FEDERAL

12 CFR Part 330

RIN 3064-AG06

Clarification of Deposit Insurance Coverage for Branches of U.S. Banks in the Federated States of Micronesia, the Marshall Islands, and Palau

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is adopting a final rule to provide that the FDIC will insure deposits of all branches of U.S.-insured depository institutions (IDIs) in the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, whether operating presently or in the future. This final rule follows an interim final rule with request for comment issued by the FDIC in August 2024.

DATES: The final rule is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

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SUPPLEMENTARY INFORMATION:

I. Background

In 1981, Congress amended the Federal Deposit Insurance Act (FDI Act) to permit the FDIC to provide deposit insurance coverage to branches of U.S.-chartered IDIs located in the Trust Territory of the Pacific Islands (Trust Territory). At that time, the Trust Territory included what is now the Federated States of Micronesia (FSM), the Republic of the Marshall Islands (Marshall Islands), the Republic of Palau (Palau), and the Northern Mariana Islands. Between 1986 and 1994, the FSM, the Marshall Islands, and Palau became independent nations

(collectively known as the Freely Associated States), and each entered a Compact of Free Association (Compacts) with the United States. The Compacts and associated agreements authorize certain government agencies, including the FDIC, to provide specific services to each of the Freely Associated States. In 2023, the United States and each of the Freely Associated States entered new agreements relating to their respective Compacts, which were subsequently approved by Congress. The new agreements authorize the FDIC to provide deposit insurance to IDIs chartered by any of the Freely Associated States.

Three U.S.-chartered IDIs also operate branches in the Freely Associated States that have historically been insured under authority in the FDI Act. After the Compacts and the related agreements were concluded, the FDIC adopted an interim final rule[1] to clarify that it insures the deposits of legacy branches of U.S. IDIs operating in the Freely Associated States, and requested public comment. The interim final rule defined "legacy branches" as the number of branches operating in the Freely Associated States by each U.S. IDI as of the rule's effective date, August 9, 2024. The FDIC received one comment supporting the clarification but requesting that the FDIC remove language limiting coverage to legacy branches. In response to that feedback, the FDIC is adopting this final rule pursuant to its authorities under section 11 of the FDI Act, relating to deposit insurance, as well as authorities under sections 9 and 10, to make deposit insurance available to all branches of U.S.-chartered IDIs in the Freely Associated States, whether present or future.

II. Legal Framework and Overview of the Interim Final Rule

A. Deposit Insurance Coverage for Foreign Branches of U.S. IDIs

Under the FDIC's regulations, an obligation of an IDI that is payable solely at an office of the IDI located outside any State is not considered a "deposit" for purposes of the deposit insurance regulations.[2] Where an obligation of an IDI is carried on the books and records of an

[1] 89 FR 65166 (Aug. 9, 2024).
[2] 12 CFR 330.3(e)(1).

office of the IDI located outside any State, the regulations provide that it shall not be considered an insured deposit, even if it is also made payable at an office of the IDI located within any State.[3] That is, where obligations booked outside the U.S. are made dually payable (meaning that the deposits are expressly payable in an office of the IDI in the United States),[4] they may be entitled to depositor preference (payment ahead of the institution's other creditors), but under the FDIC's rules, are not generally eligible for deposit insurance coverage.

B. Deposit Insurance Coverage for U.S. Branches in the Freely Associated States

The interim final rule amended the FDIC's regulations to provide that legacy branches of U.S. IDIs in the Freely Associated States are not considered to be offices located outside any State for purposes of the deposit insurance rules. Therefore, deposits in those branches, if dually payable (meaning that the deposits are expressly payable in an office of the IDI in the United States), are insured by the FDIC. The interim final rule defined "legacy branches" as the number of branches operated by each U.S. IDI as of August 9, 2024. The interim final rule limited coverage to the legacy branches of U.S. IDIs in order to align deposit insurance coverage with the coverage provided historically for U.S. banks operating in the Freely Associated States.

III. Public Comments

The FDIC received one comment letter from the Bank of Guam (commenter), a U.S.-chartered IDI, that operates branches in the Freely Associated States. While the commenter supported the interim final rule to the extent it clarified the application of FDIC deposit insurance to legacy branches of U.S. IDIs in the Freely Associated States, the commenter raised concerns about the effect of limiting deposit insurance to just those legacy branches. Specifically, the commenter requested clarity as to whether a relocated branch would qualify as a legacy branch. The commenter also noted that the limitation of coverage to legacy branches

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[3] 12 CFR 330.3(e)(2).

[4] Obligations of an IDI's foreign branch that would otherwise fall under the definition of "deposit" at 12 U.S.C. 1813(*l*) do not constitute a "deposit" unless the obligation (1) would be a deposit if carried on the books and records of the IDI in the United States; and (2) is expressly payable at an office of the IDI located in the United States. 12 U.S.C. 3(*l*)(5)(A). This second requirement that the obligation be payable at an office in the United States has historically been referred to as "dual payability."

would act as a restriction to growth and expansion that never historically existed prior to the interim final rule.

IV. The Final Rule

The final rule removes the reference to "legacy branches" in the FDIC's regulations. Under the amended rule, all branches of U.S. IDIs in the Freely Associated States, whether present or future, are not considered to be offices located outside any State for purposes of deposit insurance coverage. As a result, dually payable deposits of all branches of U.S.-chartered banks in the Freely Associated States, whether present or future, will be insured by the FDIC.

Providing deposit insurance to all branches of U.S. IDIs in the Freely Associated States achieves the FDIC's intent to align its deposit insurance regulations with the historical availability of FDIC deposit insurance in the Freely Associated States. The final rule also puts U.S. IDIs operating in the Freely Associated States on equal footing with IDIs chartered by the Freely Associated States. Further, removing a limitation that may have served as a barrier to entry will support a competitive banking environment in the Freely Associated States. Additionally, the FDIC does not have a clear rationale to limit deposit insurance only to existing branches of U.S. IDIs and not new branches of U.S. IDIs.

V. Expected Effects

In 2024, the FDIC adopted an interim final rule that provided deposit insurance to legacy branches of U.S. IDIs operating in the Freely Associated States. This final rule further amends 12 CFR part 330 to remove the requirement that the branches be "legacy" branches. Under the final rule, FDIC will insure dually payable deposits of all branches of U.S. IDIs operating in the Freely Associated States.

As described above, the interim final rule clarified continuing deposit insurance coverage for all legacy branches in the Freely Associated States—that is, all eight branches operating as of August 9, 2024, the effective date of the interim final rule, by three U.S. IDIs. As of the quarter

ending June 30, 2025, there are still eight branches operated in the Freely Associated States by three U.S. IDIs.[5] Taken together, these branches have approximately $803.47 million in deposits.

As discussed above, the interim final rule did not alter deposit insurance coverage at the eight branches currently operating in the Freely Associated States. Costs imposed by the interim final rule on the operators of these branches, if any, were likely limited to costs associated with clarifications to their customers regarding the nature of deposit insurance for products offered at these branches. The FDIC does not have data to quantify these costs but believes they were *de minimis*.

The final rule extends deposit insurance coverage to all branches of U.S.-insured depository institutions in the Freely Associated States. In contrast to the interim final rule, any new branches formed by U.S. IDIs in the Freely Associated States will now be eligible to have their deposits insured under the final rule. As such, the final rule may affect the formation of new branches in the Freely Associated States. The FDIC believes that more branches may potentially be opened as a result of the final rule. In the absence of the final rule, it is more likely that U.S. IDIs operating in the Freely Associated States would continue to endeavor to attract new customers and depositors but without opening new branches. The FDIC does not have data to estimate these impacts.

Additionally, the FDIC notes that given the very small size of the Freely Associated States relative to the U.S. population and economy, and the preexisting availability of deposit insurance for IDIs operating in the Freely Associated States, the final rule is expected to have a *de minimis* impact on the Deposit Insurance Fund.

VI. Administrative Law Matters

A. Administrative Procedure Act

[5] FDIC Summary of Deposits data as of June 30, 2025. The FDIC currently insures deposits of one bank chartered by the Federated States of Micronesia, the Bank of the Federated States of Micronesia, pursuant to the Compacts negotiated by the U.S. government and the Freely Associated States. The final rule does not affect deposit insurance coverage for this bank.

The Administrative Procedure Act requires an agency to publish a substantive rule not less than 30 days before its effective date, except when an agency otherwise publishes in the final rule good cause for providing for an earlier effective date.[6] Accordingly, the final rule is effective as of the date set forth above in this document under the DATES heading.

B. 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 the final rule on small entities.[7] However, a final regulatory flexibility analysis is not required if the agency certifies that the final rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The SBA has defined "small entities" to include banking organizations with total assets of less than or equal to $850 million.[8] Generally, the FDIC considers a significant economic impact to be a quantified effect in excess of 5 percent of total annual salaries and benefits or 2.5 percent of total noninterest expenses. The FDIC believes that effects in excess of one or more of these thresholds typically represent significant economic impacts for FDIC-supervised institutions. The final rule applies to U.S.-chartered IDIs that operate in the Freely Associated States presently or in the future. As of the quarter ending June 30, 2025, there are three U.S. IDIs with eight total branches in the Freely Associated States.[9] Of these, one U.S. IDI is considered small for purposes of the RFA.

The FDIC does not believe that the final rule will have a significant impact on a substantial number of small entities. The sole small entity affected by the interim final rule has a

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[6] 5 U.S.C. 553(d).
[7] 5 U.S.C. 601 et seq.
[8] The SBA defines a small banking organization as having $850 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 69118, effective Dec. 19, 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 an insured depository institution's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the insured depository institution is ''small'' for the purposes of RFA.
[9] FDIC Summary of Deposits data as of June 30, 2025.

single branch. As discussed in the Expected Effects section, the FDIC expects any effects of the final rule on this branch and its customers to be *de minimis*. The FDIC does not have information on the extent the final rule may affect business decisions—such as marketing and deposit solicitation and future branch openings—of IDIs that are not currently doing business in the Freely Associated States but may choose to do so in the future. However, the single small entity affected by the interim final rule and any additional small entities that may open a branch in the Freely Associated States are unlikely to constitute a substantial number of small entities.

In light of the foregoing, the FDIC certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a final regulatory flexibility analysis is not required.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA)[10] states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The final rule does not create any new, or revise any of these existing assessment information collections pursuant to the PRA; consequently, no submissions in connection with these OMB control numbers will be made to the OMB for review.

Any new branch applications that result from this rule will be reflected in the next information collection renewal.

D. Riegle Community Development and Regulatory Improvement Act of 1994

The Riegle Community Development and Regulatory Improvement Act of 1994 generally provides that new regulations or amendments to regulations prescribed by a Federal banking agency that impose additional reporting, disclosure, or other new requirements on IDIs shall 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, unless the agency determines, for good cause published

[10] 44 U.S.C. 3501 through 3521.

with the rule, that the rule should become effective before such time.[11] The rule does not impose any reporting, disclosure, or other requirements on IDIs.

E. Plain Language

Section 722 of the Gramm-Leach-Bliley Act[12] requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the *Federal Register* after January 1, 2000. The FDIC has sought to present the final rule in a simple and straightforward manner and did not receive any comments relating to plain language.

F. 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.[13] 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.[14]

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 (1) an annual effect on the economy of $100,000,000 or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) 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.[15]

The OMB has determined that the final rule is not a major rule for purposes of the Congressional Review Act.

G. Executive Order 12866

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[11] 12 U.S.C. 4802.
[12] Pub. L. 106-102, section 722, 113 Stat. 1338, 1471 (1999), 12 U.S.C. 4809.
[13] 5 U.S.C. 801 *et seq*.
[14] 5 U.S.C. 801(a)(3).
[15] 5 U.S.C. 804(2).

Executive Order 12866, as amended, provides that the Office of Information and Regulatory Affairs (OIRA) will review all "significant regulatory actions" as defined therein. The FDIC has submitted this regulatory act to OIRA for review. OIRA has determined that this final rule is not a "significant regulatory action" for purposes of Executive Order 12866. For more information on the analysis conducted in connection with Executive Order 12866, refer to other sections of this SUPPLEMENTARY INFORMATION.

H. Executive Order 14192

Executive Order 14192 directs agencies, unless prohibited by law, to identify at least 10 existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation with total costs greater than zero. Executive Order 14192 further requires that new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations. An Executive Order 14192 deregulatory action is an action that has been finalized and has total costs less than zero. This final rule is considered an Executive Order 14192 deregulatory action.

List of Subjects in 12 CFR Part 330

Bank deposit insurance, Banks, banking, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation adopts as final the interim final rule amending 12 CFR part 330, which was published at 89 FR 65166 on August 9, 2024, with the following change:

PART 330—DEPOSIT INSURANCE COVERAGE

1. The authority citation for part 330 continues to read as follows:

Authority: 12 U.S.C. 1813(*l*), 1813(m), 1817(i), 1818(q), 1819(a)(Tenth), 1820(f), 1820(g), 1821(a), 1821(d), 1822(c).

2. Amend § 330.3 by revising and republishing paragraph (e)(3) to read as follows:

§ 330.3 General principles.

* * * * *

(e)***

(3) *Rule of construction.* For purposes of this paragraph (e), the following are not considered to be offices located outside any State, as referred to in paragraph (e)(1) of this section:

(i) Overseas Military Banking Facilities operated under U.S. Department of Defense regulations, 32 CFR parts 230 and 231; and

(ii) Branches of U.S.-insured depository institutions in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.

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Federal Deposit Insurance Corporation.
By order of the Board of Directors.
Dated at Washington, DC, March 19, 2026.
Jennifer M. Jones,
Deputy Executive Secretary.

BILLING CODE 6714-01-P

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