

# Overview of Selected Regulations and Supervisory Guidance

This section provides an overview of recently released regulations and supervisory guidance, arranged in reverse chronological order. Press Release (PR) and Financial Institution Letter (FIL) designations are included so the reader can obtain more information.

## ACRONYMS and DEFINITIONS

FDIC	Federal Deposit Insurance Corporation
FRB	Federal Reserve Board
FFIEC	Federal Financial Institutions Examination Council
OCC	Office of the Comptroller of the Currency
OTS	Office of Thrift Supervision
NCUA	National Credit Union Administration
Banking agencies	FDIC, FRB, and OCC
Federal bank and thrift regulatory agencies	FDIC, FRB, OCC, and OTS
Federal financial institution regulatory agencies	FDIC, FRB, OCC, OTS, and NCUA

Subject	Summary
<b>Notice of Proposed Rulemaking on Assessments (PR-248-2010, November 9, 2010, FIL-78-2010, November 10, 2010)</b>	On November 9, 2010, the FDIC adopted the Notice of Proposed Rulemaking on Assessments which would define the assessment base as “average consolidated total assets minus average tangible equity,” as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act); permit certain reductions for banker’s banks and “custodial” banks, as allowed by the Act; revise existing adjustments to assessment rates, eliminate one adjustment, and add another; and revise deposit insurance assessment rate schedules in light of the changes to the assessment base. The proposed rate schedule and other revisions to the assessment rules would become effective April 1, 2011, and would be used to calculate the June 30, 2011 invoices for assessments, which will be due September 30, 2011. Comments are due 45 days following publication in the <i>Federal Register</i> . See <a href="http://www.fdic.gov/news/news/financial/2010/fil10078.html">http://www.fdic.gov/news/news/financial/2010/fil10078.html</a>
<b>Notice of Proposed Rulemaking on Assessments (PR-248-2010, November 9, 2010, FIL-77-2010, November 10, 2010)</b>	On November 9, 2010, the FDIC adopted the Notice of Proposed Rulemaking on Assessments which would revise the risk-based assessment system for all large insured depository institutions, generally those institutions with at least \$10 billion in total assets. The proposed changes would be effective April 1, 2011. Comments are due 45 days following publication in the <i>Federal Register</i> . See <a href="http://www.fdic.gov/news/news/financial/2010/fil10077.html">http://www.fdic.gov/news/news/financial/2010/fil10077.html</a>
<b>Final Rule: Temporary Unlimited Coverage for Noninterest - Bearing Transaction Accounts (PR-247-2010, November 9, 2010, FIL-76-2010, November 9, 2010, <i>Federal Register</i>, Vol. 75, No. 219, p. 69577, November 15, 2010)</b>	The FDIC Board of Directors has issued a final rule to implement the section of the Dodd-Frank Wall Street Reform and Consumer Protection Act that provides temporary unlimited coverage for noninterest-bearing transaction accounts at all FDIC-insured depository institutions. The separate coverage for noninterest-bearing transaction accounts becomes effective on December 31, 2010, and terminates on December 31, 2012. See <a href="https://www.fdic.gov/news/inactive-financial-institution-letters/2010/fil10076.html">https://www.fdic.gov/news/inactive-financial-institution-letters/2010/fil10076.html</a>

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Subject	Summary
<b>Teleconference on Fair Lending Issues (FIL-74-2010, November 3, 2010)</b>	FDIC Fair Lending Examination Specialists hosted a Fair Lending Teleconference on Tuesday, November 16, 2010. This call discussed how the FDIC reviews institutions flagged for disparities based on the Corporation's analysis of Home Mortgage Disclosure Act data. The call also assisted bankers in identifying areas of fair lending risk within their institutions' programs and processes. See <a href="http://www.fdic.gov/news/news/financial/2010/fil10074.html">http://www.fdic.gov/news/news/financial/2010/fil10074.html</a>
<b>Proposed Revisions to Consolidated Reports of Condition and Income (Call Report) for 2011 (FIL-70-2010, October 25, 2010)</b>	The banking agencies are requesting comment on several proposed revisions to the Call Report that would take effect March 31, 2011. Comments were due by November 29, 2010, and will be shared among the agencies. See <a href="https://www.fdic.gov/news/inactive-financial-institution-letters/2010/fil10070.html">https://www.fdic.gov/news/inactive-financial-institution-letters/2010/fil10070.html</a>
<b>Notice of Proposed Rulemaking on Assessments (PR-229-2010, October 19, 2010, FIL-68-2010, October 20, 2010, Federal Register, Vol. 75, No. 207, p. 66272, October 27, 2010)</b>	On October 19, 2010, the FDIC proposed a comprehensive, long-range plan for Deposit Insurance Fund management with the goals of maintaining a positive fund balance, even during a period of large fund losses, and steady, predictable assessment rates throughout economic and credit cycles. The FDIC adopted the Restoration Plan and Notice of Proposed Rulemaking on assessment rates, dividends, and the designated reserve ratio. Comments were due November 26, 2010. See <a href="http://www.fdic.gov/news/news/financial/2010/fil10068.html">http://www.fdic.gov/news/news/financial/2010/fil10068.html</a>
<b>Guidance on Golden Parachute Applications (FIL-66-2010, October 14, 2010)</b>	As part of supervisory efforts to address executive compensation in the financial services industry, the FDIC issued guidance on handling applications to make permissible golden parachute payments. This guidance clarifies the golden parachute application process for troubled institutions, specifies the type of information necessary to satisfy the certification requirements, and highlights factors considered by supervisory staff when determining whether to approve a golden parachute payment. See <a href="http://www.fdic.gov/news/news/financial/2010/fil10066.html">http://www.fdic.gov/news/news/financial/2010/fil10066.html</a>
<b>Joint Final Rule on Community Reinvestment Act (PR-219-2010, September 29, 2010, FIL-65-2010, October 12, 2010)</b>	The federal bank and thrift regulatory agencies are publishing revisions to the Community Reinvestment Act regulations. This rule change implements two statutory changes. One requires the agencies, when assessing a financial institution's record of meeting community credit needs, to consider low-cost education loans to low-income borrowers. The other allows the agencies to consider various activities undertaken with minority- and women-owned financial institutions and low-income credit unions. The final rule took effect November 3, 2010. See <a href="http://www.fdic.gov/news/news/financial/2010/fil10065.html">http://www.fdic.gov/news/news/financial/2010/fil10065.html</a>
<b>Temporary Registration of Municipal Advisors (FIL-63-2010, October 1, 2010)</b>	Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Act), Pub. L. 111-203 amended Section 15B(a) of the Securities Exchange Act of 1934 to make it unlawful for "municipal advisors," as defined in the Act, to provide certain advice to or solicit municipal entities or certain other persons without registering with the U.S. Securities and Exchange Commission (SEC). On September 8, 2010, the SEC issued an interim final temporary rule, 17 C.F.R. § 240.15Ba2-6T, requiring all municipal advisors to register with the SEC by October 1, 2010. Municipal advisors must register by submitting Form MA-T through the SEC's Web site, <a href="http://www.sec.gov">http://www.sec.gov</a> . See <a href="https://www.fdic.gov/news/inactive-financial-institution-letters/2010/fil10063.html">https://www.fdic.gov/news/inactive-financial-institution-letters/2010/fil10063.html</a>

Subject	Summary
<p><b>Model Privacy Notice Form Compliance Guide (FIL-60-2010, September 27, 2010)</b></p>	<p>On December 1, 2009, the FDIC issued amendments to Part 332 of the FDIC's Rules and Regulations which implement the privacy provisions of the Gramm-Leach-Bliley Act and adopted the model privacy notice form. Part 332 requires state nonmember banks to notify consumers of their information-sharing practices and inform consumers of the right to opt out of certain sharing practices. The FDIC now is issuing a compliance guide for state nonmember banks wishing to use the model form to comply with these requirements. See <a href="http://www.fdic.gov/news/news/financial/2010/fil10060.html">http://www.fdic.gov/news/news/financial/2010/fil10060.html</a></p>
<p><b>Notice of Proposed Rule: Temporary Unlimited Coverage for Noninterest-Bearing Transaction Accounts (PR-217-2010, September 27, 2010, FIL-59-2010, September 27, 2010)</b></p>	<p>The FDIC Board of Directors has issued a proposed rule to implement the section of the Dodd-Frank Wall Street Reform and Consumer Protection Act that provides temporary unlimited coverage for noninterest-bearing transaction accounts. The separate coverage for noninterest-bearing transaction accounts becomes effective on December 31, 2010, and terminates on December 31, 2012. The proposed rule is also a vehicle to announce that the FDIC will not be extending its Transaction Account Guarantee Program beyond its scheduled expiration date of December 31, 2010. Comments were due October 15, 2010. See <a href="https://www.fdic.gov/news/inactive-financial-institution-letters/2010/fil10059.html">https://www.fdic.gov/news/inactive-financial-institution-letters/2010/fil10059.html</a></p>
<p><b>FDIC Extends Application Period for Safe Account Pilot (PR-203-2010, September 2, 2010)</b></p>	<p>The FDIC extended for 30 days the application period for a pilot program to evaluate the feasibility of insured depository institutions offering safe, low-cost transactional and savings accounts that meet the needs of underserved consumers. Applications were due October 15, 2010. See <a href="http://www.fdic.gov/news/news/press/2010/pr10203.html">http://www.fdic.gov/news/news/press/2010/pr10203.html</a></p>
<p><b>Guidance on Mitigating Risk Posed by Information Stored on Photocopiers, Fax Machines, and Printers (FIL-56-2010, September 15, 2010)</b></p>	<p>The FDIC has issued guidance which describes the risk posed by sensitive information stored on certain electronic devices and how institutions should mitigate that risk. The guidance encourages financial institutions to implement written policies and procedures to ensure that a hard drive or flash memory containing sensitive information is erased, encrypted, or destroyed. See <a href="http://www.fdic.gov/news/news/financial/2010/fil10056.html">http://www.fdic.gov/news/news/financial/2010/fil10056.html</a></p>
<p><b>Free Nationwide Seminars for Bank Officers and Employees on Deposit Insurance Coverage (FIL-55-2010, September 2, 2010)</b></p>	<p>The FDIC hosted six telephone seminars on deposit insurance coverage for bank representatives between September 23 and November 2, 2010. Four sessions provided a basic overview of deposit insurance coverage, and two focused on advanced deposit insurance coverage issues. The seminars were free to officers and employees of FDIC-insured banks and savings associations. See <a href="https://www.fdic.gov/news/inactive-financial-institution-letters/2010/fil10055.html">https://www.fdic.gov/news/inactive-financial-institution-letters/2010/fil10055.html</a></p>
<p><b>Advance Notice of Proposed Rulemaking Regarding Alternatives to the Use of External Credit Ratings in Risk-Based Capital Guidelines of the Federal Banking Agencies (PR-185-2010, August 10, 2010, FIL-52-2010, August 16, 2010)</b></p>	<p>The banking agencies requested comment on alternative standards of creditworthiness to replace the use of credit ratings in the risk-based capital requirements. The advance notice was issued in response to Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act which requires the agencies to review regulations that (1) require an assessment of the creditworthiness of a security or money market instrument and (2) contain references to or requirements regarding credit ratings. In addition, the agencies are required to remove such references and requirements and substitute uniform standards of creditworthiness, where feasible. Comments for the Advance Notice of Proposed Rulemaking were due on October 25, 2010. See <a href="https://www.fdic.gov/news/inactive-financial-institution-letters/2010/fil10052.html">https://www.fdic.gov/news/inactive-financial-institution-letters/2010/fil10052.html</a></p>

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Subject	Summary
<b>Final Rule Conforming FDIC Regulations on Deposit Insurance Coverage and Advertisement of Membership to Permanent Standard Maximum Deposit Insurance Amount of \$250,000 (FIL-49-2010, August 12, 2010)</b>	On August 10, 2010, the FDIC Board of Directors adopted a final rule amending its insurance regulations (12 C.F.R. Part 330) and advertising regulations (12 C.F.R. Part 328) to conform with provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which permanently increases the standard maximum deposit insurance amount from \$100,000 to \$250,000. This permanent increase became effective July 22, 2010. See <a href="http://www.fdic.gov/news/news/financial/2010/fil10049.html">http://www.fdic.gov/news/news/financial/2010/fil10049.html</a>
<b>FDIC Board Approves Safe Accounts Pilot Program (PR-183-2010, August 10, 2010)</b>	The FDIC Board of Directors approved a pilot program to evaluate the feasibility of insured depository institutions offering safe, low-cost transactional and savings accounts. Under the pilot, participating institutions will offer electronic deposit accounts with product features identified in the FDIC Model Safe Accounts Template. The pilot's Model Safe Accounts are designed to help meet the needs of the more than one-quarter of all U.S. households that are underserved, according to the <i>FDIC Survey of Unbanked and Underbanked Households</i> . Applications from insured institutions interested in participating in the pilot were due October 15, 2010. See <a href="http://www.fdic.gov/news/news/press/2010/pr10183.html">http://www.fdic.gov/news/news/press/2010/pr10183.html</a>
<b>Letter from FDIC Chairman Sheila C. Bair on Retained Asset Accounts and FDIC Deposit Insurance Coverage (FIL-48-2010, August 11, 2010)</b>	FDIC Chairman Bair sent a letter to the National Association of Insurance Commissioners addressing the FDIC's concerns about the adequacy of disclosures provided by insurance companies when distributing insurance proceeds to consumers through Retained Asset Accounts (RAAs). Insured depository institutions that participate in any function relating to RAAs (participating banks) must be vigilant in minimizing consumer confusion about FDIC insurance coverage. Participating banks should work with the insurance companies offering RAAs to ensure all documents provided to consumers appropriately reflect the participating banks' role in the transactions and disclose to policyholders and beneficiaries if the RAAs are insured by the FDIC. See <a href="http://www.fdic.gov/news/news/financial/2010/fil10048.html">http://www.fdic.gov/news/news/financial/2010/fil10048.html</a>
<b>FDIC Seeks Comments on Overdraft Payment Supervisory Guidance (PR-186-2010, August 11, 2010, FIL-47-2010, August 11, 2010)</b>	The FDIC is seeking comments on how the banking institutions it supervises should implement and maintain robust oversight of automated overdraft payment programs. Such oversight should include appropriate measures to mitigate risks, incorporating best practices outlined in the 2005 <i>Joint Guidance on Overdraft Protection Programs</i> and effective management of third-party arrangements. Management should be particularly vigilant with respect to product over-use that may harm consumers, rather than providing them the protection against occasional errors or funds shortfalls for which the programs were intended. The FDIC sought comments on these supervisory expectations by September 27, 2010. See <a href="https://www.fdic.gov/news/inactive-financial-institution-letters/2010/fil10047.html">https://www.fdic.gov/news/inactive-financial-institution-letters/2010/fil10047.html</a>
<b>Notice of Joint Final Rule: Registration of Residential Mortgage Loan Originators (PR-170-2010, July 28, 2010, FIL-43-2010, July 30, 2010, <i>Federal Register</i>, Vol. 75, No. 144, p. 44656, July 28, 2010)</b>	The federal financial institution regulatory agencies and the Farm Credit Administration published in the <i>Federal Register</i> the joint final rule implementing the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 on July 28, 2010. The rule took effect on October 1, 2010, and institutions are expected to implement appropriate policies, procedures, and management systems to ensure compliance. Applicable mortgage loan originators must register with the Nationwide Mortgage Licensing System and Registry (NMLSR) within 180 days of the date the NMLSR can begin accepting registrations, which could be as soon as January 28, 2011. The FDIC will provide advance notice of the exact date. See <a href="https://www.fdic.gov/news/inactive-financial-institution-letters/2010/fil10043.html">https://www.fdic.gov/news/inactive-financial-institution-letters/2010/fil10043.html</a>

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<b>Standard Deposit Insurance Coverage Amount of \$250,000 Made Permanent (PR-161-2010, July 21, 2010, FIL-40-2010, July 22, 2010)</b>	<p>The Dodd-Frank Wall Street Reform and Consumer Protection Act made permanent the current standard maximum deposit insurance amount of \$250,000. The FDIC coverage limit applies per depositor, per insured depository institution, for each account ownership category. See <a href="http://www.fdic.gov/news/news/financial/2010/fil10040.html">http://www.fdic.gov/news/news/financial/2010/fil10040.html</a></p>
<b>FDIC Board Votes to Revise MOU on Backup Supervision Authority (PR-153-2010, July 12, 2010)</b>	<p>The FDIC Board of Directors voted to revise its Memorandum of Understanding with the primary federal banking regulators to enhance the FDIC's existing backup authorities over insured depository institutions the FDIC does not directly supervise. The revised agreement will improve the FDIC's ability to access information necessary to understand, evaluate, and mitigate its exposure to insured depository institutions, especially the largest and most complex firms. See <a href="http://www.fdic.gov/news/news/press/2010/pr10153.html">http://www.fdic.gov/news/news/press/2010/pr10153.html</a></p>
<b>Alert on FHFA Statement Relative to Concerns With Certain Energy Lending Programs (FIL-37-2010, July 6, 2010)</b>	<p>The Federal Housing Finance Agency issued a statement relative to concerns with certain energy retrofit lending programs. Insured institutions should be aware of such programs, as these programs could affect their residential mortgage lending activities and the ability to sell loans to Fannie Mae and Freddie Mac. See <a href="https://www.fdic.gov/news/inactive-financial-institution-letters/2010/fil10037.html">https://www.fdic.gov/news/inactive-financial-institution-letters/2010/fil10037.html</a></p>
<b>Examination Guidance and Procedures for the Unlawful Internet Gambling Enforcement Act (FIL-35-2010, June 30, 2010)</b>	<p>The federal financial institution regulatory agencies issued guidance and examination procedures related to the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA). The UIGEA was enacted to prohibit institutions from accepting payments from any person engaged in the business of betting or wagering with a business in unlawful Internet gambling. Compliance with the rule took effect June 1, 2010. See <a href="http://www.fdic.gov/news/news/financial/2010/fil10035.html">http://www.fdic.gov/news/news/financial/2010/fil10035.html</a></p>
<b>Small-Dollar Loan Pilot Results Released (PR-140-2010, June 24, 2010; FIL-31-2010, June 24, 2010)</b>	<p>The FDIC issued a report to summarize the final results of the FDIC's Small-Dollar Loan Pilot Program and outline lessons learned and potential strategies for expanding the availability of affordable small-dollar loans. The pilot was designed to illustrate the feasibility of banks offering alternatives to high-cost credit products, such as payday loans and fee-based overdraft programs, and resulted in the creation of a template for safe, affordable, and feasible small-dollar loans. See <a href="http://www.fdic.gov/news/news/financial/2010/fil10031.html">http://www.fdic.gov/news/news/financial/2010/fil10031.html</a></p>
<b>Final Guidance on Incentive Compensation (PR-138-2010, June 21, 2010, <i>Federal Register</i>, Vol. 75, No. 122, p. 36395, June 25, 2010)</b>	<p>The federal bank and thrift regulatory agencies issued final guidance to ensure incentive compensation arrangements at financial organizations take into account risk and are consistent with safe-and-sound practices. The guidance is designed to ensure that incentive compensation arrangements at banking organizations appropriately tie rewards to longer-term performance and do not undermine the safety and soundness of the firm or create undue risks to the financial system. The guidance applies not only to top-level managers, but also to other employees who have the ability to materially affect the risk profile of an organization, either individually or as part of a group. The guidance became effective on June 25, 2010. See <a href="http://www.fdic.gov/news/news/press/2010/pr10138.html">http://www.fdic.gov/news/news/press/2010/pr10138.html</a></p>

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Subject	Summary
<b>Agencies Propose to Expand Scope of Community Reinvestment Act Regulations to Encourage Depository Institution Support for HUD Neighborhood Stabilization Program Activities (PR-135-2010, June 17, 2010)</b>	The federal financial institution regulatory agencies announced a proposed change to the Community Reinvestment Act regulations to support stabilization of communities affected by high foreclosure levels. The proposed change specifically would encourage depository institutions to support the Neighborhood Stabilization Program administered by the U.S. Department of Housing and Urban Development. See <a href="http://www.fdic.gov/news/news/press/2010/pr10135.html">http://www.fdic.gov/news/news/press/2010/pr10135.html</a>
<b>Agencies Announce Public Hearings on Community Reinvestment Act Regulations (PR-134-2010, June 17, 2010)</b>	The federal financial institution regulatory agencies announced a series of public hearings on modernizing the regulations that implement the Community Reinvestment Act (CRA). The hearings were held on the following dates: July 19, 2010, Arlington, Virginia; August 6, 2010, Atlanta, Georgia; August 12, 2010, Chicago, Illinois; and August 17, 2010, Los Angeles, California. The agencies will consider how to update the regulations to reflect changes in the financial services industry, changes in how banking services are delivered to consumers today, and current housing and community development needs. The agencies also want to ensure the CRA remains effective for encouraging institutions to meet the credit needs of communities. Interested parties were invited to provide testimony and written comments. See <a href="http://www.fdic.gov/news/news/press/2010/pr10134.html">http://www.fdic.gov/news/news/press/2010/pr10134.html</a>
<b>Interagency Supervisory Guidance on Bargain Purchases and Assisted Acquisitions (FIL-30-2010, June 7, 2010)</b>	The federal financial institution regulatory agencies issued Interagency Supervisory Guidance on Bargain Purchases and FDIC- and NCUA-Assisted Acquisitions to address supervisory considerations related to business combinations resulting in bargain purchase gains and the impact such gains have on the acquisition approval process. Approval of an acquisition may be conditioned on the acquiring institution's commitment to maintain specified levels of capital to address the risk of significant retrospective adjustments to the bargain purchase gain or other risks. See <a href="http://www.fdic.gov/news/news/financial/2010/fil10030.html">http://www.fdic.gov/news/news/financial/2010/fil10030.html</a>
<b>Guidance on Deposit Placement and Collection Activities (FIL-29-2010, June 7, 2010)</b>	The FDIC issued guidance on deposit placement and collection activities at FDIC-insured institutions and their affiliates. The guidance outlines steps depository institutions should take to avoid customer misunderstanding about deposit insurance coverage when the institutions enter into third-party arrangements to collect and place deposits. Failure to properly administer deposit collection practices in a manner that prevents customer confusion and complies with deposit insurance rules will be factored into the supervisory assessment of the institution and may result in enforcement actions and penalties pursuant to 12 U.S.C. 1828(a)(4). See <a href="http://www.fdic.gov/news/news/financial/2010/fil10029.html">http://www.fdic.gov/news/news/financial/2010/fil10029.html</a>
<b>Agencies Release List of Distressed or Underserved Nonmetropolitan Middle-Income Geographies (PR-128-2010, June 1, 2010)</b>	The federal financial institution regulatory agencies announced the availability of the 2010 list of distressed or underserved nonmetropolitan middle-income geographies where revitalization or stabilization activities will receive Community Reinvestment Act consideration as "community development." See <a href="http://www.fdic.gov/news/news/press/2010/pr10128.html">http://www.fdic.gov/news/news/press/2010/pr10128.html</a>