FDIC

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Financial Institution Letter
FIL-58-2009
September 30, 2009

PREPAID ASSESSMENTS

Notice of Proposed Rulemaking

Summary: On September 29, 2009, the FDIC adopted the attached Notice of Proposed Rulemaking (NPR), which would require insured depository institutions to prepay their quarterly risk-based assessments for the fourth quarter of 2009, and for all of 2010, 2011, and 2012, on December 30, 2009, along with each institution's risk-based deposit insurance assessment for the third quarter of 2009. Comments are due by October 28, 2009.

The FDIC also voted to: (1) adopt an Amended Restoration Plan; (2) maintain assessment rates at their current levels through the end of 2010; and (3) adopt a uniform 3 basis point increase in assessment rates effective January 1, 2011.

Distribution:
All FDIC-Insured Institutions

Suggested Routing:
Chief Executive Officer
President
Chief Financial Officer

Related Topics:
FDIC Operational regulations Governing the Assessment Process, 12 CFR 327.1 to 327.15

Attachment:
Notice of Proposed Rulemaking

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Note:
FDIC financial institution letters (FILs) may be accessed from the FDIC's Web site at www.fdic.gov/news/news/financial/2009/index.html.

To receive FILs electronically, please visit http://www.fdic.gov/about/subscriptions/fil.html.

Paper copies of FDIC financial institution letters may be obtained through the FDIC's Public Information Center, 3501 Fairfax Drive, E-1002, Arlington, VA 22226 (1-877-275-3342 or 703-562-2200).

Highlights:

- No additional special assessments will be imposed in 2009. The special assessment imposed on June 30 will still be collected with the regular quarterly deposit insurance assessments on September 30.
- The Amended Restoration Plan is extended from seven to eight years.
- Current assessment rates will be maintained through December 31, 2010.
- There will be a uniform increase in risk-based assessment rates of 3 basis points effective January 1, 2011.
- The NPR would require insured depository institutions to prepay their quarterly risk-based assessments for the fourth quarter of 2009, and all of 2010, 2011, and 2012, on December 30, 2009, along with their risk-based deposit insurance assessment for the third quarter of 2009.
- Further detail on the proposal can be found on pages 2 through 4 of this FIL.

PREPAID ASSESSMENTS
Notice of Proposed Rulemaking

On September 29, 2009, the FDIC Board of Directors (Board) adopted a notice of proposed rulemaking (NPR) and request for comment that would require insured depository institutions to prepay, on December 30, 2009, their estimated quarterly risk-based assessments for the fourth quarter of 2009 and for all of 2010, 2011, and 2012, along with their quarterly risk-based assessment for the third quarter of 2009. The following is a summary of the proposal:

Calculation of Prepaid Assessment Amounts. For purposes of calculating an institution's prepaid assessment amount, for the fourth quarter of 2009 and all of 2010, that institution's assessment rate would be its total base assessment rate in effect on September 30, 2009. That rate would be increased by 3 basis points for all of 2011 and 2012. Again, for purposes of calculating the prepaid amount, an institution's third quarter 2009 assessment base would be increased quarterly by an estimated 5 percent annual growth rate through the end of 2012. Changes to underlying data received by the FDIC after December 24, 2009, will not affect an institution's prepayment amount.

Accounting for Prepaid Assessments. Each institution would record the entire amount of its prepaid assessment as a prepaid expense (asset) as of December 30, 2009. As of December 31, 2009, and each quarter thereafter, each institution would record an expense (charge to earnings) for its regular quarterly assessment for the quarter and an offsetting credit to the prepaid assessment until the asset is exhausted. Once the asset is exhausted, the institution would record an expense and an accrued expense payable each quarter for its regular assessment, which would be paid in arrears to the FDIC at the end of the following quarter. If the prepaid assessment is not exhausted by December 30, 2014, any remaining amount would be returned to the institution.

Risk Weighting of Prepaid Assessments. The federal banking agencies' risk-based capital rules permit an institution to allow a zero percent risk weight to claims on U.S. Government agencies. The FDIC believes the prepaid assessment would qualify for a zero risk weight.

Restrictions on Use of Prepaid Assessments. Prepaid assessments would only be used to offset regular quarterly risk-based deposit insurance assessments. The FDIC would begin to offset prepaid assessments on March 30, 2010, representing payment for the fourth quarter of 2009.

Exemption from Prepayment Requirement. The FDIC would exercise its supervisory discretion to exempt an institution from the prepayment requirement if the FDIC determines that the prepayment would adversely affect the safety and soundness of the institution. The FDIC would notify any affected institution of its exemption by December 24, 2009.

In addition, an institution could apply to the FDIC for an exemption from all or part of the prepayment requirement if the prepayment would significantly impair the institution's liquidity, or otherwise create significant hardship. The FDIC would consider exemption requests on a case-by-case basis and expects that only a few would be necessary. An application for exemption must contain a full explanation of the institution's need for the exemption and include supporting documentation, such as current financial statements and cash flow projections, a description of management's plans to correct the circumstances that caused the inability to pay the assessment, and any other relevant information that the FDIC deems appropriate. The FDIC would notify any insured depository institution that has made such a request by December 24, 2009, of the FDIC's determination whether the institution is eligible for exemption from the prepaid assessment.

Transfer of Prepaid Assessments. An insured depository institution would be permitted to transfer any portion of its prepaid assessment to another insured depository institution, provided that the institutions notify the FDIC's Division of Finance and submit a written agreement signed by the legal representatives of both institutions. In their submission to the FDIC, the institutions must include documentation that each representative has the legal authority to bind the institution.

Comments Requested.

The FDIC seeks comment on all aspects of the proposed rule. The FDIC specifically requests comment on the issues set out below, including the reasoning for the commenters' positions.

1. As an alternative to prepaid assessments, should the FDIC meet its liquidity needs by imposing one or more special assessments?

2. Should the FDIC pursue one or more of the other alternatives to the prepaid assessments, such as borrowing from Treasury or the FFB?

3. Should prepaying assessments be voluntary rather than mandatory as currently contemplated, and, if so, how would the FDIC ensure that it receives sufficient cash to fund resolutions of failed insured depository institutions? (If prepayment of assessments were optional, the FDIC believes that it would affect the accounting treatment as a prepaid expense.)

4. For purposes of calculating the prepaid assessment, should the FDIC estimate the growth in the assessment base at a rate other than 5 percent for 2009, 2010, 2011 and 2012? Should the FDIC use different assessment rate assumptions than those proposed?

5. As proposed, the FDIC would require prepayment of estimated assessments for the fourth quarter of 2009 and for all of 2010, 2011 and 2012 based on its

current liquidity needs projections. Should the FDIC require prepayment of estimated assessments over a different period or in installments?

6. Should the FDIC's Amended Restoration Plan incorporate a provision requiring a special assessment or a temporarily higher assessment rate schedule that brings the reserve ratio back to a positive level within a specified time frame (one year or less) from January 1, 2011, when the FDIC projects industry earnings will have recovered?

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