



FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 337

RIN 3064–AF76

Unsafe and Unsound Banking Practices: Brokered Deposits and Interest Rate Restrictions; Correction

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Correcting amendments.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is correcting a final rule that was published in the *Federal Register* on January 22, 2021.

DATES: Effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Justin Hagerty, Senior

Examination Specialist, Division of Risk Management Supervision, (319) 382-2760,

JHagerty@fdic.gov; Shane Bogusz, Senior Attorney, Legal Division, (366) 571-0212,

SBogusz@fdic.gov.

SUPPLEMENTARY INFORMATION:

I. Background

This *Federal Register* Notice corrects technical errors in the FDIC’s regulations concerning brokered deposits, 12 CFR Parts 303 and 337, which were amended by a final rule published in the *Federal Register* on January 22, 2021 (2021 rule). The 2021 rule inadvertently deleted the text accompanying two footnotes (which, additionally, were previously misnumbered) in 12 CFR 337.6(a)(3)(i). The 2021 rule also failed to update a cross-reference to 12 CFR 337.6(b)(2)(ii), a section which was relocated to 12 CFR 337.7(c)(2). Finally, the 2021 rule inadvertently used the term “assets under management” in the regulatory text for Part 303 when the rule’s preamble, as well as two

related provisions of the FDIC’s regulations, used the correct terminology, “assets under administration,” to describe the same concept. Through this document, the FDIC is correcting these inadvertent errors, as well as making several minor grammatical changes.

II. Administrative Law Matters

The Administrative Procedure Act (“APA”) generally requires an agency to publish notice of a rulemaking in the *Federal Register* and provide an opportunity for public comment. This requirement does not apply, however, if the agency “for good cause finds . . . that notice and public procedure are impracticable, unnecessary, or contrary to the public interest.”¹ The technical amendments do not impose any new substantive regulatory requirements on any party. The technical amendments make minor revisions to promote clarity and consistency, as well as correct certain drafting errors contained in the 2021 brokered deposit rule. For these reasons, there is good cause for the FDIC to find that it is unnecessary to publish notice of these amendments in the *Federal Register* or to solicit public comment thereon.

Although the APA generally requires publication of a rule at least 30 days before its effective date, for similar reasons there is good cause for the amendments to take effect on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Additionally, the provisions of the Regulatory Flexibility Act,² which apply only when notice and comment are required by the APA or other law, are not applicable. These amendments do not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1995.³

List of Subjects

12 CFR Part 303

¹ 5 U.S.C. 553(b)(3)(B).

² 5 U.S.C. 601 et seq.

³ 44 U.S.C. 3501 et seq.

Administrative practice and procedure, Bank deposit insurance, Banks, Banking, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 337

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

Authority and Issuance

For the reasons stated in the preamble, the FDIC corrects 12 CFR parts 303 and 337 by making the following correcting amendments:

PART 303—FILING PROCEDURES

1. The authority citation for part 303 continues to read as follows:

Authority: 12 U.S.C. 378, 1464, 1813, 1815, 1817, 1818, 1819(a) (Seventh and Tenth), 1820, 1823, 1828, 1829, 1831a, 1831e, 1831o, 1831p-1, 1831w, 1835a, 1843(l), 3104, 3105, 3108, 3207, 5414, 5415, and 15 U.S.C. 1601-1607.

§ 303.243 [Amended]

2. Amend § 303.243 by:

a. Removing the text “well-capitalized” in each place it appears and adding in its place the text “well capitalized”.

b. In paragraph (a)(1):

i. Adding a comma after the word “renew” in each place that it appears; and

ii. Removing the word “federal” and adding in its place the word “Federal”.

c. In paragraph (a)(3)(iii):

i. Adding a comma after the word “rates”; and

ii. Adding a comma after the word “solicitation”.

d. In paragraph (a)(3)(vi):

i. Adding a comma after the word “acceptance”.

e. In paragraph (b)(4)(ii)(D):

i. Removing the word “management” and adding in its place the word “administration”.

PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

3. The authority citation for part 337 continues to read as follows:

Authority: 12 U.S.C. 375a(4), 375b, 1463, 1464, 1468, 1816, 1818(a), 1818(b), 1819, 1820(d), 1821(f), 1828(j)(2), 1831, 1831f, 1831g, 5412.

4. Amend § 337.6 by:

a. Removing the text “appropriate federal banking” in each place it appears and adding in its place the text “appropriate Federal banking”;

b. Removing the text “well-capitalized” in each place it appears and adding in its place the text “well capitalized”;

c. In each place it appears, adding a comma following the word “renew”;

d. In each place it appears, adding a comma following the word “renewal”;

e. Revising paragraph (a)(3)(i);

f. Removing the editorial note appearing after (a)(3)(i);

g. Revising paragraph (a)(5)(iii)(C)(I);

h. In paragraph (a)(5)(v)(I)(I)(xiii), removing the text “and” and in its place adding the text “or”; and

i. In paragraph (d), removing the text “paragraph (b)(2)(ii) of the section” and in its place adding the text “§ 337.7(c)(2)”.

The revisions read as follows:

§ 337.6 Brokered deposits.

(a) * * *

(3) * * *

(i) For purposes of section 29 of the Federal Deposit Insurance Act, this section, and § 337.7, the terms well capitalized, adequately capitalized, and undercapitalized,¹

shall have the same meaning as to each insured depository institution as provided under regulations implementing section 38 of the Federal Deposit Insurance Act issued by the appropriate Federal banking agency for that institution.²

[FN1] The term undercapitalized includes any institution that is significantly undercapitalized or critically undercapitalized under regulations implementing section 38 of the Federal Deposit Insurance Act and issued by the appropriate Federal banking agency for that institution.

[FN2] For the most part, the capital measure terms are defined in the following regulations: FDIC—12 CFR part 324, subpart H; Board of Governors of the Federal Reserve System—12 CFR part 208; and Office of the Comptroller of the Currency—12 CFR part 6.

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(5) * * *

(iii) * * *

(C) * * *

(I) A person is engaged in matchmaking activities if the person proposes deposit allocations at, or between, more than one insured depository institution based upon both the particular deposit objectives of a specific depositor or depositor's agent, and the particular deposit objectives of specific insured depository institutions, except in the case of deposits placed by a depositor's agent with an insured depository institution affiliated with the depositor's agent. A proposed deposit allocation is based on the particular objectives of:

(i) A depositor or depositor's agent when the person has access to specific financial information of the depositor or depositor's agent and the proposed deposit allocation is based upon such information; and

(ii) An insured depository institution when the person has access to the target deposit-balance objectives of specific insured depository institutions and the proposed deposit allocation is based upon such information.

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5. Amend § 337.7 by:

- a. In paragraph (b)(2), removing the comma that follows the word “monthly”; and
- b. Revising paragraph (c)(1) to read as follows:

§ 337.7 Interest rate restrictions.

(c) * * *

(1) *Well capitalized institutions.* A well capitalized institution may pay interest without restriction by this section.

Federal Deposit Insurance Corporation.
Dated at Washington, DC on May 29, 2026.

Jennifer M. Jones,
Deputy Executive Secretary.

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