insurance/corporate-investment-policy.pdf>.

billion. One commenter expressed that uncertainty does not justify the proposed burdensome assessment rate increase.

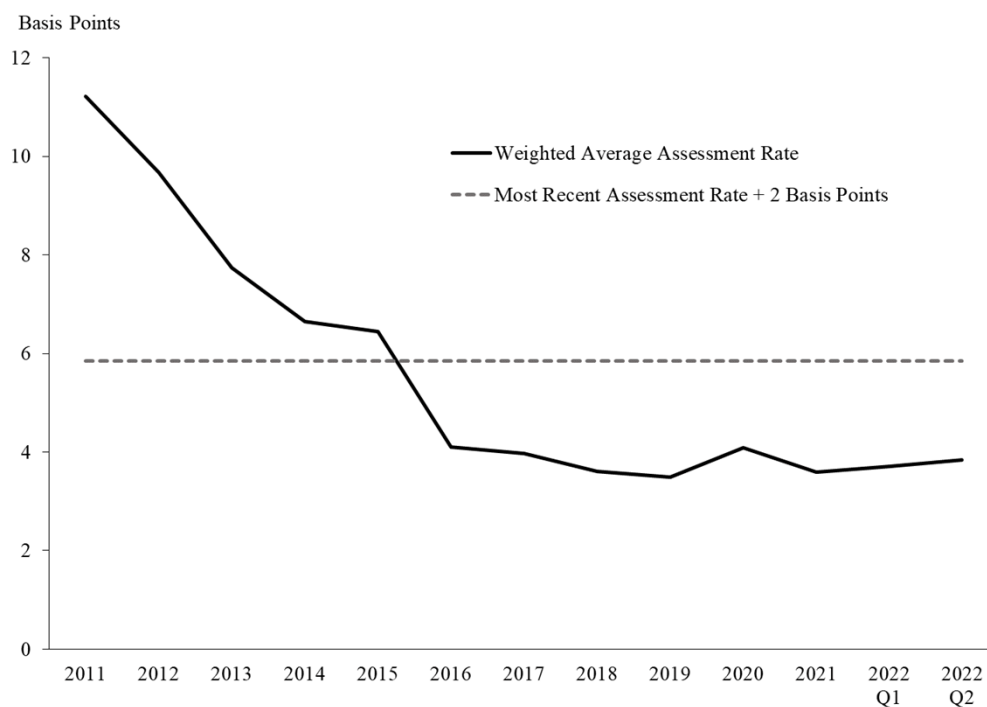
A number of comments from smaller institutions and their holding companies and trade groups stated that the increase in assessment rates would be difficult for community banks to absorb, particularly if the economy enters a recessionary period, and that the proposal will disproportionately burden community banks that do not pose significant risk to the DIF. A few of these commenters stated that an increase in assessments exacerbates the competitive disadvantage of community banks relative to credit unions and felt the increase would further accelerate consolidation in the industry. Some of these commenters requested that the FDIC consider excluding pandemic-related deposit balance increases when applying the increase in assessment rates.³⁴

It is the FDIC's view that the proposed increase in assessment rate schedules of 2 basis points does not represent a sharp or dramatic increase. As illustrated in Chart 2, increasing assessment rates by 2 basis points in the most recent quarter would have resulted in a weighted average assessment rate that is consistent with assessment rates from recent history.

Chart 2. Historical Weighted Average Assessment Rates Compared with the Most

³⁴ In June 2020, the FDIC adopted a final rule that mitigates 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 Liquidity Facility (PPPLF) and Money Market Mutual Fund Liquidity Facility (MMLF) established by the Board of Governors of the Federal Reserve System. *See* 85 FR 38282 (June 26, 2020).

Recent Weighted Average Assessment Rate with an Increase of 2 Basis Points



In addition, an increase in assessment rate schedules of 2 basis points would bring the average assessment rate close to the moderate steady assessment rate of 5.29 basis points that would have been required in a simulated fund analysis covering the years 1950 through 2010, to maintain a positive DIF balance over that period, including through two banking crises.³⁵ During the 2008 financial crisis, the FDIC uniformly raised assessments by 7 basis points and, as part of a Restoration Plan in place at the time, levied a special assessment of 5 basis points.

In response to comments that community banks will be disproportionately burdened by the assessment increase relative to large banks, the FDIC notes that in 2010, the Dodd-Frank Act required that the FDIC amend its regulations to redefine the assessment base to more closely approximate a bank's total liabilities, rather than only its domestic deposits.³⁶ As Congress intended, the revised assessment base and accompanying change in rates shifted more of the total burden of assessments to the

³⁵ See 75 FR 66273 and 76 FR 10675.

³⁶ See Pub. L. 111-203, section 331(b), 124 Stat. 1376, 1539 (codified at 12 U.S.C. 1817(b)).

largest banks from the rest of the industry.³⁷ Consistent with that approach, a uniform increase of 2 basis points with no change to assessment base is expected to generate over 80 percent of additional assessment revenue from banks with more than \$10 billion in assets, approximately proportional to their share of industry assets.

As some commenters note, the increase in assessment rates may affect some institutions more than others. Because deposit insurance assessments are risk-based, for the least risky institutions – those paying the lowest rate – an increase in assessment rate schedules of 2 basis points would result in a greater percent increase in assessments, compared with institutions that are assigned a higher assessment rate. The proposed increase in assessment rate schedules is uniform and applies to all IDIs, so the resulting assessment rates will continue to be the lowest for institutions determined to be the least risky, and higher for riskier institutions. Given the results for the entire industry summarized in Tables 9 and 10 in the section on *Capital and Earnings Analysis and Expected Effects* below, the FDIC does not believe the rule will have material distributional effects.

As described in the section on *Capital and Earnings Analysis and Expected Effects* below, for the industry as a whole, the FDIC estimates that a uniform increase in assessment rate schedules of 2 basis points would decrease Tier 1 capital by an estimated 0.1 percent but would not directly result in any institutions becoming undercapitalized or critically undercapitalized. The FDIC also estimates that a uniform increase in assessment rate schedules of 2 basis points would reduce income slightly by an average of 1.2 percent, which includes an average of 1.0 percent for small banks and an average of 1.3

³⁷ See 156 Cong. Rec. S3296–99 (daily ed. May 6, 2010) (statements of Sens. Hutchison and Tester) and 76 FR 10672, 10701 (February 25, 2011). The statements by members of Congress made clear that Congress expressly intended this result and viewed the new assessment base as a better measure of risk than the previous base of domestic deposits. All else equal, the larger assessment base would have increased assessments paid by virtually every bank. However, in implementing the new assessment base the FDIC also adjusted the range of risk-based assessment rates to produce approximately the same revenue under the new base as would have been raised under the old base.

percent for large and highly complex institutions.³⁸ As summarized in Tables 8 through 10 in the section on *Capital and Earnings Analysis and Expected Effects* below, approximately 4 percent of profitable institutions are projected to experience an increase in assessments of 5 percent of income or more, including less than one percent of large and highly complex institutions and less than 5 percent of profitable small banks. The increase in assessment rate schedules is projected to have an insignificant effect on institutions' capital levels and is unlikely to have a material effect relative to income for almost all institutions.

The banking industry continues to report favorable credit quality, earnings, and capital levels, supporting its ability to meet the country's banking needs while navigating the challenges presented by inflationary pressures, rising interest rates, and the end of pandemic support programs for borrowers. The banking industry has reported strong earnings in recent quarters, remained resilient through the second quarter of 2022 despite the extraordinary challenges of the pandemic, and is well positioned to absorb a modest increase in assessment rate schedules of 2 basis points.

In fact, 32 commenters cited the strength of the banking industry in advocating for adjustment, delay, or rescission of the proposed assessment rate increase, stating that the relative strength of the banking industry, and higher levels of capital and reserves, mean that there is likely little need for additional funds to cover potential losses in the near-term.

Several commenters stated that it would be difficult to absorb the proposed increase in assessment rates in the event of an economic downturn. A few of these commenters stated that the timing of the proposed increase is increasingly likely to

³⁸ Earnings or income are annual income before assessments and taxes. Annual income is assumed to equal income from July 1, 2021, through June 30, 2022. The Tax Cuts and Jobs Act of 2017 placed a limitation on tax deductions for FDIC premiums for banks with total consolidated assets between \$10 and \$50 billion and disallowed the deduction entirely for banks with total assets of \$50 billion or more. *See* the Tax Cuts and Jobs Act, Pub. L. 115-97 (Dec. 22, 2017). For assessment purposes, a small bank is generally defined as an IDI with less than \$10 billion in total assets.

coincide with the beginning of a recession and therefore risks causing exactly the type of pro-cyclical increase that Congress sought to avoid. In particular, one commenter expressed concern that raising assessment rates could destabilize the banking sector at a time when its services are critical, particularly as there are significant uncertainties looking forward.³⁹

The FDIC recognizes that the banking industry faces significant downside risks. Future economic and banking conditions remain uncertain due to high inflation, rising interest rates, slowing economic growth, and geopolitical uncertainty. Higher interest rates may also erode real estate and other asset values as well as hamper borrowers' loan repayment ability. Any of these uncertainties present challenges and could have longer-term effects on the condition and performance of the economy and the banking industry.

In the FDIC's view, now is a reasonable time for a modest increase in assessment rate schedules, while the banking industry is strong, as it continues to report favorable credit quality, earnings, and capital levels, and is experiencing a prolonged period without bank failures. The FDIC working paper referenced by one commenter documents the pro-cyclical effect of deposit insurance premiums on bank lending during the financial crisis of 2008-2009. A modest increase in assessment rate schedules while the banking industry is strong is consistent with the findings of the working paper, reducing the likelihood that the FDIC would need to consider a larger increase in assessment rates when the banking industry is experiencing a downturn. Adoption of an increase in assessment rate schedules will allow for the reserve ratio to be restored to the statutory minimum and then will generate a buffer to absorb unexpected losses, accelerated insured deposit growth, or lower average assessment rates that may materialize. The FDIC

³⁹ This commenter references a recent FDIC working paper with findings that suggest that deposit insurance premiums can be a significant driver of bank credit pro-cyclicality. *See* R. Hess and J. Rhee, FDIC Center for Financial Research Working Paper No. 2022-10, "The Procyclicality of FDIC Deposit Insurance Premiums," August 2022, available at <https://www.fdic.gov/analysis/cfr/working-papers/2022/cfr-wp2022-10.pdf>.

believes that the additional revenue collected under the proposed increase in assessment rate schedules will strengthen the DIF's ability to withstand potential future periods of significant losses due to bank failures and will reduce the likelihood that the FDIC would need to increase assessment rates or impose a special assessment during a potential future banking crisis.

Comments on Alternatives

Most commenters suggested the FDIC adjust, delay, or rescind the proposed 2 basis point increase in assessment rate schedules. Most commenters advocating for rescission of the proposal expressed concerns over the expected effects or suggested that if assumptions underlying projections were changed and applied using updated data, the resulting analysis may show that there is no risk that the reserve ratio would not reach the 1.35 percent statutory minimum, and therefore any increase in assessment rates would be unnecessary. Those advocating for delay often recommended this alternative so that the data and assumptions underlying the proposal could be revisited after trends related to insured deposit growth or investment contributions become clearer.

Other alternatives that were recommended included revising the proposal to end the increase in assessment rates after the reserve ratio reaches 1.35 percent, implementing a lower rate increase based on different or updated assumptions, and implementing a series of incremental increases while retaining the flexibility to adjust rates.

The FDIC is not adopting these suggested alternatives to delay, rescind, or reduce the proposed increase in assessment rate schedules of 2 basis points. As described in the section on *Projections for the Fund Balance and Reserve Ratio* below, applying the same assumptions used in the proposal but using data through June 30, 2022, the latest data available at the time of publication, the FDIC continues to project that, absent an increase in assessment rates, the reserve ratio is at risk of not reaching the statutory minimum of 1.35 percent by the statutory deadline of September 30, 2028.

When the FDIC first established the Restoration Plan in September 2020, the reserve ratio stood at 1.30 percent. The reserve ratio increased in only two out of the eight quarters in which the Restoration Plan has been in place and regressed over that period to 1.26 percent as of June 30, 2022.

The FDIC has a statutory obligation to restore the reserve ratio to the statutory minimum of 1.35 percent within 8 years of establishing the Restoration Plan.⁴⁰ Further, the FDIC is neither required nor expected to wait until near the statutory deadline to do so. Reaching the statutory minimum reasonably promptly and in advance of the statutory deadline strengthens the fund so that it can better withstand unexpected losses and reduce the likelihood of pro-cyclical assessments. In the FDIC's view, now is a reasonable time for a modest rate increase, while the banking industry is strong and experiencing a prolonged period without bank failures. The proposed increase in assessment rate schedules of 2 basis points will bring the average assessment rate close to the moderate steady assessment rate of 5.29 basis points that would have been required in a simulated fund analysis covering the years from 1950 through 2010 to maintain a positive DIF balance throughout that time period, including through two banking crises.⁴¹ Restoring the fund to its minimum reserve ratio, and continuing to build it towards the 2 percent DRR, reduces the risk that the FDIC would need to consider a larger increase in assessments at a later time when banking and economic conditions may be less favorable and when the industry might least be able to afford it.

The FDIC has considered the alternatives raised by commenters along with other reasonable and possible alternatives to the rule described below in the section on *Alternatives Considered*, but believes, on balance, that an increase in assessment rate schedules of 2 basis points, with such increase remaining in effect unless and until the

⁴⁰ See 12 U.S.C. 1817(b)(3)(E).

⁴¹ See 75 FR 66273 and 76 FR 10675.

reserve ratio meets or exceeds 2 percent, is the most appropriate and most straightforward manner in which to achieve the objectives of the Amended Restoration Plan and the long-term fund management plan.

Comments Proposing Risk- or Size-Based Alternatives to Increasing Rates

While most commenters suggested alternatives to adjust, delay, or rescind the proposed 2 basis point increase in assessment rate schedules for the reasons described above, 33 commenters urged the FDIC to alternatively consider implementing a risk- or size-based approach to increasing assessment rates. Most of these commenters requested that the increase in assessment rates be tailored to apply higher rates to larger or more complex banks, or banks that pose a greater risk to the DIF. Several commenters requested a specific carve-out from the rate increase for community banks, particularly community banks that are well capitalized, or that the FDIC give weight to improvements in bank safety and soundness in proposing rate increases. One commenter specifically proposed a risk-based approach to increasing assessment rates to further incent appropriate balance sheet risk management practices. Another commenter generally opposed the proposal in part based on the belief that the statutory minimum reserve ratio of 1.35 percent is insufficient to absorb losses in the event of the failure of a systemically important financial institution (SIFI) and recommended the establishment of a separate fund for SIFIs.

Under the FDI Act, the FDIC is required to establish an assessment system for all banks based on risk.⁴² As authorized by law and pursuant to rulemakings, the FDIC has implemented separate risk-based pricing methods for large and small banks.⁴³ Under the facts and circumstances, as well as the statutory factors that the FDIC is required to consider treating IDIs with the same or similar risk profiles differently from each other

⁴² See 12 U.S.C. 1817(b)(1).

⁴³ See 71 FR 69282 (November 30, 2006) and 12 U.S.C. 1817(b)(1)(D).

for assessments purposes may not conform to those relevant factors in this particular instance, and may not be appropriate given the FDIC's policy objectives with respect to long-term fund management.

The FDIC has considered the risk- and size-based alternatives raised by commenters along with other reasonable and possible alternatives to the rule described below in the section on *Alternatives Considered*, but believes, on balance, that the proposed uniform increase in assessment rate schedules of 2 basis points is the most appropriate and most straightforward manner in which to achieve the objectives of the Amended Restoration Plan and the long-term fund management plan. While the 2 basis point increase in assessment rates would generally result in a uniform increase across assessment rate schedules, the FDIC continues to maintain a risk-based deposit insurance assessment system, meaning that assessment rates for individual institutions are determined based on the risk posed to the DIF.⁴⁴

Comment on Expected Effects on Community Development Financial Institutions and Minority Depository Institutions

One comment letter expressed concern about the proposal's potential to erode community benefits from economic recovery and racial equity motivated investments supported by Community Development Financial Institutions (CDFIs) and Minority Depository Institutions (MDIs) preparing to increase their deposit levels in response to these investments. This commenter requested that the FDIC provide an exemption from the increase in assessment rates for CDFI and MDI banks.

MDIs play a unique role in promoting economic viability in minority and low- or moderate-income communities. The FDIC has long recognized the unique role and importance of MDIs. The FDIC's MDI Program strives to preserve minority-owned and minority-led financial institutions, encourage the creation of new MDIs, and provide

⁴⁴ See 12 U.S.C. 1817(b)(1).

training, technical assistance, and educational programs for MDIs. The FDIC also facilitates collaborative strategies with public and private partners to help build capacity and scale. The Minority Depository Institutions Subcommittee of the FDIC's Advisory Committee on Community Banking (CBAC) provides advice to the CBAC regarding the FDIC's MDI program; offers a platform for MDIs to promote collaboration, partnerships, and best practices; and identifies ways to highlight the work of MDIs in their communities.

CDFIs play a critical role in expanding economic opportunity in low-income communities by providing access to financial products and services for local residents and businesses. The FDIC supports the work CDFIs do to revitalize distressed communities, and the agency has long been committed to promoting economic inclusion by helping to build and strengthen positive connections between insured financial institutions and consumers, depositors, small businesses, and communities. The FDIC's Advisory Committee on Economic Inclusion was established to provide the agency with advice and recommendations on important initiatives focused on expanding access to banking services by underserved populations.

The FDIC has placed significant emphasis on and resources to preserve, promote, and build capacity in MDIs and CDFIs, and mission-driven banks continue to be an important focal point for the FDIC. As explained above in the section addressing *Comments Proposing Risk- or Size-Based Alternatives to Increasing Rates*, under the FDI Act, the FDIC is required to establish an assessment system for all banks based on risk.⁴⁵ As authorized by law and pursuant to rulemakings, the FDIC has implemented separate risk-based pricing methods for large and small banks.⁴⁶ Under the facts and circumstances, as well as the statutory factors that the FDIC is required to consider

⁴⁵ See 12 U.S.C. 1817(b)(1).

⁴⁶ See 71 FR 69282 (November 30, 2006) and 12 U.S.C. 1817(b)(1)(D).

treating IDIs with the same or similar risk profiles differently from each other for assessments purposes may not conform to those relevant factors in this particular instance, and may not be appropriate given the FDIC's policy objectives with respect to long-term fund management.

Comments on Expected Effects Due to Deposit Growth from Pandemic Relief

Several commenters expressed the view that community banks should not be punished for elevated deposit levels that were driven by pandemic relief measures, including participation in the Paycheck Protection Program (PPP).

In recognition that the PPP established by the Small Business Administration, and the Paycheck Protection Program Liquidity Facility and Money Market Mutual Fund Liquidity Facility established by the Board of Governors of the Federal Reserve System, were put into place to provide financing to small businesses, liquidity to small business lenders and the broader credit markets, and to help stabilize the financial system in a time of significant economic strain, in June 2020, the FDIC adopted a final rule, applicable to all IDIs, that mitigates the deposit insurance assessment effects of participating in these programs.⁴⁷ The FDIC continues to provide assessment relief pursuant to that final rule.

Comments on Effect on Consumers

Several commenters expressed concern that the proposed increase in assessment rates may restrain credit, reduce product and service offerings, slow deposit rate increases, or result in higher or new fees to customers, to the detriment of consumers and businesses. In particular, one commenter expressed concern that larger banks focused on profits may push deposit customers away to decrease their assessment liability, which could create additional burden on the unbanked and underbanked.

It is the FDIC's view that now is a reasonable time to modestly raise rates while the banking industry is strong, rather than to delay and potentially be forced into a larger

⁴⁷ See 85 FR 38282 (June 26, 2020).

increase at a time when banking and economic conditions may be less favorable.

Comments on the Designated Reserve Ratio

Twenty-three commenters urged the FDIC to consider why 2 percent is the DRR or update the analysis underlying this goal. Many of these commenters stated that the 2 percent DRR was determined prior to the full implementation of the current prudential standards, safety and soundness safeguards, and capital requirements and that these enhancements mitigate the risk of bank failures on a scale that would significantly reduce the DIF. As noted above in the *Comments on Alternatives*, a few commenters challenged the proposed increase of 2 basis points on the basis that the statute only requires that the reserve ratio reach 1.35 percent whereas the rate increase would remain in place until the reserve ratio reaches 2 percent. Several of these commenters recommended that the FDIC reconsider and follow the statute to achieve 1.35 percent and, at that time, end or reassess the need for any rate increase.

The FDIC believes a 2 percent DRR complements enhancements in the regulatory framework, including the Dodd-Frank Act and Basel III, and that these enhancements in combination with a 2 percent DRR would make the financial sector more resilient and reduce the likelihood of future crises. While the FDIC hopes that these enhancements will make financial crises less likely and reduce losses to the DIF, it would be imprudent for the FDIC to assume that banking crises are a thing of the past. The 2008 banking crisis occurred despite extensive legislative changes to the banking and regulatory system that were made in response to the crisis of the late 1980s and early 1990s.

After considering updated analysis of the statutory factors, the Board set the DRR at 2 percent again in October 2022 and the FDIC is concurrently publishing in the **Federal Register** the Notice of Designated Reserve Ratio for 2023. The 2 percent DRR is an integral part of the FDIC's comprehensive, long-range management plan for the DIF. A fund that is sufficiently large continues to be a necessary precondition to

maintaining a fund balance during a banking crisis and allowing for long-term, steady assessment rates.⁴⁸ The updated analysis of the statutory factors is described in detail in the Memorandum to the Board on the Designated Reserve Ratio for 2023, published to the FDIC's website.⁴⁹

For these reasons, the FDIC has determined that it is appropriate for the new assessment rate schedules to remain in effect unless and until the reserve ratio meets or exceeds 2 percent, absent further Board action. The proposed rate increase would accelerate the timeline for the reserve ratio to reach 2 percent, after which point lower rate schedules will go into effect.

III. The Final Rule

A. Description of the Final Rule

After careful consideration of the comments received on the proposal and analysis of the applicable statutory factors, updated with the most recent data available, the FDIC is adopting as final, and without change, the proposed rule to increase initial base deposit insurance assessment rate schedules uniformly by 2 basis points, beginning the first quarterly assessment period of 2023. Under the final rule, the new assessment rate schedules will remain in effect unless and until the reserve ratio meets or exceeds 2 percent, absent further Board action.

Under the final rule, the FDIC is retaining the Board's flexibility to adopt higher or lower total base assessment rates without the necessity of further notice-and-comment rulemaking, provided that the Board cannot increase or decrease rates from one quarter to the next by more than 2 basis points, and cumulative increases and decreases cannot be more than 2 basis points higher or lower than the total base assessment rates set forth in

⁴⁸ See 75 FR 79286 (Dec. 20, 2010), codified at 12 CFR 327.4(g).

⁴⁹ See Notice of Designated Reserve Ratio for 2023, available at <https://www.fdic.gov/news/board-matters/2022/2022-10-18-notice-sum-c-fr.pdf>.

the assessment rate schedules.⁵⁰ Retention of this flexibility continues to allow the Board to act in a timely manner to fulfill its mandate to raise the reserve ratio, particularly in light of the uncertainty related to insured deposit growth and the economic outlook. Maintaining the ability to adjust rates within limits without notice-and-comment rulemaking is consistent with the FDIC’s well-established practice and will allow the FDIC to act expeditiously to adjust rates in the face of constantly changing conditions.

B. Assessment Rate Schedules Beginning the First Quarterly Assessment Period of 2023

Assessment Rates for Established Small Institutions and Large and Highly Complex Institutions Beginning the First Assessment Period of 2023

Pursuant to the FDIC’s authority to set assessments, the initial and total base assessment rates applicable to established small institutions and large and highly complex institutions set forth in Tables 1 and 2 below will take effect beginning the first quarterly assessment period of 2023.

Table 1 – Initial Base Assessment Rate Schedule Beginning the First Assessment Period of 2023, Where the Reserve Ratio as of the End of the Prior Assessment Period Is Less Than 2 Percent¹

	Established Small Institutions			Large & Highly Complex Institutions
	CAMELS Composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	5 to 18	8 to 32	18 to 32	5 to 32

¹ All amounts are in basis points annually. Initial base rates that are not the minimum or maximum rate will vary between these rates.

An institution’s total base assessment rate may vary from the institution’s initial base assessment rate as a result of possible adjustments for certain liabilities that can increase or reduce loss to the DIF in the event the institution fails.⁵¹ These adjustments do

⁵⁰ See 12 CFR 327.10(f).

⁵¹ See 12 CFR 327.16(e).

not reflect a change and are consistent with the current assessment regulations. After applying all possible adjustments, the minimum and maximum total base assessment rates applicable to established small institutions and large and highly complex institutions beginning the first quarterly assessment period of 2023 are set out in Table 2 below.

Table 2 – Total Base Assessment Rate Schedule (After Adjustments)¹ Beginning the First Assessment Period of 2023, Where the Reserve Ratio as of the End of the Prior Assessment Period Is Less Than 2 Percent²

	Established Small Institutions			Large & Highly Complex Institutions
	CAMELS Composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	5 to 18	8 to 32	18 to 32	5 to 32
Unsecured Debt Adjustment ³	-5 to 0	-5 to 0	-5 to 0	-5 to 0
Brokered Deposit Adjustment	N/A	N/A	N/A	0 to 10
Total Base Assessment Rate	2.5 to 18	4 to 32	13 to 32	2.5 to 42

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

³ The unsecured debt adjustment cannot exceed the lesser of 5 basis points or 50 percent of an insured depository institution's initial base assessment rate; thus, for example, an insured depository institution with an initial base assessment rate of 5 basis points will have a maximum unsecured debt adjustment of 2.5 basis points and cannot have a total base assessment rate of lower than 2.5 basis points.

The rates applicable to established small institutions and large and highly complex institutions in Tables 1 and 2 above will remain in effect unless and until the reserve ratio meets or exceeds 2 percent. In lieu of dividends, and pursuant to the FDIC's authority to set assessments, progressively lower initial and total base assessment rate schedules applicable to established small institutions and large and highly complex institutions as currently set forth in 12 CFR 327.10(c) and (d) will come into effect without further action by the Board when the fund reserve ratio at the end of the prior

assessment period reaches 2 percent and 2.5 percent, respectively. The FDIC did not propose and is not adopting changes to these progressively lower assessment rate schedules.

Assessment Rates for New Small Institutions Beginning the First Assessment Period of 2023

Pursuant to the FDIC’s authority to set assessments, the initial and total base assessment rates applicable to new small institutions set forth in Tables 3 and 4 below will take effect beginning the first quarterly assessment period of 2023. New small institutions will remain subject to the assessment schedules in Tables 3 and 4, even when the reserve ratio reaches 2 percent or 2.5 percent, until they no longer are new depository institutions, consistent with current assessment regulations. As stated in the 2010 NPR describing the long-term comprehensive fund management plan, and adopted in the 2011 Final Rule, the lower assessment rate schedules applicable when the reserve ratio reaches 2 percent and 2.5 percent do not apply to any new depository institutions; these institutions will remain subject to the assessment rates shown below, until they no longer are new depository institutions.⁵²

Table 3 – Initial Base Assessment Rate Schedule Beginning the First Assessment Period of 2023 and for All Subsequent Assessment Periods, Applicable to New Small Institutions¹

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV
Initial Assessment Rate	9	14	21	32

¹ All amounts for all risk categories are in basis points annually.

Table 4 – Total Base Assessment Rate Schedule (After Adjustments)¹ Beginning the First Assessment Period of 2023 and for all Subsequent Assessment Periods, Applicable to New Small Institutions²

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV
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⁵² See 75 FR 66283 and 76 FR 10686.

Initial Assessment Rate	9	14	21	32
Brokered Deposit Adjustment (added)	N/A	0 to 10	0 to 10	0 to 10
Total Base Assessment Rate	9	14 to 24	21 to 31	32 to 42

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

Assessment Rates for Insured Branches of Foreign Banks Beginning the First Assessment Period of 2023

Pursuant to the FDIC’s authority to set assessments, the initial and total base assessment rates applicable to insured branches of foreign banks set forth in Table 5 below will take effect beginning the first quarterly assessment period of 2023.

Table 5 – Initial and Total Base Assessment Rate Schedule¹ Beginning the First Assessment Period of 2023, Where the Reserve Ratio as of the End of the Prior Assessment Period is Less Than 2 Percent, Applicable to Insured Branches of Foreign Banks²

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV
Initial and Total Assessment Rate	5 to 9	14	21	32

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Initial and total base rates that are not the minimum or maximum rate will vary between these rates.

The rates applicable to insured branches of foreign banks in Table 5 above will remain in effect unless and until the reserve ratio meets or exceeds 2 percent. In lieu of dividends, and pursuant to the FDIC’s authority to set assessments, progressively lower initial and total base assessment rate schedules applicable to insured branches of foreign banks as currently set forth in 12 CFR 327.10(e)(2)(ii) and (iii) will come into effect without further action by the Board when the fund reserve ratio at the end of the prior

assessment period reaches 2 percent and 2.5 percent, respectively. The FDIC did not propose and is not adopting changes to these progressively lower assessment rate schedules.

C. Conforming, Technical, and Other Amendments to the Assessment Regulations

Conforming Amendments

The FDIC is adopting conforming amendments in §§ 327.10 and 327.16 of the FDIC's assessment regulations to effectuate the modifications described above. These conforming amendments will ensure that the uniform increase in initial base deposit insurance assessment rate schedules of 2 basis points is properly incorporated into the assessment regulation provisions governing the calculation of an IDI's quarterly deposit insurance assessment. The FDIC is adopting revisions to § 327.10 to reflect the assessment rate schedules that are applicable before and after the effective date of this final rule (i.e., January 1, 2023). The FDIC also is revising the uniform amounts for small banks and insured branches in §§ 327.16(a) and (d), respectively, to reflect the 2 basis point increase. Aside from the revisions to reflect the assessment rate schedules, no additional revisions are required for the regulatory text applicable to large or highly complex banks because the formula in § 327.16(b) used to calculate their quarterly assessment rates incorporates the minimum and maximum initial base assessment rates then in effect.

Technical Amendments

As a technical change, the FDIC is rescinding certain rate schedules in § 327.10 that are no longer in effect. FDIC regulations provided for changes to deposit insurance assessment rates the quarter after the reserve ratio first reached or surpassed 1.15 percent, which occurred in the third quarter of 2016.⁵³ The FDIC is rescinding the outdated and

⁵³ See 76 FR 10672 (Feb. 25, 2011) and 81 FR 32180 (May 20, 2016). In 2016, the FDIC amended its rules to refine the deposit insurance assessment system for established small IDIs (i.e. those small IDIs that have

obsolete provisions of, and revising references to, the superseded assessment rate schedules in its regulations. These changes impose no new requirements on FDIC-supervised institutions.

The FDIC also is rescinding in its entirety § 327.9—Assessment Pricing Methods, as such section is no longer applicable. The relevant section that includes the method for calculating risk-based assessments for all IDIs, particularly established small banks, is now in § 327.16, which was adopted by the Board in a final rule on April 26, 2016. That final rule became applicable the calendar quarter in which the reserve ratio of the DIF reached 1.15 percent, i.e. the third quarter of 2016.⁵⁴ The FDIC also will make technical amendments to remove all references to § 327.9.

Other Amendments

Under the final rule, the FDIC is adopting additional amendments to update and conform Appendix A to subpart A of part 327—Method to Derive Pricing Multipliers and Uniform Amount in accordance with the current assessment regulations. Specifically, the FDIC is removing sections I through V, which were superseded by the 2016 final rule revising the method to calculate risk-based assessment rates for established small IDIs.⁵⁵ The FDIC is replacing the current language of sections I through V of Appendix A to subpart A of part 327 with the content of a previously proposed, but inadvertently not adopted, Appendix E—Method to Derive Pricing Multipliers and Uniform Amount. Appendix E was published in the 2016 revised notice of proposed rulemaking refining the deposit insurance assessment system for established small IDIs.⁵⁶ Appendix E was inadvertently not included in the final rule.

Under the 2016 final rule, initial base assessment rates for established small banks

been federally insured for at least five years). The final rule preserved the lower overall range of initial base assessment rates adopted in 2011 pursuant to the long-term fund management plan.

⁵⁴ See 81 FR 32180 (May 20, 2016).

⁵⁵ See 81 FR 32180 (May 20, 2016).

⁵⁶ See 81 FR 6153-6155 (Feb. 4, 2016).

are calculated by applying statistically derived pricing multipliers to weighted CAMELS components and financial ratios; then adding the products to a uniform amount.⁵⁷ The content of Appendix E describes the statistical model on which the revised and current pricing method is based and, accordingly, revises the method to derive the pricing multipliers and uniform amount used to determine the assessment rate schedules currently in effect.⁵⁸

The revisions to Appendix A to subpart A of part 327 will result in: the removal of the superseded language currently in sections I through V; the addition of the language of Appendix E from the 2016 revised notice of proposed rulemaking reflecting the revised and current pricing method; and the retention of the current language (without change) of section VI (Description of Scorecard Measures) that applies to large and highly complex institutions.

D. Analysis

In setting assessment rates, the Board is authorized to set assessments for IDIs in such amounts as the Board may determine to be necessary or appropriate.⁵⁹ In setting assessment rates, the Board has considered the following factors as required by statute:⁶⁰

- (i) The estimated operating expenses of the DIF.
- (ii) The estimated case resolution expenses and income of the DIF.
- (iii) The projected effects of the payment of assessments on the capital and earnings of IDIs.
- (iv) The risk factors and other factors taken into account pursuant to section

⁵⁷ See 81 FR 32181.

⁵⁸ See 81 FR 32191; see also 81 FR 6116-17 (Feb. 4, 2016). Note, subsequent to the adoption of the 2016 final rule, the FDIC made other conforming and technical amendments to the assessment regulations at 12 CFR part 327 resulting from other rulemakings. The content of Appendix E does not need to be updated to reflect such conforming and other technical amendments and will be incorporated into the current Appendix A without change. See 83 FR 14565 (Apr. 5, 2018), 84 FR 1346 (Feb. 4, 2019), and 85 FR 71227 (Nov. 9, 2020).

⁵⁹ 12 U.S.C. 1817(b)(2)(A).

⁶⁰ See Section 7(b)(2)(B) of the FDI Act, 12 U.S.C. 1817(b)(2)(B).

7(b)(1) of the FDI Act (12 U.S.C. 1817(b)(1)) under the risk-based assessment system, including the requirement under such section to maintain a risk-based system.⁶¹

(v) Other factors the Board has determined to be appropriate.

The following summarizes the factors considered in adopting a uniform increase in initial base assessment rate schedules of 2 basis points.

Assessment Revenue Needs

Under the Amended Restoration Plan, the FDIC is monitoring deposit balance trends, potential losses, and other factors that affect the reserve ratio. The most recent semiannual update to the Board was provided on June 21, 2022, with data as of March 31, 2022, and the next semiannual update is anticipated for later this year and is expected to cover data as of September 30, 2022.⁶² For purposes of this final rule, the FDIC updated analysis and projections using data as of June 30, 2022. Table 6 shows the components of the reserve ratio for the fourth quarter of 2021 through the second quarter of 2022. In the second quarter of 2022, slight attrition in insured deposits coupled with positive growth in the DIF balance resulted in a 3 basis point increase in the reserve ratio to 1.26 percent as of June 30, 2022.

While assessment revenue was the primary contributor to growth in the DIF, since the beginning of 2021, the weighted average assessment rate for all IDIs has been consistently below the average of 4.0 basis points when the Restoration Plan was first adopted in 2020. The weighted average assessment rate was approximately 3.8 basis points for the assessment period ending June 30, 2022. The DIF has experienced low losses from bank failures, with no banks failing since October 2020. Unrealized losses on

⁶¹ The risk factors referred to in factor (iv) include the probability that the Deposit Insurance Fund will incur a loss with respect to the institution, the likely amount of any such loss, and the revenue needs of the Deposit Insurance Fund. See Section 7(b)(1)(C) of the FDI Act, 12 U.S.C. 1817(b)(1)(C).

⁶² See FDIC Restoration Plan Semiannual Update, June 21, 2022. Available at <https://www.fdic.gov/news/board-matters/2022/2022-06-21-notice-sum-b-mem.pdf>.

available-for-sale securities in the DIF portfolio contributed to a relatively flat DIF balance in the first quarter of 2022 and continued to slow growth in the second quarter. As of June 30, 2022, the DIF balance totaled \$124.5 billion, up \$1.4 billion from one quarter earlier.

**Table 6 – Fund Balance,
Estimated Insured Deposits, and Reserve Ratio
[dollar amounts in billions]**

	4Q 2021	1Q 2022	2Q 2022
Beginning Fund Balance	\$121.9	\$123.1	\$123.0
Plus: Net Assessment Revenue	\$2.0	\$1.9	\$2.1
Plus: Other Income ^a	(\$0.3)	(\$1.5)	(\$0.3)
Less: Loss Provisions	*	\$0.1	(\$0.1)
Less: Operating Expenses	\$0.5	\$0.5	\$0.5
Ending Fund Balance ^b	\$123.1	\$123.0	\$124.5
Estimated Insured Deposits	\$9,745.8	\$9,974.7	\$9,903.8
Q-O-Q Growth in Estimated Insured Deposits	1.62%	2.35%	-0.71%
Ending Reserve Ratio	1.26%	1.23%	1.26%

*Absolute value less than \$50 million

^a Includes interest earned on investments, unrealized gains/losses on available-for-sale securities, realized gains on sale of investments, and all other income, net of expenses.

^b Components of fund balance changes may not sum to totals due to rounding.

While insured deposit growth showed signs of normalizing in the second quarter, aggregate balances remain significantly elevated, relative to pre-pandemic levels. Insured deposits increased by 4.3 percent over the last year, a growth rate that is higher than the rate of insured deposit growth assumed in both scenarios in the analysis supporting the proposal and this final rule. In recognition that sustained elevated insured deposit balances, lower than anticipated weighted average assessment rates, and other factors have affected the ability of the reserve ratio to return to 1.35 percent before September 30, 2028, and to accelerate the timeline for achieving the long-term goal of a 2 percent DRR, the FDIC is adopting a final rule to increase initial base deposit insurance assessment rate schedules uniformly by 2 basis points. The new assessment rate schedules will remain in effect unless and until the reserve ratio meets or exceeds 2

percent.

Deposit Balance Trends

The recent moderation in insured deposit growth rates relative to the first half of 2020 and the first quarter of 2021, and as described above in the *Response to Comments Received on the Proposed Rule* section, was attributable in part to a decline in personal savings as support from direct federal government stimulus programs ended and higher inflation increased nominal consumer spending. In addition, higher interest rates may have caused certain types of deposits to shift into higher-yielding alternatives. Over the last year, insured deposits increased by 4.3 percent, slightly below the pre-pandemic average of 4.5 percent, but in excess of the insured deposit growth rates assumed in both scenarios in the analysis supporting the proposal and this final rule. While recent insured deposit growth rates more closely align with historical averages, these growth rates are applied to a total balance of insured deposits that is still elevated from the pandemic response efforts, further increasing insured deposit balances.

The outlook for insured deposit growth remains uncertain and depends on several factors, including the outlook for consumer spending and incomes. Any unexpected economic weakness or concerns about slower than expected economic growth may cause businesses and consumers to maintain caution in spending and keep deposit levels elevated in order to have the ability to cover expenses on hand or increase precautionary savings. Similarly, unexpected financial market stress could prompt another round of investor risk aversion that could lead to caution on spending and increase savings and insured deposits. On the other hand, prolonged higher inflation may cause consumer spending to remain elevated as consumers pay more for goods and services.

In contrast, tighter monetary policy may inhibit growth of insured deposits in the banking system. Despite the recent increases in the short-term benchmark rate set by the Federal Reserve, most IDIs have little incentive to raise interest rates on deposit accounts

and spur deposit growth in the near-term, given the still elevated levels of deposit balances. If competition for deposits remains subdued and rates paid on deposit accounts remain low, depositors may shift balances away from deposit accounts and into higher-yielding alternatives, including money market funds.

More than a year has passed since the period of extraordinary growth in insured deposits prompted by the last round of fiscal stimulus, and while the banking industry reported slight attrition in insured deposits in the second quarter of 2022, aggregate balances remain significantly elevated, as noted above. Insured deposits declined by 0.7 percent in the second quarter of 2022. While this may be indicative of the beginning of slower growth in insured deposits going forward, a decline in the second quarter is consistent with seasonal, quarterly growth in insured deposits, which have declined in the second quarter in six out of the last nine years. As a result, the reserve ratio continues to be below the statutory minimum of 1.35 percent and is at risk of not returning to that level by the statutory deadline of September 30, 2028. The FDIC will continue to closely monitor depositor behavior and the effects on insured deposits through future Restoration Plan semiannual updates.

Case Resolution Expenses (Insurance Fund Losses)

Losses from past and future bank failures affect the reserve ratio by lowering the fund balance. In recent years, the DIF has experienced low losses from IDI failures. On average, four IDIs per year failed between 2016 and 2021, at an average annual cost to the fund of about \$208 million.⁶³ No banks have failed thus far in 2022, marking 23 consecutive months without a bank failure and the eighth year in a row with few or no failures. Based on currently available information about banks expected to fail in the near-term; analyses of longer-term prospects for troubled banks; and trends in CAMELS

⁶³ FDIC, Annual Report 2021, Assets and Deposits of Failed or Assisted Insured Institutions and Losses to the Deposit Insurance Fund, 1934 – 2021, page 190, available at <https://www.fdic.gov/about/financial-reports/reports/2021annualreport/2021-arfinal.pdf>.

ratings, failure rates, and loss rates; the FDIC projects that failures over the next five years would cost the fund approximately \$1.8 billion.

The total number of institutions on the FDIC's Problem Bank List was 40 at the end of the second quarter of 2022, the lowest level since publication of the FDIC's Quarterly Banking Profile began in 1984.⁶⁴ Currently, the FDIC expects the number of problem banks to remain at low levels in the near-term.

The banking industry faces significant downside risks. Future economic and banking conditions remain uncertain due to high inflation, rising interest rates, slowing economic growth, and geopolitical uncertainty. Higher interest rates may also erode real estate and other asset values as well as hamper borrowers' loan repayment ability. Any of these uncertainties could present challenges and could have longer-term effects on the condition and performance of the economy and the banking industry.

Gross domestic product (GDP) growth has weakened in the first half of 2022, contracting in both first and second quarters after expanding 5.7 percent in 2021. Despite the slowdown in growth in the first half of 2022, consumer spending continued to grow, and the labor market remained strong.

However, the economic outlook is weak overall. The September Blue Chip Economic Forecast calls for GDP growth of 1.2 percent in third quarter, 1.6 percent for full year 2022 and 0.6 percent for 2023.⁶⁵ Many forecasters increased their odds of a mild recession occurring in 2022 or 2023.⁶⁶

The banking industry remained resilient through the second quarter of 2022 despite the extraordinary challenges of the pandemic, and is well positioned to absorb a modest increase in assessment rate schedules of 2 basis points. Given these economic

⁶⁴ "Problem" institutions are institutions with a CAMELS composite rating of "4" or "5" due to financial, operational, or managerial weaknesses that threaten their continued financial viability.

⁶⁵ September Blue Chip Economic Forecast.

⁶⁶ September Blue Chip Economic Forecast.

uncertainties, in the FDIC's view, now is a reasonable time to modestly raise rates while the banking industry is strong, rather than to delay and potentially have to consider a larger increase in assessments at a later time when banking and economic conditions may be less favorable.

Operating Expenses and Investment Income

FDIC operating expenses remain steady, while a prolonged period of low investment returns has limited growth in the DIF.

Operating expenses partially offset increases in the DIF balance. Operating expenses have remained steady, ranging between \$450 and \$475 million per quarter since the Restoration Plan was first adopted in September 2020, and totaling \$460 million as of June 30, 2022.

Growth in the fund balance has been limited by a prolonged period of low net investment contributions. Recently, as a result of the rising interest rate environment and market expectations leading up to the rate increases, the DIF has also experienced elevated unrealized losses on securities. Elevated unrealized losses coupled with relatively low interest earned on investments resulted in negative net investment contributions in the fourth quarter of 2021, and the first and second quarters of 2022. Prior to the pandemic between 2015 and 2019, quarterly net investment contributions averaged \$322 million, well above the average net investment contributions of \$4.5 million from 2020 through mid-2022. Unrealized losses were due to rising yields as market participants reacted to expectations of increased inflation and tighter monetary policy. Moving into the third quarter of 2022, interest rates have continued to rise and continued unrealized losses could temper fund balance growth. Future market movements may temporarily increase unrealized losses to the extent that market participants have not already priced in these actions or the Federal Reserve take more aggressive action than is currently expected in fighting inflation. While the FDIC expects that these unrealized

losses should eventually be outpaced by higher levels of interest income over the longer-term as future cash proceeds are reinvested at higher rates, the timing of this is uncertain.

Projections for the Fund Balance and Reserve Ratio

In its consideration of increasing the assessment rate schedules, the FDIC sought to increase the likelihood that the reserve ratio would reach the statutory minimum of 1.35 percent by the statutory deadline of September 30, 2028, and to support growth in the DIF in progressing toward the long-term goal of a 2 percent DRR. With these objectives in mind, the FDIC updated its analysis and projections for the fund balance and reserve ratio using data through June 30, 2022, the latest available as of the date of publication, to estimate how changes in insured deposit growth and assessment rates affect when the reserve ratio would reach the statutory minimum of 1.35 percent and the DRR of 2 percent.

Based on this analysis, the FDIC continues to project that, absent an increase in assessment rates, the reserve ratio is at risk of not reaching the statutory minimum of 1.35 percent by the statutory deadline of September 30, 2028. In estimating how soon the reserve ratio would reach 1.35 percent, the FDIC developed two scenarios that assume different levels of insured deposit growth and average assessment rates, both of which the FDIC views as reasonable based on current and historical data. For insured deposit growth, the FDIC assumed annual growth rates of 4.0 percent and 3.5 percent, respectively. Even with the second quarter decline in insured deposits, annual insured deposit growth was 4.3 percent, exceeding both growth rates assumed in the analysis.

These insured deposit growth rates represent a retention of a range of excess insured deposits resulting from the pandemic. The assumption of a 4.0 percent annual growth rate reflects retention of all of the estimated \$1.13 trillion of excess deposits in insured accounts, with this amount not contributing to further growth, while the remaining balance of insured deposits continues to grow at the pre-pandemic average

annual rate of 4.5 percent.⁶⁷ Alternatively, a 3.5 percent annual growth rate assumption reflects banks retaining nearly two-thirds of the estimated excess insured deposits resulting from the pandemic, with this amount not contributing to further growth, while the remaining balance of insured deposits grows at the pre-pandemic average annual rate of 4.5 percent.

The two scenarios also apply different assumptions for average annual assessment rates. The weighted average assessment rate for all banks during 2019, prior to the pandemic, was about 3.5 basis points and rose to 4.0 basis points, on average, during 2020. The weighted average assessment rate for all IDIs was approximately 3.8 basis points for the assessment period ending June 30, 2022. For the scenario in which all excess insured deposits are retained, the FDIC assumed a lower assessment rate of 3.5 basis points, and for the scenario in which some excess insured deposits recede, the FDIC assumed an assessment rate of 4.0 basis points.

In finalizing the increase in the assessment rate schedules, the FDIC updated projections of the date that the reserve ratio would likely reach the statutory minimum of 1.35 percent in each scenario, shown in Table 7 below to include one additional quarter of data finalized following the publication of the proposed rule.⁶⁸ Under Scenario A, which assumes annual insured deposit growth of 4.0 percent and an average annual assessment rate of 3.5 basis points, the FDIC projects that the reserve ratio would reach 1.35 percent in the second quarter of 2034, after the statutory deadline of September 30, 2028.

⁶⁷ The estimate of \$1.13 trillion of excess insured deposits reflects the amount of insured deposits as of September 30, 2021, in excess of the amount that would have resulted if insured deposits had grown at the pre-pandemic average rate of 4.5 percent since December 31, 2019.

⁶⁸ For simplicity, the analysis shown in Table 7 assumes that: (1) the assessment base grows 4.5 percent, annually; (2) net investment contributions to the deposit insurance fund balance are zero; (3) operating expenses grow at 1 percent per year; and (4) failures for the five-year period from 2022 to 2026 would cost approximately \$1.8 billion.

**Table 7 – Scenario Analysis:
Expected Time to Reach a 1.35 Percent Reserve Ratio**

	Annual Insured Deposit Growth Rate [Percent]	Average Annual Assessment Rate [Basis Points]	Date the Reserve Ratio Reaches 1.35 Percent	
			No Change in Annual Average Assessment Rate	Application of 2 BPS Increase in Annual Average Assessment Rate (Beginning 1Q 2023)
Scenario A	4.0	3.5	2Q 2034	4Q 2024
Scenario B	3.5	4.0	4Q 2026	2Q 2024

In Scenario B, which assumed annual insured deposit growth of 3.5 percent and an average annual assessment rate of 4.0 basis points, the FDIC projects that the reserve ratio would reach 1.35 percent in the fourth quarter of 2026, only seven quarters before the statutory deadline. Even under these relatively favorable conditions, which assume lower insured deposit growth and a higher average assessment rate than experienced over the last year, the reserve ratio reaches the statutory minimum of 1.35 percent relatively close to the statutory deadline. While the FDIC projects that the reserve ratio would reach the statutory minimum before the deadline in this scenario, any number of uncertain factors—including unexpected losses, accelerated insured deposit growth, or lower weighted average assessment rates due to improving risk profiles of institutions—could materialize between now and the fourth quarter of 2026, and prevent the reserve ratio from reaching the statutory minimum by the statutory deadline. Updating the analysis incorporated in the proposal to include the latest data available, as of June 30, 2022, had minimal effect on the date the reserve ratio reaches 1.35 percent. Updated analysis reflecting a decline in insured deposits of 0.7 percent resulted in the reserve ratio projections reaching 1.35 percent one quarter earlier under Scenario A, and 2 quarters

earlier under Scenario B.

Both scenarios apply assumptions for insured deposit growth and average assessment rates that the FDIC views as reasonable based on current and historical data, and that do not widely differ from each other in magnitude. Actual insured deposit growth and assessment rates could more closely align with one scenario or the other, exceed or fall short of assumptions, or fall in between the two. As described above in the *Response to Comments Received on the Proposed Rule and Case Resolution Expenses (Insurance Fund Losses)* sections, the assumptions, including assumptions related to net investment contributions and losses to the DIF, are subject to uncertainty. If insured deposits grow at a slower rate than assumed, the statutory minimum reserve ratio would be achieved sooner than projected. On the other hand, if insured deposits grow at a faster rate, average assessment rates decline, or losses materialize, the statutory minimum reserve ratio would be achieved later than projected.

Net investment contributions—defined for purposes of this final rule to include both interest income and unrealized gains or losses—have played a secondary role relative to assessment revenue in overall DIF growth. Elevated unrealized losses resulted in negative net investment contributions of \$339 million in the fourth quarter of 2021, and \$1,495 million and \$322 million in the first and second quarters of 2022, respectively. Moving into the third quarter of 2022, interest rates have continued to rise and unrealized losses will likely continue to reduce net investment contributions, below the assumed amount of zero. When rates stabilize and interest income begins to outpace unrealized losses on the DIF portfolio, the positive net investment contributions would help grow the DIF and may accelerate achievement of the statutory minimum reserve ratio to some extent. On the other hand, as long as elevated unrealized losses persist and continue to result in negative net investment contributions, the statutory minimum reserve ratio may be achieved later than projected.

While net investment contributions have been relatively flat to slightly negative since the Restoration Plan was first established in September 2020, interest rate increases have gradually lifted interest income on the DIF portfolio in recent months and over time unrealized losses should eventually be outpaced by higher levels of interest income. However, given the uncertainty of the timing and magnitude of interest rate increases and the effects on the DIF portfolio, it is the FDIC's view that zero net investment contributions remains a reasonably conservative assumption over the near-term. In the longer-term, projections for reaching the 2 percent DRR already assume positive net investment contributions after the reserve ratio reaches 1.35 percent, based on market-implied forward rates, and including additional net investment contributions in the near-term had little effect on the analysis for reaching the 2 percent DRR.⁶⁹ When rates stabilize and interest income begins to outpace unrealized losses on the DIF portfolio, resulting in positive net investment contributions, the FDIC will consider revisiting assumptions in future semiannual updates accordingly.

The FDIC recognizes that relatively minor changes in the underlying assumptions result in considerably different outcomes, as the reserve ratio is projected to reach the statutory minimum of 1.35 percent in 2034 in Scenario A, compared to 8 years earlier in Scenario B. The disparity between outcomes under these scenarios demonstrates the sensitivity of the projections to slight variations in any key variable and the need to adopt an increase in assessment rate schedules now in order to generate a buffer to absorb unexpected losses, accelerated insured deposit growth, or lower average assessment rates.

Given these uncertainties, the FDIC also updated projections of the DIF balance and associated reserve ratio under each scenario, applying the 2 basis point increase in

⁶⁹ Projections for reaching the 2 percent DRR assume net investment contributions to the DIF portfolio of zero until the reserve ratio reaches 1.35 percent. Net investment contributions assumptions are then based on market-implied forward rates from that point forward. Applying this assumption for the entire projection period does not significantly accelerate the achievement of a 2 percent DRR (the reserve ratio would reach 2 percent in 2031 instead of 2032).

average assessment rates beginning in the first assessment period of 2023. Updated projections indicate that the increase of 2 basis points would improve the likelihood that the reserve ratio will reach the statutory minimum ahead of the statutory deadline, building in a buffer in the event of uncertainties as described above that could stall or counter growth in the reserve ratio. Under both scenarios described above, an increase in assessment rates of 2 basis points is projected to result in the reserve ratio reaching the statutory minimum of 1.35 percent approximately two years from now. Updating the analysis incorporated in the proposal to include the latest data available, as of June 30, 2022, despite the 0.7 percent decline in insured deposits, had minimal effect on the date the reserve ratio reaches 1.35 percent after applying the 2 basis point increase.

Once the DIF reaches 1.35 percent, the FDIC will no longer operate under a restoration plan. Any subsequent decline in the reserve ratio below the statutory minimum would, therefore, require the Board to establish a new restoration plan with an additional eight years to restore the reserve ratio. Alternatively, in the event that the industry experiences a downturn before the FDIC has exited its current Restoration Plan, the FDIC might have to consider larger assessment increases to meet the statutory requirement in a more compressed timeframe and under less favorable conditions.

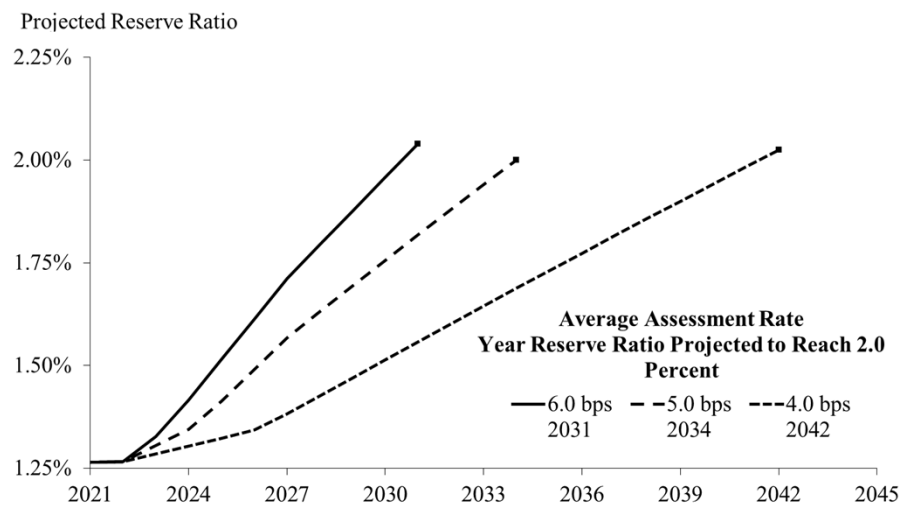
The FDIC also updated analysis of the effects of the increase in the assessment rate schedules in supporting growth in the DIF in progressing toward the 2 percent DRR to include data from June 30, 2022. For this analysis, the FDIC assumed a near-term annual insured deposit growth rate of 3.5 percent and a weighted average assessment rate of 4.0 basis points.⁷⁰ These assumptions reflect the ranges of insured deposit growth and assessment rates used in Scenario B, described above, and result in the shortest projected timeline to reach a 2 percent reserve ratio. As illustrated in Chart 3, even under these

⁷⁰ After September 30, 2028, the deadline to restore the reserve ratio to the 1.35 percent minimum, insured deposits are assumed to grow at the pre-pandemic annual average of 4.5 percent.

relatively favorable conditions, absent an increase in assessment rates, the projected reserve ratio would not reach 2 percent until 2042, about twenty years from now.⁷¹ When the FDIC proposed the long-term, comprehensive fund management plan in 2010, it estimated that the reserve ratio would reach 2 percent in 2027.⁷²

Using the same assumptions, an increase in assessment rates would significantly accelerate the timeline for achieving a 2 percent DRR. An increase in assessment rates of 2 basis points would accelerate the timeline by 11 years, to 2031.

Chart 3. Expected Time to Reach a 2 Percent Reserve Ratio



The 2 basis point increase in assessment rates brings the average assessment rate of 3.8 basis points, as of June 30, 2022, close to the moderate steady assessment rate that would have been required to maintain a positive DIF balance from 1950 to 2010, and identified as part of the long-term, comprehensive fund management plan in 2011.⁷³

Upon achieving the 2 percent DRR, progressively lower assessment rate schedules will take effect. The 2 basis point increase accelerates the timeline for achieving the 2 percent

⁷¹ The analysis shown in Chart 3 is based on the assumptions used in Scenario B through the projected quarter that the reserve ratio meets or exceeds 1.35 percent. Afterward, the analysis assumes: (1) net investment contributions to the fund based on market-implied forward rates; (2) the assessment base grows 4.5 percent, annually; (3) operating expenses grow at 1 percent per year; and (4) failures for the five-year period from 2022 to 2026 cost approximately \$1.8 billion, with a low level of losses each year thereafter. The uniform increase in assessment rates of 1 or 2 basis points from the current rate schedule is assumed to take effect on January 1, 2023.

⁷² See 75 FR 66281.

⁷³ See 75 FR 66273 and 76 FR 10675.

DRR, reduces the likelihood that the FDIC would need to consider a potentially procyclical assessment rate increase, and increases the likelihood of the DIF remaining positive through potential future periods of significant losses due to bank failures, consistent with the FDIC's long-term fund management plan.

Capital and Earnings Analysis and Expected Effects

This analysis estimates the effect on the capital and earnings of IDIs of the uniform increase in initial base assessment rate schedules of 2 basis points. For this analysis, data as of June 30, 2022, are used to calculate each bank's assessment base and risk-based assessment rate, absent the increase in assessment rates. The base and rate are assumed to remain constant throughout the one-year projection period.⁷⁴

The analysis assumes that pre-tax income for the four quarters beginning on the effective date of the rate increase, January 1, 2023, is equal to income reported from July 1, 2021, through June 30, 2022, adjusted for mergers. The analysis also assumes that the effects of changes in assessments are not transferred to customers in the form of changes in borrowing rates, deposit rates, or service fees. Since deposit insurance assessments are a tax-deductible operating expense for some institutions, increases in the assessment expense can lower taxable income.⁷⁵ Therefore, the analysis considers the effective after-tax cost of assessments in calculating the effect on capital.⁷⁶

An institution's earnings retention and dividend policies influence the extent to which assessments affect equity levels. If an institution maintains the same dollar amount of dividends when it pays a higher deposit insurance assessment under the final rule, equity (retained earnings) will be less by the full amount of the after-tax cost of the

⁷⁴ All income statement items used in this analysis were adjusted for the effect of mergers. Institutions for which four quarters of non-zero earnings data were unavailable, including insured branches of foreign banks, were excluded from this analysis.

⁷⁵ The Tax Cuts and Jobs Act of 2017 placed a limitation on tax deductions for FDIC premiums for banks with total consolidated assets between \$10 and \$50 billion and disallowed the deduction entirely for banks with total assets of \$50 billion or more. *See* the Tax Cuts and Jobs Act, Pub. L. 115-97 (Dec. 22, 2017).

⁷⁶ The analysis does not incorporate any tax effects from an operating loss carry forward or carry back.

increase in the assessment. This analysis instead assumes that an institution will maintain its dividend rate (that is, dividends as a fraction of net income) unchanged from the weighted average rate reported over the four quarters ending June 30, 2022. In the event that the ratio of equity to assets falls below 4 percent, however, this assumption is modified such that an institution retains the amount necessary to reach a 4 percent minimum and distributes any remaining funds according to the dividend payout rate.⁷⁷

The FDIC estimates that a uniform increase in initial base assessment rate schedules of 2 basis points would contribute approximately \$4.4 billion in annual assessment revenue in 2023.⁷⁸ Given the assumptions in the analysis, for the industry as a whole, the FDIC estimates that, on average, a uniform increase in assessment rates of 2 basis points would decrease Tier 1 capital by an estimated 0.1 percent. The increase in assessment rates is estimated to cause no banks whose ratio of equity to assets would have equaled or exceeded 4 percent under the current assessment rate schedule to fall below that percentage (becoming undercapitalized), and no banks whose ratio of equity to assets would have exceeded 2 percent under the current rate schedule to fall below that percentage, becoming critically undercapitalized.

The banking industry has reported strong earnings in recent quarters. In the second quarter of 2022, banks saw a rise in net income over the prior quarter due to growth in net interest income, which resulted from a combination of loan growth and rising interest rates. The net interest margin for the industry increased from the prior quarter by 26 basis points and from the year-ago quarter by 29 basis points to 2.80

⁷⁷ The analysis uses 4 percent as the threshold because IDIs generally need to maintain a leverage ratio of 4.0 percent or greater to be considered “adequately capitalized” under Prompt Corrective Action Standards, in addition to the following requirements: (i) total risk-based capital ratio of 8.0 percent or greater; (ii) Tier 1 risk-based capital ratio of 6.0 percent or greater; (iii) common equity tier 1 capital ratio of 4.5 percent or greater; and (iv) does not meet the definition of “well capitalized.” Beginning January 1, 2018, an advanced approaches or Category III FDIC-supervised institution will be deemed to be “adequately capitalized” if it satisfies the above criteria and has a supplementary leverage ratio of 3.0 percent or greater, as calculated in accordance with 12 CFR 324.10. *See* 12 CFR 324.403(b)(2). For purposes of this analysis, equity to assets is used as the measure of capital adequacy.

⁷⁸ Estimates and projections are based on the assumptions used in Scenario B.

percent. The average return-on-assets ratio (ROA) of 1.08 increased 7 basis points from the prior quarter, but is down from a decade-high of 1.38 percent in first quarter 2021. The banking industry remained resilient through the second quarter of 2022 despite the extraordinary challenges of the pandemic, and is well positioned to absorb a modest increase in assessment rate schedules of 2 basis points.

The effect of the change in assessments on an institution's income is measured by the change in deposit insurance assessments as a percent of income before assessments and taxes (hereafter referred to as "income"). This income measure is used in order to eliminate the potentially transitory effects of taxes on profitability. The FDIC analyzed the impact of assessment changes on institutions that were profitable in the period covering the 12 months before June 30, 2022.

Given the assumptions in the analysis, for the industry as a whole, the FDIC estimates that the annual increase in assessments will reduce income slightly by an average of 1.2 percent, which includes an average of 1.0 percent for small banks and an average of 1.3 percent for large and highly complex institutions.⁷⁹

Table 8 shows that approximately 96 percent of profitable institutions are projected to have an increase in assessments of less than 5 percent of income. Another 4 percent of profitable institutions are projected to have an increase in assessments equal to or exceeding 5 percent of income.

⁷⁹ Earnings or income are annual income before assessments and taxes. Annual income is assumed to equal income from July 1, 2021, through June 30, 2022.

Table 8 – Estimated Annual Effect of the Assessment Rate Increase on Income for All Profitable Institutions¹

Change in Assessments as Percent of Income	Number of Institutions	Percent of Institutions	Assets of Institutions [\$ billions]	Percent of Assets
Over 30%	9	<1	6	<1
20% to 30%	8	<1	11	<1
10% to 20%	46	1	48	<1
5% to 10%	138	3	27	<1
Less than 5%	4,373	96	23,471	100
No Change	1	<1	<1	<1
Total	4,575	100	23,563	100

¹ Income is defined as annual income before assessments and taxes. Annual income is assumed to equal income from July 1, 2021, through June 30, 2022, adjusted for mergers. Profitable institutions are defined as those having positive merger-adjusted income for the 12 months ending June 30, 2022. Excludes 9 insured branches of foreign banks and 7 institutions reporting fewer than 4 quarters of reported earnings. Some columns do not add to total due to rounding.

Among profitable small institutions, 95 percent are projected to have an increase in assessments of less than 5 percent of income, as shown in Table 9. The remaining 5 percent of profitable small institutions are projected to have an increase in assessments equal to or exceeding 5 percent of income. As shown in Table 10, 99 percent of profitable large and highly complex institutions are projected to have an increase in assessments below 5 percent of income.

Table 9 – Estimated Annual Effect of the Assessment Rate Increase on Income for Profitable Small Institutions¹

Change in Assessments as Percent of Income	Number of Institutions	Percent of Institutions	Assets of Institutions [\$ billions]	Percent of Assets
Over 30%	9	<1	6	<1
20% to 30%	8	<1	11	<1
10% to 20%	45	1	7	<1
5% to 10%	138	3	27	1
Less than 5%	4,231	95	3,445	99
No Change	1	<1	<1	<1
Total	4,432	100	3,495	100

¹ Income is defined as annual income before assessments and taxes. Annual income is assumed to equal income from July 1, 2021, through June 30, 2022, adjusted for mergers. Profitable institutions are defined as those having positive merger-adjusted income for the 12 months ending June 30, 2022. Some columns do not add to total due to rounding. For assessment purposes, a small institution is generally defined as an institution with less than \$10 billion in total assets.

Table 10 – Estimated Annual Effect of the Assessment Rate Increase on Income for Profitable Large and Highly Complex Institutions¹

Change in Assessments as Percent of Income	Number of Institutions	Percent of Institutions	Assets of Institutions (\$ billions)	Percent of Assets
Over 30%	0	0	0	0
20% to 30%	0	0	0	0
10% to 20%	1	1	41	<1
5% to 10%	0	0	0	0
Less than 5%	142	99	20,027	100
No Change	0	0	0	0
Total	143	100	20,068	100

¹ Income is defined as annual income before assessments and taxes. Annual income is assumed to equal income from July 1, 2021, through June 30, 2022, adjusted for mergers. Profitable institutions are defined as those having positive merger-adjusted income for the 12 months ending June 30, 2022. Some columns do not add to total due to rounding. For assessment purposes, a large bank is generally defined as an institution with \$10 billion or more 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.

Strengthening the DIF

As discussed above, the increase in assessment rate schedules is projected to have an insignificant effect on institutions' capital levels and is unlikely to have a material effect relative to income for almost all institutions. However, the resulting increase in assessment revenue, combined across all institutions, is projected to grow the DIF by over \$4 billion a year. This growth will strengthen the DIF's ability to withstand potential future periods of significant losses due to bank failures and reduce the likelihood that the FDIC would need to increase assessment rates during a future banking crisis.

Accelerating the time in which the reserve ratio will reach the statutory minimum of 1.35 percent and the DRR of 2 percent will allow the banking industry to remain a source of strength for the economy during a potential future downturn and will continue to ensure public confidence in federal deposit insurance.

E. Alternatives Considered

The FDIC has considered the reasonable and possible alternatives to meet the requirement that the reserve ratio reach the statutory minimum by the statutory deadline,

but believes, on balance, that an increase in assessment rate schedules of 2 basis points is the most appropriate and most straightforward manner in which to achieve the objectives of the Amended Restoration Plan and the long-term fund management plan.

Alternative 1: Maintain Current Assessment Rate Schedule

The first alternative the FDIC considered is to maintain the current schedule of assessment rates. As described above, the FDIC projected that the reserve ratio would reach the statutory minimum of 1.35 percent in the second quarter of 2034, after the statutory deadline under Scenario A, which assumes annual insured deposit growth of 4.0 percent and an average annual assessment rate of 3.5 basis points. Under Scenario B, which assumes insured deposit growth of 3.5 percent and an average assessment rate of 4.0 basis points, the FDIC projected that the reserve ratio would reach the statutory minimum of 1.35 percent in the fourth quarter of 2026.

As described above, the FDIC rejected maintaining the current schedule of assessment rates. Absent an increase in assessment rates, under Scenario A, growth in the DIF would not be sufficient for the reserve ratio to reach the statutory minimum of 1.35 percent ahead of the required deadline. While the reserve ratio would reach the statutory minimum ahead of the required deadline under Scenario B, growth in the fund resulting from current assessment rates could be offset if unexpected losses materialize, insured deposit growth accelerates, or risk profiles of institutions improve, resulting in lower assessment rates.

Additionally, relative to the other alternatives and the increase in assessment rate schedules of 2 basis points, maintaining the current schedule of assessment rates would not result in any acceleration of growth in the DIF in progressing toward the FDIC's long-term goal of a 2 percent DRR. Absent an increase in assessment rates and assuming annual insured deposit growth of 3.5 percent and a weighted average assessment rate of 4.0 basis points, the FDIC projected that the reserve ratio would achieve the 2 percent

DRR in 2042, eleven years later than if the FDIC were to apply an increase in assessment rate schedules of 2 basis points beginning in 2023.

Alternative 2: Increase in Assessment Rates of 1 Basis Point

A second alternative the FDIC considered is to increase initial base assessment rate schedules uniformly by 1 basis point. The FDIC projected that a 1 basis point increase in the average assessment rate would result in the reserve ratio reaching the statutory minimum in the second quarter of 2026 under Scenario A and in the fourth quarter of 2024 under Scenario B.

The FDIC rejected this alternative in favor of a 2 basis point increase in assessment rate schedules. Reaching the statutory minimum reserve ratio in 2026, as projected under Scenario A, would be very close to the statutory deadline and could result in the FDIC having to consider higher assessment rates in the face of a future downturn or industry stress. While a 1 basis point increase under Scenario B is projected to result in the reserve ratio reaching 1.35 percent in the fourth quarter of 2024, the increase in associated assessment revenue would generate a smaller buffer to absorb unexpected losses, accelerated insured deposit growth, or lower average assessment rates that could materialize over this period.

Additionally, the FDIC projected that a 1 basis point increase in assessment rate schedules would result in the reserve ratio achieving the 2 percent DRR in approximately 2034, about 3 years later than if the FDIC were to apply an increase in assessment rate schedules of 2 basis points beginning in 2023.

Alternative 3: One-Time Special Assessment of 4.5 Basis Points

A third alternative would be to impose a one-time special assessment of 4.5 basis points, applicable to the assessment base of all IDIs. Utilizing data as of June 30, 2022, and assuming an effective date of January 1, 2023, the FDIC estimated that a one-time special assessment of 4.5 basis points would contribute approximately \$9.7 billion in

annual assessment revenue and the reserve ratio would reach 1.35 percent the quarter following the effective date (i.e., the second assessment period of 2023).⁸⁰ Accordingly, the FDIC estimated that, on average, a one-time special assessment of 4.5 basis points would decrease Tier 1 capital by an estimated 0.5 percent and reduce the annual earnings of IDIs by approximately 2.8 percent, in aggregate.⁸¹

While a one-time special assessment of 4.5 basis points is projected to increase the DIF reserve ratio to 1.35 percent the most quickly and precisely, and would significantly mitigate the potential that the FDIC would need to consider a pro-cyclical increase in assessment rates, it is estimated to result in a quarterly assessment expense that is more than eight times greater than the proposal. Additionally, while the reserve ratio is projected to be restored to 1.35 percent immediately under this alternative, the risk would remain that it could fall back below the statutory minimum shortly thereafter if a sufficient cushion is not built in. This would result in the establishment of a new restoration plan. Further, a one-time special assessment would not meaningfully accelerate the timeline for achieving the 2 percent DRR.

In the FDIC's view, an increase in assessment rate schedules of 2 basis points appropriately balances several considerations, including the goal of reaching the statutory minimum reserve ratio reasonably promptly, strengthening the fund to reduce the risk that the FDIC would need to consider a potentially pro-cyclical assessment increase in the event of a future downturn or industry stress before the statutory deadline, at a time when the banking industry is better positioned to absorb a modest increase in assessment rate schedules, and improving the timeline for achieving a 2 percent DRR to strengthen

⁸⁰ Estimates and projections related to the one-time special assessment assume that: (1) insured deposit growth is 4 percent annually; (2) the average assessment rate before any rate increase is 3.5 basis points; (3) losses to the DIF from bank failures total \$1.8 billion from 2022 to 2026; (4) the assessment base grows 4.5 percent, annually; (5) net investment contributions to the deposit insurance fund balance are zero; and (6) operating expenses grow at 1 percent per year.

⁸¹ Earnings or income are annual income before assessments, taxes, and extraordinary items. Annual income is assumed to equal income from July 1, 2021, through June 30, 2022.

the fund to withstand potential future banking crises.

A discussion on other alternatives proposed through comments received on the notice of proposed rulemaking is provided above in the section on *Comments on Alternatives*.

IV. Effective Date of the Final Rule

The FDIC is issuing this final rule with an effective date of January 1, 2023, and applicable beginning the first quarterly assessment period of 2023 (i.e., January 1 through March 31, 2023, with an invoice payment date of June 30, 2023).

V. Administrative Law Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a final rule, to prepare and make available for public comment a final regulatory flexibility analysis that describes the impact of a final rule on small entities.⁸² However, a regulatory flexibility analysis is not required if the agency certifies that the final 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 \$750 million.⁸³ Certain types of rules, such as rules of particular applicability relating to rates, corporate or financial structures, or practices relating to such rates or structures, are expressly excluded from the definition of “rule” for purposes of the RFA.⁸⁴ Because the final rule relates directly to the rates imposed on IDIs for deposit insurance, the final rule is not subject to the

⁸² 5 U.S.C. 601 *et seq.*

⁸³ The SBA defines a small banking organization as having \$750 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 by 87 FR 18627, effective May 2, 2022). 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. *See* 13 CFR 121.103. Following these regulations, the FDIC uses a banking organization’s affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the banking organization is “small” for the purposes of RFA.

⁸⁴ 5 U.S.C. 601.

RFA. Nonetheless, the FDIC is voluntarily presenting information in this RFA section.

The final rule is expected to affect all FDIC-insured depository institutions. According to recent Call Report data, there are currently 4,780 IDIs holding approximately \$24 trillion in assets.⁸⁵ Of these, approximately 3,394 IDIs would be considered small entities for the purposes of RFA.⁸⁶ These small entities hold approximately \$882 billion in assets.

The final rule will increase initial base assessment rate schedules for these small entities by 2 basis points. In aggregate, the total annual amount paid in assessments by small entities will increase by approximately \$160 million, from \$317 million to \$475 million.⁸⁷

At the individual bank level, few institutions will be significantly affected by the final rule. Fewer than 350 small entities will experience annual assessment increases greater than \$100,000, and none will experience annual assessment increases greater than \$150,000. When compared to the banks' expenses, the annual assessment increases are significant for only a handful of small entities: only five small entities will experience annual assessment increases greater than 2.5 percent of their noninterest expenses, and only two will experience annual assessment increases greater than 5 percent of what they paid in employee salaries and benefits.⁸⁸

The FDIC invited comments regarding the supporting information provided in the RFA section in the proposed rule, but did not receive comments on this topic.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) states that no agency may conduct

⁸⁵ Based on Call Report data as of June 30, 2022, the most recent period for which small entities can be identified.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.* For purposes of the RFA, the FDIC generally 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 noninterest expenses.

or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.⁸⁹ The FDIC's OMB control numbers for its assessment regulations are 3064-0057, 3064-0151, and 3064-0179. The final rule does not create any new, or revise any of these existing, assessment information collections pursuant to the PRA; consequently, no information collection request will be made to the OMB for review.

C. Riegle Community Development and Regulatory Improvement Act

Section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (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.⁹⁰ In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations prescribed by a Federal banking agency that impose additional reporting, disclosures, 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.⁹¹

The amendments to the FDIC's deposit insurance assessment regulations under this final rule do not impose additional reporting, disclosure, or other new requirements on insured depository institutions, including small depository institutions, or on the customers of depository institutions. Accordingly, section 302 of RCDRIA does not

⁸⁹ 44 U.S.C. 3501-3521.

⁹⁰ 12 U.S.C. 4802(a).

⁹¹ 12 U.S.C. 4802(b).

apply. The FDIC invited comments regarding the application of RCDRIA in the proposed rule, but did not receive comments on this topic. Nevertheless, the requirements of RCDRIA have been considered in setting the final effective date.

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act⁹² requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the **Federal Register** after January 1, 2000. FDIC staff believes the final rule is presented in a simple and straightforward manner. The FDIC invited comment regarding the use of plain language in the proposed rule but did not receive any comments on this topic.

E. The Congressional Review Act

For purposes of the Congressional Review Act, the OMB makes a determination as to whether a final rule constitutes a “major” rule.⁹³

If a rule is deemed a “major rule” by the OMB, the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.⁹⁴

The Congressional Review Act defines a “major rule” as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in: (A) an annual effect on the economy of \$100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or Local government agencies or geographic regions; or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.⁹⁵

⁹² Pub. L. 106-102, section 722, 113 Stat. 1338, 1471 (1999), 12 U.S.C. 4809.

⁹³ 5 U.S.C. 801 *et seq.*

⁹⁴ 5 U.S.C. 801(a)(3).

⁹⁵ 5 U.S.C. 804(2).

The OMB has determined that the final rule is a major rule for purposes of the Congressional Review Act. As required by the Congressional Review Act, the FDIC will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

List of Subjects in 12 CFR Part 327

Bank deposit insurance, Banks, banking, Savings associations.

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation amends 12 CFR part 327 as follows:

PART 327—ASSESSMENTS

1. The authority for 12 CFR part 327 continues to read as follows:

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

2. Amend § 327.4 by revising paragraphs (a) and (c) to read as follows:

§ 327.4 Assessment rates.

(a) *Assessment risk assignment.* For the purpose of determining the annual assessment rate for insured depository institutions under § 327.16, each insured depository institution will be provided an assessment risk assignment. Notice of an institution's current assessment risk assignment will be provided to the institution with each quarterly certified statement invoice. Adjusted assessment risk assignments for prior periods may also be provided by the Corporation. Notice of the procedures applicable to reviews will be included with the notice of assessment risk assignment provided pursuant to this paragraph (a).

* * * * *

(c) *Requests for review.* An institution that believes any assessment risk assignment provided by the Corporation pursuant to paragraph (a) of this section is incorrect and seeks to change it must submit a written request for review of that risk assignment. An institution cannot request review through this process of the CAMELS

ratings assigned by its primary federal regulator or challenge the appropriateness of any such rating; each federal regulator has established procedures for that purpose. An institution may also request review of a determination by the FDIC to assess the institution as a large, highly complex, or a small institution (§ 327.16(f)(3)) or a determination by the FDIC that the institution is a new institution (§ 327.16(g)(5)). Any request for review must be submitted within 90 days from the date the assessment risk assignment being challenged pursuant to paragraph (a) of this section appears on the institution's quarterly certified statement invoice. The request shall be submitted to the Corporation's Director of the Division of Insurance and Research in Washington, DC, and shall include documentation sufficient to support the change sought by the institution. If additional information is requested by the Corporation, such information shall be provided by the institution within 21 days of the date of the request for additional information. Any institution submitting a timely request for review will receive written notice from the Corporation regarding the outcome of its request. Upon completion of a review, the Director of the Division of Insurance and Research (or designee) or the Director of the Division of Supervision and Consumer Protection (or designee) or any successor divisions, as appropriate, shall promptly notify the institution in writing of his or her determination of whether a change is warranted. If the institution requesting review disagrees with that determination, it may appeal to the FDIC's Assessment Appeals Committee. Notice of the procedures applicable to appeals will be included with the written determination.

* * * * *

3. Amend § 327.8 by revising paragraphs (e)(2), (f), (k)(1) introductory text, and (l) through (p) to read as follows:

§ 327.8 Definitions.

* * * * *

(e) * * *

(2) Except as provided in paragraph (e)(3) of this section and § 327.17(e), if, after December 31, 2006, an institution classified as large under paragraph (f) of this section (other than an institution classified as large for purposes of § 327.16(f)) reports assets of less than \$10 billion in its quarterly reports of condition for four consecutive quarters, excluding assets as described in § 327.17(e), the FDIC will reclassify the institution as small beginning the following quarter.

* * * * *

(f) *Large institution.* An institution classified as large for purposes of § 327.16(f) or an insured depository institution with assets of \$10 billion or more, excluding assets as described in § 327.17(e), as of December 31, 2006 (other than an insured branch of a foreign bank or a highly complex institution) shall be classified as a large institution. If, after December 31, 2006, an institution classified as small under paragraph (e) of this section reports assets of \$10 billion or more in its quarterly reports of condition for four consecutive quarters, excluding assets as described in § 327.17(e), the FDIC will reclassify the institution as large beginning the following quarter.

* * * * *

(k) * * *

(1) *Merger or consolidation involving new and established institution(s).* Subject to paragraphs (k)(2) through (5) of this section and § 327.16(g)(3) and (4), when an established institution merges into or consolidates with a new institution, the resulting institution is a new institution unless:

* * * * *

(l) *Risk assignment.* Under § 327.16, for all new small institutions and insured branches of foreign banks, risk assignment includes assignment to Risk Category I, II, III, or IV, and for insured branches of foreign banks within Risk Category I, assignment to an

assessment rate or rates. For all established small institutions, and all large institutions and all highly complex institutions, risk assignment includes assignment to an assessment rate.

(m) *Unsecured debt.* For purposes of the unsecured debt adjustment as set forth in § 327.16(e)(1) and the depository institution debt adjustment as set forth in § 327.16(e)(2), unsecured debt shall include senior unsecured liabilities and subordinated debt.

(n) *Senior unsecured liability.* For purposes of the unsecured debt adjustment as set forth in § 327.16(e)(1) and the depository institution debt adjustment as set forth in § 327.16(e)(2), senior unsecured liabilities shall be the unsecured portion of other borrowed money as defined in the quarterly report of condition for the reporting period as defined in paragraph (b) of this section.

(o) *Subordinated debt.* For purposes of the unsecured debt adjustment as set forth in §327.16(e)(1) and the depository institution debt adjustment as set forth in § 327.16(e)(2), subordinated debt shall be as defined in the quarterly report of condition for the reporting period; however, subordinated debt shall also include limited-life preferred stock as defined in the quarterly report of condition for the reporting period.

(p) *Long-term unsecured debt.* For purposes of the unsecured debt adjustment as set forth in §327.16(e)(1) and the depository institution debt adjustment as set forth in § 327.16(e)(2), long-term unsecured debt shall be unsecured debt with at least one year remaining until maturity; however, any such debt where the holder of the debt has a redemption option that is exercisable within one year of the reporting date shall not be deemed long-term unsecured debt.

* * * * *

§ 327.9 [Removed and Reserved]

4. Remove and reserve § 327.9.

5. Amend § 327.10 as follows:

- a. Remove paragraph (a);
- b. Redesignate paragraph (b) as paragraph (a) and revise it;
- c. Add new paragraph (b);
- d. Remove paragraph (e)(1)(i);
- e. Redesignate paragraph (e)(1)(ii) as paragraph (e)(1)(i) and revise it;
- f. Add new paragraph (e)(1)(ii);
- g. Revise paragraph (e)(1)(iii);
- h. Add paragraph (e)(1)(iv);
- i. Revise paragraph (e)(2)(i);
- j. Redesignate paragraphs (e)(2)(ii) and (iii) as (e)(2)(iii) and (iv), respectively; and
- k. Add new paragraph (e)(2)(ii).

The revisions and additions read as follows:

§ 327.10 Assessment rate schedules.

(a) Assessment rate schedules for established small institutions and large and highly complex institutions applicable 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 in all subsequent assessment periods through the assessment period ending December 31, 2022, where the reserve ratio of the DIF as of the end of the prior assessment period is less than 2 percent.

(1) *Initial base assessment rate schedule for established small institutions and large and highly complex institutions.* 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 through the assessment period ending December 31, 2022, where the reserve ratio as of the end of the prior assessment period is less than 2 percent, the initial base assessment rate for

established small institutions and large and highly complex institutions, except as provided in paragraph (f) of this section, shall be the rate prescribed in the schedule in the following table:

Table 1 to Paragraph (a)(1) Introductory Text—Initial Base Assessment Rate Schedule Beginning the First Assessment Period After June 30, 2016, Where the Reserve Ratio as of the End of the Prior Assessment Period Has Reached 1.15 Percent, and for All Subsequent Assessment Periods Through the Assessment Period Ending December 31 2022, Where the Reserve Ratio as of the End of the Prior Assessment Period Is Less Than 2 Percent¹

	Established Small Institutions			Large & Highly Complex Institutions
	CAMELS Composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	3 to 16	6 to 30	16 to 30	3 to 30

¹All amounts are in basis points annually. Initial base rates that are not the minimum or maximum rate will vary between these rates.

(i) *CAMELS composite 1- and 2-rated established small institutions initial base assessment rate schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 1 or 2 shall range from 3 to 16 basis points.

(ii) *CAMELS composite 3-rated established small institutions initial base assessment rate schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 3 shall range from 6 to 30 basis points.

(iii) *CAMELS composite 4- and 5-rated established small institutions initial base assessment rate schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 4 or 5 shall range from 16 to 30 basis points.

(iv) *Large and highly complex institutions initial base assessment rate schedule.* The annual initial base assessment rates for all large and highly complex institutions shall range from 3 to 30 basis points.

(2) *Total base assessment rate schedule after adjustments.* In the first assessment period after June 30, 2016, that 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 through the assessment period ending December 31, 2022, where the reserve ratio for the prior assessment period is less than 2 percent, the total base assessment rates after adjustments for established small institutions and large and highly complex institutions, except as provided in paragraph (f) of this section, shall be as prescribed in the schedule in the following table:

Table 2 to Paragraph (a)(2) Introductory Text—Total Base Assessment Rate Schedule (After Adjustments)¹ Beginning the First Assessment Period, Where the Reserve Ratio as of the End of the Prior Assessment Period Has Reached 1.15 Percent, and for All Subsequent Assessment Periods Through the Assessment Period ending December 31, 2022, Where the Reserve Ratio as of the End of the Prior Assessment Period Is Less Than 2 Percent²

	Established Small Institutions			Large & Highly Complex Institutions
	CAMELS Composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	3 to 16	6 to 30	16 to 30	3 to 30
Unsecured Debt Adjustment	-5 to 0	-5 to 0	-5 to 0	-5 to 0
Brokered Deposit Adjustment	N/A	N/A	N/A	0 to 10
Total Base Assessment Rate	1.5 to 16	3 to 30	11 to 30	1.5 to 40

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

(i) *CAMELS composite 1- and 2-rated established small institutions total base assessment rate schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 1 or 2 shall range from 1.5 to 16 basis

points.

(ii) *CAMELS composite 3-rated established small institutions total base assessment rate schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 3 shall range from 3 to 30 basis points.

(iii) *CAMELS composite 4- and 5-rated established small institutions total base assessment rate schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 4 or 5 shall range from 11 to 30 basis points.

(iv) *Large and highly complex institutions total base assessment rate schedule.* The annual total base assessment rates for all large and highly complex institutions shall range from 1.5 to 40 basis points.

(b) Assessment rate schedules for established small institutions and large and highly complex institutions beginning the first assessment period of 2023, where the reserve ratio of the DIF as of the end of the prior assessment period is less than 2 percent.

(1) *Initial base assessment rate schedule for established small institutions and large and highly complex institutions.* Beginning the first assessment period of 2023, where the reserve ratio of the DIF as of the end of the prior assessment period is less than 2 percent, the initial base assessment rate for established small institutions and large and highly complex institutions, except as provided in paragraph (f) of this section, shall be the rate prescribed in the schedule in the following table:

Table 3 to Paragraph (b)(1) Introductory Text—Initial Base Assessment Rate Schedule Beginning the First Assessment Period of 2023, Where the Reserve Ratio as of the End of the Prior Assessment Period is Less Than 2 Percent¹

	Established Small Institutions			Large & Highly Complex Institutions
	CAMELS Composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	5 to 18	8 to 32	18 to 32	5 to 32

¹All amounts are in basis points annually. Initial base rates that are not the minimum

or maximum rate will vary between these rates.

(i) *CAMELS composite 1- and 2-rated established small institutions initial base assessment rate schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 1 or 2 shall range from 5 to 18 basis points.

(ii) *CAMELS composite 3-rated established small institutions initial base assessment rate schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 3 shall range from 8 to 32 basis points.

(iii) *CAMELS composite 4- and 5-rated established small institutions initial base assessment rate schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 4 or 5 shall range from 18 to 32 basis points.

(iv) *Large and highly complex institutions initial base assessment rate schedule.* The annual initial base assessment rates for all large and highly complex institutions shall range from 5 to 32 basis points.

(2) *Total base assessment rate schedule after adjustments.* Beginning the first assessment period of 2023, where the reserve ratio of the DIF as of the end of the prior assessment period is less than 2 percent, the total base assessment rates after adjustments for established small institutions and large and highly complex institutions, except as provided in paragraph (f) of this section, shall be as prescribed in the schedule in the following table:

Table 4 to Paragraph (b)(2) Introductory Text—Total Base Assessment Rate Schedule (After Adjustments)¹ Beginning the First Assessment Period of 2023, Where the Reserve Ratio as of the End of the Prior Assessment Period is Less Than 2 Percent²

	Established Small Institutions			Large & Highly Complex Institutions
	CAMELS Composite			
	1 or 2	3	4 or 5	
Initial Base Assessment Rate	5 to 18	8 to 32	18 to 32	5 to 32
Unsecured Debt Adjustment	-5 to 0	-5 to 0	-5 to 0	-5 to 0
Brokered Deposit Adjustment	N/A	N/A	N/A	0 to 10
Total Base Assessment Rate	2.5 to 18	4 to 32	13 to 32	2.5 to 42

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

(i) *CAMELS composite 1- and 2-rated established small institutions total base assessment rate schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 1 or 2 shall range from 2.5 to 18 basis points.

(ii) *CAMELS composite 3-rated established small institutions total base assessment rate schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 3 shall range from 4 to 32 basis points.

(iii) *CAMELS composite 4- and 5-rated established small institutions total base assessment rate schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 4 or 5 shall range from 13 to 32 basis points.

(iv) *Large and highly complex institutions total base assessment rate schedule.* The annual total base assessment rates for all large and highly complex institutions shall range from 2.5 to 42 basis points.

* * * * *

(e) * * *

(1) * * *

(i) *Assessment rate schedules for new large and highly complex institutions once the DIF reserve ratio first reaches 1.15 percent on or after June 30, 2016, and through the assessment period ending December 31, 2022.* 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 through the assessment period ending December 31, 2022, new large and new highly complex institutions shall be subject to the initial and total base assessment rate schedules provided for in paragraph (a) of this section.

(ii) *Assessment rate schedules for new large and highly complex institutions beginning the first assessment period of 2023 and for all subsequent periods.* Beginning in the first assessment period of 2023 and for all subsequent assessment periods, new large and new highly complex institutions shall be subject to the initial and total base assessment rate schedules provided for in paragraph (b) of this section.

(iii) *Assessment rate schedules for new small institutions 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, and for all subsequent assessment periods through the assessment period ending December 31, 2022—(A) Initial base assessment rate schedule for new small institutions.* 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 through the assessment period ending December 31, 2022, the initial base assessment rate for a new small institution shall be the rate prescribed in the schedule in the following table:

Table 9 to Paragraph (e)(1)(iii)(A) Introductory Text—Initial Base Assessment Rate Schedule Beginning the First Assessment Period, Where the Reserve Ratio as of the

End of the Prior Assessment Period Has Reached 1.15 Percent, and For All Subsequent Assessment Periods Through the Assessment Period Ending December 31, 2022¹

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV
Initial Assessment Rate	7	12	19	30

¹ All amounts for all risk categories are in basis points annually.

(1) *Risk category I initial base assessment rate schedule.* The annual initial base assessment rates for all new small institutions in Risk Category I shall be 7 basis points.

(2) *Risk category II, III, and IV initial base assessment rate schedule.* The annual initial base assessment rates for all new small institutions in Risk Categories II, III, and IV shall be 12, 19, and 30 basis points, respectively.

(B) *Total base assessment rate schedule for new small institutions.* In the first assessment period after June 30, 2016, that 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 through the assessment period ending December 31, 2022, the total base assessment rates after adjustments for a new small institution shall be the rate prescribed in the schedule in the following table:

Table 10 to Paragraph (e)(1)(iii)(B) Introductory Text—Total Base Assessment Rate Schedule (After Adjustments)¹ Beginning the First Assessment Period After June 30, 2016, Where the Reserve Ratio as of the End of the Prior Assessment Period Has Reached 1.15 Percent, and for All Subsequent Assessment Periods Through the Assessment Period Ending December 31, 2022²

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV
Initial Assessment Rate	7	12	19	30
Brokered Deposit Adjustment (added)	N/A	0 to 10	0 to 10	0 to 10
Total Base	7	12 to 22	19 to 29	30 to 40

Assessment Rate				
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¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

(1) *Risk category I total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category I shall be 7 basis points.

(2) *Risk category II total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category II shall range from 12 to 22 basis points.

(3) *Risk category III total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category III shall range from 19 to 29 basis points.

(4) *Risk category IV total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category IV shall range from 30 to 40 basis points.

(iv) *Assessment rate schedules for new small institutions beginning the first assessment period of 2023 and for all subsequent assessment periods—(A) Initial base assessment rate schedule for new small institutions.* Beginning in the first assessment period of 2023 and for all subsequent assessment periods, the initial base assessment rate for a new small institution shall be the rate prescribed in the schedule in the following table, even if the reserve ratio equals or exceeds 2 percent or 2.5 percent:

Table 11 to Paragraph (e)(1)(iv)(A) Introductory Text—Initial Base Assessment Rate Schedule Beginning the First Assessment Period of 2023 and For All Subsequent Assessment Periods¹

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV
Initial Assessment	9	14	21	32

Rate				
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¹ All amounts for all risk categories are in basis points annually.

(1) *Risk category I initial base assessment rate schedule.* The annual initial base assessment rates for all new small institutions in Risk Category I shall be 9 basis points.

(2) *Risk category II, III, and IV initial base assessment rate schedule.* The annual initial base assessment rates for all new small institutions in Risk Categories II, III, and IV shall be 14, 21, and 32 basis points, respectively.

(B) *Total base assessment rate schedule for new small institutions.* Beginning in the first assessment period of 2023 and for all subsequent assessment periods, the total base assessment rates after adjustments for a new small institution shall be the rate prescribed in the schedule in the following table, even if the reserve ratio equals or exceeds 2 percent or 2.5 percent:

Table 12 to Paragraph (e)(1)(iv)(B) Introductory Text—Total Base Assessment Rate Schedule (After Adjustments)¹ Beginning the First Assessment Period of 2023 and for All Subsequent Assessment Periods²

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV
Initial Assessment Rate	9	14	21	32
Brokered Deposit Adjustment (added)	N/A	0 to 10	0 to 10	0 to 10
Total Base Assessment Rate	9	14 to 24	21 to 31	32 to 42

¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

(1) *Risk category I total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category I shall be 9 basis points.

(2) *Risk category II total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category II shall range from 14 to 24 basis points.

(3) *Risk category III total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category III shall range from 21 to 31 basis points.

(4) *Risk category IV total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category IV shall range from 32 to 42 basis points.

(2) * * *

(i) *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, and for all subsequent assessment periods through the assessment period ending December 31, 2022, where the reserve ratio as of the end of the prior assessment period is less than 2 percent.* 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 through the assessment period ending December 31, 2022, where the reserve ratio as of the end of the prior assessment period is less than 2 percent, the initial and total base assessment rates for an insured branch of a foreign bank, except as provided in paragraph (f) of this section, shall be the rate prescribed in the schedule in the following table:

Table 13 to Paragraph (e)(2)(i) Introductory Text—Initial and Total Base Assessment Rate Schedule¹ Beginning the First Assessment Period After June 30, 2016, Where the Reserve Ratio as of the End of the Prior Assessment Period Has Reached 1.15 Percent, and for All Subsequent Assessment Periods Through the Assessment Period Ending December 31, 2022, Where the Reserve Ratio as of the End of the Prior Assessment Period Is Less Than 2 Percent²

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV
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Initial and Total Assessment Rate	3 to 7	12	19	30
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¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Initial and total base rates that are not the minimum or maximum rate will vary between these rates.

(A) *Risk category I initial and total base assessment rate schedule.* The annual initial and total base assessment rates for an insured branch of a foreign bank in Risk Category I shall range from 3 to 7 basis points.

(B) *Risk category II, III, and IV initial and total base assessment rate schedule.* The annual initial and total base assessment rates for Risk Categories II, III, and IV shall be 12, 19, and 30 basis points, respectively.

(C) All insured branches of foreign banks in any one risk category, other than Risk Category I, will be charged the same initial base assessment rate, subject to adjustment as appropriate.

(ii) *Assessment rate schedule for insured branches of foreign banks beginning the first assessment period of 2023, where the reserve ratio of the DIF as of the end of the prior assessment period is less than 2 percent.* Beginning the first assessment period of 2023, where the reserve ratio of the DIF as of the end of the prior assessment period is less than 2 percent, the initial and total base assessment rates for an insured branch of a foreign bank, except as provided in paragraph (f) of this section, shall be the rate prescribed in the schedule in the following table:

Table 14 to Paragraph (e)(2)(ii) Introductory Text—Initial and Total Base Assessment Rate Schedule¹ Beginning the First Assessment Period of 2023, Where the Reserve Ratio as of the End of the Prior Assessment Period is Less Than 2 Percent²

	Risk Category I	Risk Category II	Risk Category III	Risk Category IV
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Initial and Total Assessment Rate	5 to 9	14	21	32
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¹ The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

² All amounts for all risk categories are in basis points annually. Initial and total base rates that are not the minimum or maximum rate will vary between these rates.

(A) *Risk category I initial and total base assessment rate schedule.* The annual initial and total base assessment rates for an insured branch of a foreign bank in Risk Category I shall range from 5 to 9 basis points.

(B) *Risk category II, III, and IV initial and total base assessment rate schedule.* The annual initial and total base assessment rates for Risk Categories II, III, and IV shall be 14, 21, and 32 basis points, respectively.

(C) *Same initial base assessment rate.* All insured branches of foreign banks in any one risk category, other than Risk Category I, will be charged the same initial base assessment rate, subject to adjustment as appropriate.

* * * * *

6. Amend § 327.11 by revising paragraph (c)(3)(i) to read as follows:

§ 327.11 Surcharges and assessments required to raise the reserve ratio of the DIF to 1.35 percent.

* * * * *

(c) * * *

(3) * * *

(i) *Fraction of quarterly regular deposit insurance assessments paid by credit accruing institutions.* The fraction of assessments paid by credit accruing institutions shall equal quarterly deposit insurance assessments, as determined under § 327.16, paid by such institutions for each assessment period during the credit calculation period, divided by the total amount of quarterly deposit insurance assessments paid by all insured

depository institutions during the credit calculation period, excluding the aggregate amount of surcharges imposed under paragraph (b) of this section.

* * * * *

7. Amend § 327.16 as follows:

a. Redesignate paragraphs (a)(1)(i)(A) through (C) as (a)(1)(i)(B) through (D), respectively;

b. Add new paragraph (a)(1)(i)(A);

c. Revise newly redesignated paragraph (a)(1)(i)(B);

d. Redesignate paragraphs (d)(4)(ii)(A) through (C) as (d)(4)(ii)(B) through (D), respectively;

e. Add new paragraph (d)(4)(ii)(A); and

f. Revise newly redesignated paragraph (d)(4)(ii)(B).

The revisions and additions 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.

* * * * *

(a) * * *

(1) * * *

(i) * * *

(A) 7.352 whenever the assessment rate schedule set forth in § 327.10(a) is in effect;

(B) 9.352 whenever the assessment rate schedule set forth in § 327.10(b) is in effect;

* * * * *

(d) * * *

(4) * * *

(ii) * * *

(A) –5.127 whenever the assessment rate schedule set forth in § 327.10(a) is in effect;

(B) –3.127 whenever the assessment rate schedule set forth in § 327.10(b) is in effect;

* * * * *

8. Amend appendix A to subpart A of part 327 as follows:

- a. Revise sections I through III;
- b. Remove sections IV and V; and
- c. Redesignate section VI as section IV;

The revisions read as follows:

Appendix A to Subpart A of Part 327—Method to Derive Pricing Multipliers and Uniform Amount

I. Introduction

The uniform amount and pricing multipliers are derived from:

- A model (the Statistical Model) that estimates the probability of failure of an institution over a three-year horizon;
- The minimum initial base assessment rate;
- The maximum initial base assessment rate;
- Thresholds marking the points at which the maximum and minimum assessment rates become effective.

II. The Statistical Model

The Statistical Model estimates the probability of an insured depository institution failing within three years using a logistic regression and pooled time-series cross-sectional data;¹ that is, the dependent variable in the estimation is whether an insured

depository institution failed during the following three-year period. Actual model parameters for the Statistical Model are an average of each of three regression estimates for each parameter. Each of the three regressions uses end-of-year data from insured depository institutions' quarterly reports of condition and income (Call Reports and Thrift Financial Reports or TFRs²) for every third year to estimate probability of failure within the ensuing three years. One regression (Regression 1) uses insured depository institutions' Call Report and TFR data for the end of 1985 and failures from 1986 through 1988; Call Report and TFR data for the end of 1988 and failures from 1989 through 1991; and so on, ending with Call Report data for the end of 2009 and failures from 2010 through 2012. The second regression (Regression 2) uses insured depository institutions' Call Report and TFR data for the end of 1986 and failures from 1987 through 1989, and so on, ending with Call Report data for the end of 2010 and failures from 2011 through 2013. The third regression (Regression 3) uses insured depository institutions' Call Report and TFR data for the end of 1987 and failures from 1988 through 1990, and so on, ending with Call Report data for the end of 2011 and failures from 2012 through 2014. The regressions include only Call Report data and failures for established small institutions.

¹ Tests for the statistical significance of parameters use adjustments discussed by Tyler Shumway (2001) "Forecasting Bankruptcy More Accurately: A Simple Hazard Model," *Journal of Business* 74:1, 101-124.

² Beginning in 2012, all insured depository institutions began filing quarterly Call Reports and the TFR was no longer filed.

Table A.1 lists and defines the explanatory variables (regressors) in the Statistical Model.

Table A.1—Definitions of Measures Used in the Financial Ratios Method

Variables	Description
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Leverage Ratio (%)	Tier 1 capital divided by adjusted average assets. (Numerator and denominator are both based on the definition for prompt corrective action.)
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
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. ^{2,3}
Other Real Estate Owned/Gross Assets (%)	Other real estate owned divided by gross assets. ²
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, reciprocal deposits are deducted from brokered deposits. If the ratio is less than zero, the value is set to zero.
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. In instances where the "S" component is missing, the remaining components are scaled by a factor of 10/9. ⁴
Loan Mix Index	A measure of credit risk described below.
One-Year Asset Growth (%)	Growth in assets (adjusted for mergers ⁵) over the previous year in excess of 10 percent. ⁶ If growth is less than 10 percent, the value is set to zero.

¹ For purposes of calculating actual assessment rates (as opposed to model estimation), 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. For purposes of model estimation only, the ratio of Net Income before Taxes to Total Assets is defined as income (before income taxes and extraordinary items and other adjustments) for the most recent twelve months divided by total assets.

² For purposes of calculating actual assessment rates (as opposed to model estimation), "Gross assets" are total assets plus the allowance for loan and lease financing receivable losses (ALLL); for purposes of estimating the Statistical Model, for years before 2001, when allocated transfer risk was not included in ALLL in Call Reports, allocated transfer risk is included in gross assets separately.

³ Delinquency and non-accrual data on government guaranteed loans are not available for the entire estimation period. As a result, the Statistical Model is estimated without deducting delinquent or past-due government guaranteed loans from the nonperforming loans and leases to gross assets ratio.

⁴ The component rating for sensitivity to market risk (the "S" rating) is not available for years before 1997. As a result, and as described in the table, the Statistical Model is estimated using a weighted average of five component ratings excluding the "S"

component where the component is not available.

⁵ Growth in assets is also adjusted for acquisitions of failed banks.

⁶ For purposes of calculating actual assessment rates (as opposed to model estimation), the maximum value of the One-Year 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.

The financial variable measures used to estimate the failure probabilities are obtained from Call Reports and TFRs. The weighted average of the "C," "A," "M," "E," "L," and "S" component ratings measure is based on component ratings obtained from the most recent bank examination conducted within 24 months before the date of the Call Report or TFR.

The Loan Mix Index assigns loans to the categories of loans described in Table A.2. For each loan category, a charge-off rate is calculated for each year from 2001 through 2014. The charge-off rate for each year is the aggregate charge-off rate on all such loans held by small institutions in that year. A weighted average charge-off rate is then calculated for each loan category, where the weight for each year is based on the number of small-bank failures during that year.³ A Loan Mix Index for each established small institution is calculated by: (1) multiplying the ratio of the institution's amount of loans in a particular loan category to its total assets by the associated weighted average charge-off rate for that loan category; and (2) summing the products for all loan categories. Table A.2 gives the weighted average charge-off rate for each category of loan, as calculated through the end of 2014. The Loan Mix Index excludes credit card loans.

³ An exception is "Real Estate Loans Residual," which consists of real estate loans held in foreign offices. Few small insured depository institutions report this item and a statistically reliable estimate of the weighted average charge-off rate could not be obtained. Instead, a weighted average of the weighted average charge-off rates of the other real estate loan categories is used. (The other categories are construction & development, multifamily residential, nonfarm nonresidential, 1-4 family residential, and agricultural real estate.) The weight for each of the other real estate loan categories is based on the aggregate amount of the loans held by small insured depository institutions as of December 31, 2014.

Table A.2: Loan Mix Index Categories

	Weighted Charge-off Rate Percent
Construction & Development	4.4965840
Commercial & Industrial	1.5984506
Leases	1.4974551
Other Consumer	1.4559717
Loans to Foreign Government	1.3384093
Real Estate Loans Residual	1.0169338
Multifamily Residential	0.8847597
Nonfarm Nonresidential	0.7286274
1-4 Family Residential	0.6973778
Loans to Depository banks	0.5760532
Agricultural Real Estate	0.2376712
Agriculture	0.2432737

For each of the three regression estimates (Regression 1, Regression 2 and Regression 3), the estimated probability of failure (over a three-year horizon) of institution i at time T is

Equation 1

$$P_{iT} = 1 / (1 + \exp(-Z_{iT}))$$

where

Equation 2

$$\begin{aligned} Z_{iT} = & \beta_0 + \beta_1 (\text{Leverage Ratio}_{iT}) + \beta_2 (\text{Nonperforming loans and leases ratio}_{iT}) + \\ & \beta_3 (\text{Other real estate owned ratio}_{iT}) + \beta_4 (\text{Net income before taxes ratio}_{iT}) + \beta_5 \\ & (\text{Brokered deposit ratio}_{iT}) + \beta_6 (\text{Weighted average CAMELS component rating}_{iT}) \\ & + \beta_7 (\text{Loan mix index}_{iT}) + \beta_8 (\text{One-year asset growth}_{iT}) \end{aligned}$$

where the β variables are parameter estimates. As stated earlier, for actual assessments, the β values that are applied are averages of each of the individual parameters over three separate regressions. Pricing multipliers (discussed in the next section) are based on Z_{iT} .⁴

⁴ The Z_{iT} values have the same rank ordering as the probability measures P_{iT} .

III. Derivation of uniform amount and pricing multipliers

The uniform amount and pricing multipliers used to compute the annual initial base assessment rate in basis points, R_{iT} , for any such institution i at a given time T will be determined from the Statistical Model as follows:

Equation 3

$$R_{iT} = \alpha_0 + \alpha_1 * Z_{iT} \text{ subject to } Min \leq R_{iT} \leq Max^5$$

where α_0 and α_1 are a constant term and a scale factor used to convert Z_{iT} to an assessment rate, Max is the maximum initial base assessment rate in effect and Min is the minimum initial base assessment rate in effect. (R_{iT} is expressed as an annual rate, but the actual rate applied in any quarter will be $R_{iT}/4$.)

⁵ R_{iT} is also subject to the minimum and maximum assessment rates applicable to established small institutions based upon their CAMELS composite ratings.

Solving equation 3 for minimum and maximum initial base assessment rates simultaneously,

$$Min = \alpha_0 + \alpha_1 * Z_N \text{ and } Max = \alpha_0 + \alpha_1 * Z_X$$

where Z_X is the value of Z_{iT} above which the maximum initial assessment rate (Max) applies and Z_N is the value of Z_{iT} below which the minimum initial assessment rate (Min) applies, results in values for the constant amount, α_0 , and the scale factor, α_1 :

Equation 4

$$\alpha_0 = Min - \frac{Z_N * (Max - Min)}{Z_X - Z_N}$$

and *Equation 5*

$$\alpha_1 = \frac{Max - Min}{Z_X - Z_N}$$

The values for Z_X and Z_N will be selected to ensure that, for an assessment period shortly before adoption of a final rule, aggregate assessments for all established small institutions would have been approximately the same under the final rule as they would have been

under the assessment rate schedule that – under rules in effect before adoption of the final rule – will automatically go into effect when the reserve ratio reaches 1.15 percent. As an example, using aggregate assessments for all established small institutions for the third quarter of 2013 to determine Z_X and Z_N , and assuming that *Min* had equaled 3 basis points and *Max* had equaled 30 basis points, the value of Z_X would have been 0.87 and the value of Z_N -6.36. Hence based on equations 4 and 5,

$$\alpha_0 = 26.751 \text{ and}$$

$$\alpha_1 = 3.734.$$

Therefore from equation 3, it follows that

Equation 6

$$R_{iT} = 26.751 + 3.734 * Z_{iT} \text{ subject to } 3 \leq R_{iT} \leq 30$$

Substituting equation 2 produces an annual initial base assessment rate for institution i at time T , R_{iT} , in terms of the uniform amount, the pricing multipliers and model variables:

Equation 7

$$R_{iT} = [26.751 + 3.734 * \beta_0] + 3.734 * [\beta_1 (\text{Leverage ratio}_{iT})] + 3.734 * \beta_2$$

$$(\text{Nonperforming loans and leases ratio}_{iT}) + 3.734 * \beta_3 (\text{Other real estate owned}$$

$$\text{ratio}_{iT}) + 3.734 * \beta_4 (\text{Net income before taxes ratio}_{iT}) + 3.734 * \beta_5 (\text{Brokered}$$

$$\text{deposit ratio}_{iT}) + 3.734 * \beta_6 (\text{Weighted average CAMELS component rating}_{iT}) +$$

$$3.734 * \beta_7 (\text{Loan mix index}_{iT}) + 3.734 * \beta_8 (\text{One-year asset growth}_{iT})$$

again subject to $3 \leq R_{iT} \leq 30$ ⁶

where $26.751 + 3.734 * \beta_0$ equals the uniform amount, $3.734 * \beta_j$ is a pricing multiplier for the associated risk measure j , and T is the date of the report of condition corresponding to the end of the quarter for which the assessment rate is computed.

⁶ As stated above, R_{iT} is also subject to the minimum and maximum assessment rates applicable to established small institutions based upon their CAMELS composite ratings.

* * * * *

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on October 18, 2022.

James P. Sheesley,

Assistant Executive Secretary.

BILLING CODE 6714-01-P

[FR Doc. 2022-22985 Filed: 10/20/2022 11:15 am; Publication Date: 10/24/2022]