FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Assessment Rate Adjustment Guidelines for Large Institutions and Insured Foreign Branches in Risk Category I

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC is seeking comment on proposed guidelines it will use for determining how adjustments of up to 0.50 basis points would be made to the quarterly assessment rates of insured institutions defined as large Risk Category I institutions, and insured foreign branches in Risk Category I, according to the Final Assessments Rule (the final rule).[1] These guidelines are intended to further clarify the analytical processes, and the controls applied to these processes, in making assessment rate adjustment determinations.

DATES: Comments must be submitted on or before March 23, 2007.

ADDRESSES: You may submit comments, identified by ''Adjustment Guidelines'', by any of the following methods:

- Agency Web site: *http://www.fdic.gov/regulations/laws/federal.* Follow instructions for submitting comments on the Agency Web site.
- *E-mail: Comments@FDIC.gov.* Include ''Adjustment Guidelines'' in the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery/Courier:* Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Instructions: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal* including any personal information provided. Comments may be inspected and photocopied in the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1002, Arlington, VA 22226, between 9 a.m. and 5 p.m. (EST) on business days. Paper copies of public comments may be ordered from the Public Information Center by telephone at (877) 275–3342 or (703) 562–2200.

FOR FURTHER INFORMATION CONTACT: Miguel Browne, Associate Director, Division of Insurance and Research, (202) 898–6789; Steven Burton, Senior Financial Analyst, Division of Insurance and Research, (202) 898–3539; and Christopher Bellotto, Counsel, Legal Division, (202) 898–3801.

[1] 71 Fr 69282 (Nov. 30, 2006).

SUPPLEMENTARY INFORMATION:

I. Background

Under the final rule, the assessment rates of large Risk Category I institutions are first determined using either supervisory and long-term debt issuer ratings, or supervisory ratings and financial ratios for large institutions that have no publicly available long-term debt issuer ratings. While the resulting assessment rates are largely reflective of the rank ordering of risk, the final rule indicates that FDIC may determine, in consultation with the primary federal regulator, whether limited adjustments to these initial assessment rates are warranted based upon consideration of additional risk information. Any adjustments will be limited to no more than 0.50 basis points higher or lower than the initial assessment rate and in no case would the resulting rate exceed the maximum rate or fall below the minimum rate in effect for an assessment period. Further, upward adjustments will not take effect without notification being made to the primary federal regulator and the institution or without consideration of any additional information provided by the primary federal regulator and the institution to these notifications; and downward adjustments will not take effect without notification being made to the primary federal regulator or without consideration of any additional information provided by the primary federal regulator to these notifications. Examples of additional risk information that would be considered in making such adjustments, and a general description of how this information would be evaluated, are also discussed in the final rule. However, in the final rule, the FDIC acknowledged the need to further clarify its processes for making adjustments to assessment rates and indicated that no adjustments would be made until additional guidelines were approved by the FDIC's Board.

The FDIC seeks comments on these proposed guidelines for evaluating how assessment rate adjustments, if warranted, will be made, and the size of any adjustments.[2] Following a 30-day comment period, the FDIC will review comments and revise the guidelines as appropriate. Although the FDIC has in this instance chosen to publish the proposed guidelines and solicit comment from the industry, notice and comment are not required and need not be employed to make future changes to the guidelines.

[2] These guidelines are also intended to apply to assessment rate adjustment determinations for insured foreign branches, whose initial assessment rates are determined from ROCA ratings under the final rule.

II. Broad Objectives

In the majority of cases, the use of agency and supervisory ratings, or the use of supervisory ratings and financial ratios when agency ratings are not available, will sufficiently reflect the risk profile and rank orderings of risk in large Risk Category I institutions. However, in certain cases, the FDIC may need to make adjustments to assessment rates determined from these inputs in order to preserve consistency in the orderings of risk indicated by these assessment rates, ensure fairness among all large institutions, and ensure that assessment rates take into account all available information that is relevant to the FDIC's risk-based assessment decision. The FDIC expects that adjustments will be made relatively infrequently and for a limited number of institutions. If this is not the case, the FDIC would likely reevaluate the underlying assessment rate methodology involving supervisory and long-term debt issuer ratings, and financial ratios for institutions without long-term debt issuer ratings.

The following broad objectives helped inform the formulation of a process for determining how adjustments to an institution's initial assessment rate, if appropriate, will be made, as well as the guidelines that will govern the adjustment process:

1. Assessment rates should reflect a logical and reasonable rank ordering of risk among large Risk Category I institutions. That is, institutions with similar risk profiles should pay similar assessment rates; and institutions with higher (lower) risk profiles should pay higher (lower) assessment rates.

2. Assessment rates for any given quarter should be based on the most recent information that pertains to an institution's risk profile.

3. The rank ordering of risk represented by assessment rates should be reconcilable to other risk measures including supervisory ratings, financial performance information, market information, quantitative measures of an institution's ability to withstand adverse events, and loss severity indicators.

4. Assessment rate determinations should consider all available information relating to both the likelihood of failure and loss severity in the event of failure. Loss severity information should include quantitative and qualitative considerations that relate to potential resolution costs.

III. Overview of the Adjustment Process

The FDIC adjustment process will include the following steps. In the first step, an initial risk ranking will be developed for all large institutions based on their initial assessment rates as derived from agency and supervisory ratings, or the use of supervisory ratings and financial ratios when agency ratings are not available, in accordance with the final rule.

In the second step, the risk rankings associated with these initial assessment rates will be compared with risk rankings associated with broad-based and focused risk measures as well as the risk rankings associated with other market indicators such as spreads on subordinated debt. Broad-based risk measures include each of the inputs to the initial assessment rate considered separately, other summary risk measures such as alternative publicly available debt issuer ratings, and loss severity estimates, which are not always sufficiently reflected in the inputs to the initial assessment rate or in other debt issuer ratings. Focused risk measures include financial performance measures, measures of an institution's ability to withstand financial adversity, and factors relating to the severity of losses to the insurance fund in the event of failure.

In the third step, the FDIC will perform further analysis and review in those cases where the risk rankings from multiple measures (such as broad-based risk measures, focused risk measures, and other market indicators) appear to be inconsistent with the risk rankings associated with the initial assessment rate. This step will include consultation with an institution's primary federal regulator and state banking supervisor. Although any additional information or feedback provided by the primary federal regulator or state banking supervisor will be considered in the FDIC's ultimate decision concerning such adjustments, participation by the primary federal regulator or state banking supervisory in this consultation process should not be construed as concurrence with the FDIC's deposit insurance pricing decisions.

In the final step, the FDIC will notify an institution when it proposes to make an upward adjustment to the institution's assessment rate. As indicated in the final rule, notifications involving an upward adjustment in an institution's initial assessment rate will be made in advance of implementing such an adjustment so that the institution has sufficient opportunity to respond to or address the FDIC's concerns.[3] Adjustments will be implemented after considering institution responses to this notification along with any subsequent changes either to the inputs to the initial assessment rate or any other risk factor that relates to the decision to make an assessment rate adjustment.

The following paragraphs elaborate further on the adjustment process just described. These paragraphs introduce proposed guidelines relating to the analytical process, show an example of how these guidelines will be applied, and present proposed guidelines intended to serve as controls over the assessment rate adjustment process.

IV. Proposed Guidelines for the Analytical Process and Illustrative Examples

To ensure consistency, fairness, and transparency, the FDIC proposes that the following guidelines be applied to its analytical process for determining how to make adjustments to the assessment rates of large Risk Category I institutions when appropriate. An example of how the guidelines would be applied in a sample institution follows the enumeration of the principal analytical guidelines.

Principal Analytical Guidelines

Guideline 1: The analytical process will focus on identifying inconsistencies between the rank orderings of risk suggested by initial assessment rates and the rank orderings of risk indicated by other risk measures. This process will consider all available information relating to the likelihood of failure and loss severity in the event of failure.

The purpose of the analytical process is to identify those institutions whose risk measures appear to be significantly different than other institutions with similarly assigned initial assessment rates. This analytical process involves the identification of possible inconsistencies between the rank orderings of risk associated with the initial assessment rate and the risk rankings associated with other risk measures. The intent of this analysis is not to override supervisory evaluations or to question the validity of long-term debt issuer ratings or financial ratios when applicable. Rather, the analysis is meant to ensure that the assessment rates, produced from the combination of these information sources, result in a reasonable rank ordering of risk that is consistent with risk profiles of large Risk Category I institutions.

The starting point in the analytical process will be the comparison of risk rankings associated with the initial assessment rate to risk rankings associated with a number of broad-based risk measures. This analysis will be supplemented with additional comparisons of risk rankings associated with focused risk measures and other market indicators to the risk rankings associated with an institution's initial assessment rate.[4]

The FDIC will consider adjusting an institution's initial assessment rate when there is sufficient corroborating information from a combination of broad-based risk measures, focused risk measures, and other market indicators to support an adjustment. The likelihood of an adjustment will increase when: (1) The rank orderings of risk suggested by multiple broad-based measures are directionally consistent and materially different from the rank ordering implied by the initial assessment rate; (2) there is sufficient corroborating information from focused risk measures and other market indicators to support differences in risk levels suggested by broad-based risk measures; (3) information pertaining to loss severity considerations raise prospects that an institution's resolution costs, when scaled by assets, would be materially higher or lower than those of other large institutions; or (4) additional qualitative information from the supervisory process or other feedback provided by the primary federal regulator or state banking supervisor is consistent with differences in risk suggested by the combination of broad-based risk measures, focused risk measures, and other market indicators.

The FDIC believes that its insurance pricing determinations should take into account risk information that relates both to the likelihood of failure and to the level of insurance fund losses (loss severity) that might reasonably be expected if an institution were to fail. Developing risk measures related to loss severity is especially important since the inputs to the initial assessment rate (supervisory and agency ratings) relate primarily to the likelihood of failure.

[3] The institution will also be given advance notice when the FDIC determines to eliminate any downward adjustment to an institution's assessment rate.

[4] Comparisons of risk measures will generally treat as indicative of low risk that portion of the risk rankings falling within the lowest X percentage of assessment rate rankings, with X being the proportion of large Risk Category I institutions assigned the minimum assessment rate. For example, as of June 30, 2006, 46 percent of large Risk Category I institutions would have been assigned a minimum assessment rate. Therefore, as of June 30, 2006, risk rankings from the 1st to the 46th percentile for any given risk measure would generally have been considered suggestive of low risk.

The loss severity factors the FDIC will consider include both quantitative and qualitative information. Quantitative information will be used to develop estimates of deposit insurance claims and the extent of coverage of those claims by an institution's assets. These quantitative estimates can in turn be converted into a relative risk ranking and compared with the risk rankings produced by the initial assessment rate. Factors that will be used to produce loss severity estimates include: Estimates for the amount of insured and non-insured deposit funding at the time of failure; the extent of an institution's obligations that would be subordinated to depositor claims in the event of failure; the extent of an institution's obligations that would be secured or would otherwise take priority over depositor claims in the event of failure; and the estimated value of assets in the event of failure.

In addition, the FDIC will consider other qualitative factors that could magnify or mitigate the resolution costs of a failed institution. These qualitative factors will be evaluated by determining when a given risk factor suggests materially higher or lower loss severity risks relative to the loss severity risks posed by other institutions. These qualitative factors include, but are not limited to, the following:

- The ease with which the FDIC could make quick deposit insurance determinations and depositor payments in the event of failure as discussed further below;
- The ability of the FDIC to isolate and control the main assets and critical business functions of a failed institution without incurring high costs;
- The level of an institution's foreign assets relative to its foreign deposits and prospects of foreign governments using these assets to satisfy local depositors and creditors in the event of failure; and
- The availability of sufficient information on qualified financial contracts to allow the FDIC to identify the counterparties to, and other details about, such contracts in the event of failure.

With respect to the first factor noted above, the FDIC has issued an Advanced Notice of Proposed Rulemaking (ANPR) on Large Bank Deposit Insurance Determination Modernization.[5] This ANPR seeks comment on whether the FDIC should require certain large institutions to implement various enhancements to their deposit account systems. The intent of any required enhancements would be to preserve the FDIC's ability to make timely deposit insurance determinations and provide insured depositors speedy access to their funds in the event of a large institution failure.

Notwithstanding any requirements that may result from this separate notice and comment process begun with the ANPR, the FDIC believes that the existing capabilities of an institution's deposit account systems should be considered as part of the assessment rate adjustment analysis process since the presence or absence of these capabilities would mitigate or magnify the resolution costs likely to be sustained by the FDIC in the event of failure. These capabilities include the ability of an institution's systems to place and remove holds on deposit accounts en masse as well as the ability of an institution to readily identify the owner(s) of each deposit account (for example, by using a unique identifier) and identify the ownership category of each deposit account. As with the other risk factors considered in the analytical process for making assessment rate adjustments, the FDIC will evaluate this factor by gauging the capabilities of an institution's deposit account systems relative to the capabilities of other institutions' systems. As part of these proposed guidelines, the FDIC is seeking comment on what information it should use to evaluate the existing capabilities of institution's deposit account systems.

Guideline 2: Broad-based indicators and other market information that represent an overall view of an institution's risk will be weighted more heavily in adjustment determinations than focused indicators as will loss severity information that has bearing on the ability of the FDIC to resolve institutions in a cost effective and timely manner.

While it is prudent to evaluate all available risk information when determining whether an adjustment in an institution's assessment rate is necessary, the FDIC recognizes that some risk indicators are more comprehensive than others and should therefore be weighted more heavily in assessment rate adjustment decisions. Examples of such comprehensive or broad-based risk measures include, but are not limited to, each of the inputs to the initial assessment rate (that is, weighted average CAMELS ratings, long-term debt issuer ratings, and the combination of weighted average CAMELS ratings and the five financial ratios used to determine assessment rates for institutions when long-term debt issuer ratings are not available), and other ratings intended to provide a comprehensive view of an institution's risk profile (see the Appendix for additional descriptions of broad-based risk measures). Likewise, the FDIC views some market indicators, such as spreads on subordinated debt, as more important than other market indicators since these spreads represent an evaluation of risk from institution investors whose risks are similar to those faced by the FDIC.[6] The FDIC also believes that certain qualitative loss severity factors, such as those discussed in Guideline 1, should be accorded greater weight in assessment rate determinations relative to other risk measures since these have a direct bearing on the resolutions costs that would be incurred by the FDIC in the event of failure.

Guideline 3: Focused risk measures and other market indicators will be used to compare with and supplement the comparative analysis using broad-based risk measures.

Individual financial ratios, such as a return on assets or a liquidity ratio, are examples of focused risk measures that, while important to consider, will generally not be as heavily relied upon as more comprehensive risk measures in deposit insurance pricing decisions. Rather, the FDIC will use focused risk measures, along with other market indicators, to supplement the risk comparisons of broad-based risk measures with initial assessment rates and to provide corroborating evidence of material differences in risk suggested by such comparisons. More specifically, the risk rankings associated with initial assessment rates will be compared with the risk rankings suggested by various financial performance measures, other market indicators, measures of an institution's ability to withstand adverse events, and loss severity indicators. The focused risk measures and other market indicators that will be considered during the analysis process are described in detail in the Appendix. The listing of risk measures in the Appendix is not intended to be exhaustive, but represents the FDIC's view of the most important focused risk measures to consider in the adjustment process. The development of risk measurement and monitoring capabilities is an ongoing and evolving process. As a result, the FDIC may revise the listing in the Appendix over time as a result of these development activities and consistent with the objective to consider all available risk information in its assessment rate decisions.

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[5] 71 FR 74857 (December 13, 2006).

[6] The FDIC recognizes that in order to be comparable, this spread information would have to be available for debt issues with sufficient liquidity and adjusted for differing maturities and other bond-specific characteristics.

Guideline 4: Generally, no single risk factor or indicator will control the decision on whether to make an adjustment.

In general, no single risk indicator such as a profitability ratio or a capitalization ratio can fully capture the risks posed by large depository institutions. Rather, the FDIC's intent is to consider all the information available to it, including supervisory ratings, to determine if, on balance, the risk indicators support an adjustment to the institution's initial assessment rate. Even when multiple risk indicators appear to support an adjustment, additional information would have to be evaluated, including qualitative supervisory information from the supervisory process, to further corroborate and support the need for an adjustment. In certain cases, the FDIC may determine that an assessment rate adjustment is appropriate when certain qualitative risk factors pertaining to loss severity suggest materially higher or lower risk relative to the same types of risks posed by other institutions. As noted above, the FDIC intends to place greater weight on these factors since they have a direct bearing on resolution costs and since these factors are generally not considered in other risk measures.

Example of the Analytical Process

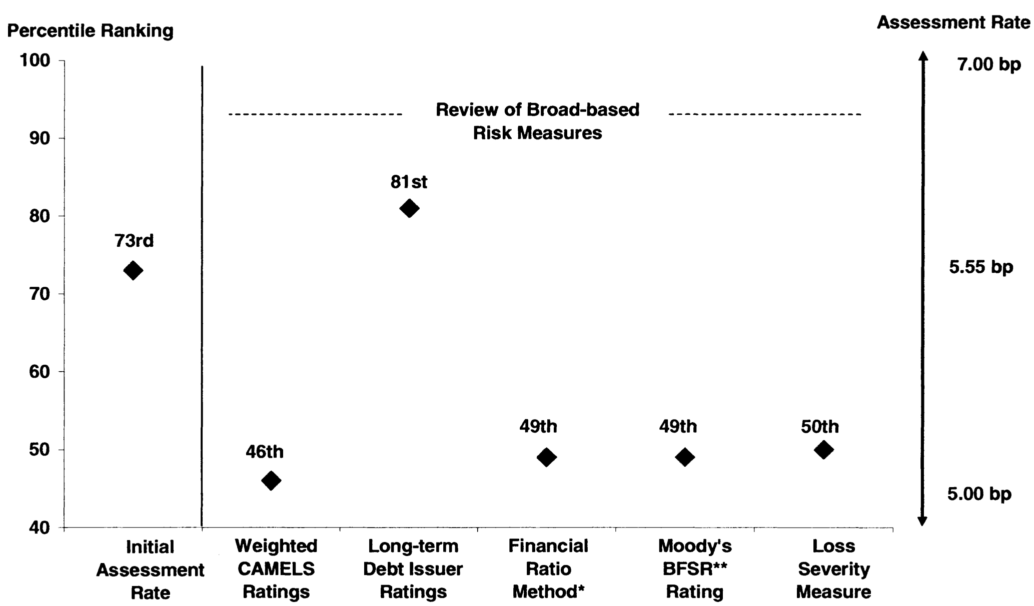
An example will help illustrate the analytical process used to identify how assessment rate adjustments will be made through the application of the above guidelines. In this example, an institution's initial assessment rate is calculated at 5.55 basis points, which places it in the 73rd percentile of all large Risk Category I institutions.

Chart 1 depicts the first step in the analytical process, which is the comparison of the risk ranking associated with the institution's initial assessment rate with other broad-based risk measures. In this case, the risk ranking associated with the institution's initial assessment rate is materially higher than the risk rankings associated with a number of broad-based risk measures including its weighted average CAMELS score, the combination of weighted average CAMELS and financial ratios that are used to determine assessment rates for institutions without debt ratings, the institution's Bank Financial Strength Rating (BFSR) assigned by Moody's, and an estimate of loss severity (referred to in the chart as a loss severity measure). Based solely on these broad-based risk measures, the institution's risk appears more closely aligned to institutions paying around 5.00 and 5.10 basis points. Only the institution's long-term debt issuer ratings tend to confirm the initial assessment rate risk ranking.

Chart 1

Risk Rankings Associated with a Number of Broad-Based Risk Measures Suggest Lower

Risk Levels than the Risk Rankings Associated with the Initial Assessment Rate



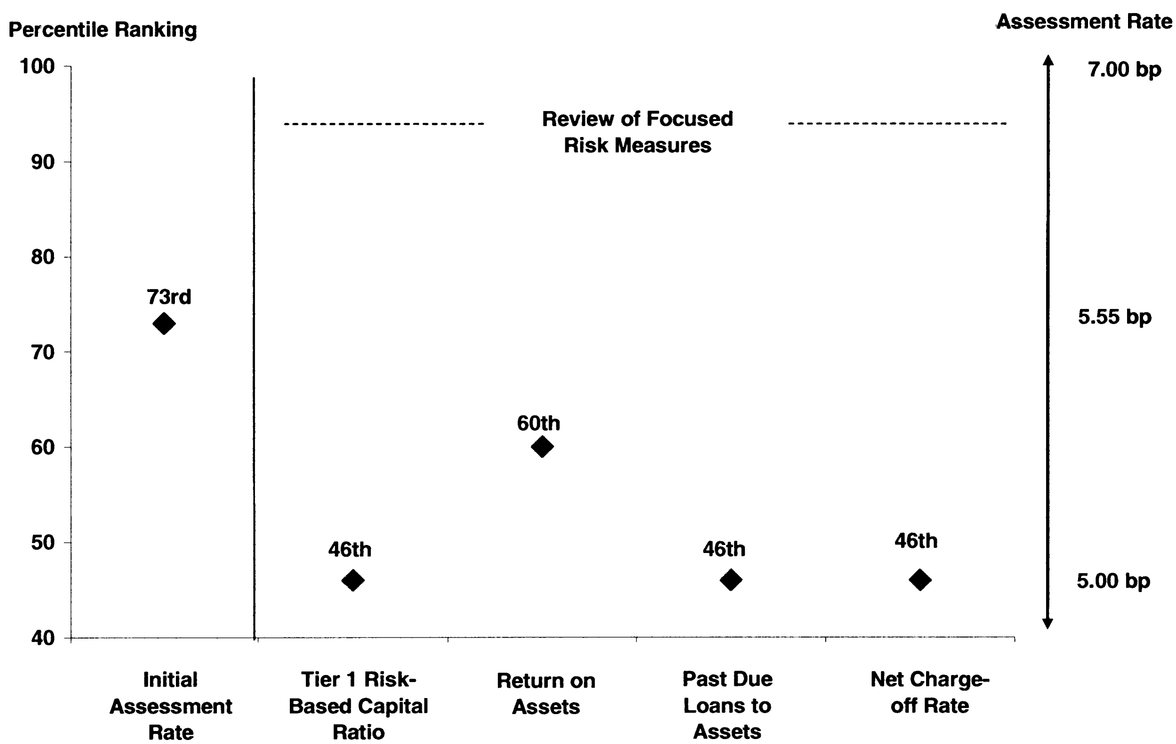
* Risk rankings associated with weighted average CAMELS ratings and the five financial ratios used to determine assessment rates for small institutions and institutions without debt ratings.

** Moody's Bank Financial Strength Rating.

To extend this example, the review of broad-based risk measures would be supplemented with an evaluation of additional focused risk measures, some of which are shown in Chart 2. For this institution, several key financial performance measures, including its capital ratios and problem loan measures, appear to confirm the lower levels of risk suggested by four of the five broad-based risk measures shown in Chart 1.

Chart 2

Risk Rankings Associated with Financial Performance Measures Appear to Confirm the Lower Risk Suggested by Other Broad-based Risk Measures



When evaluating financial performance information, the FDIC recognizes the importance of also considering qualitative information and mitigating factors that relate to these measures. For instance, the FDIC will:

• When evaluating profitability measures, determine how risk ranking comparisons would be affected when earnings are adjusted to control for risk (i.e., using risk-adjusted and provision-adjusted returns), or unusual or nonrecurring earnings or expenses;

• When evaluating capital measures, determine how risk ranking comparisons would be affected when capitalization levels are adjusted to control for risk (i.e., using risk-based capital measures), how capital levels compare to historical and anticipated earnings volatility, and how anticipated capital growth compares to anticipated asset growth; and

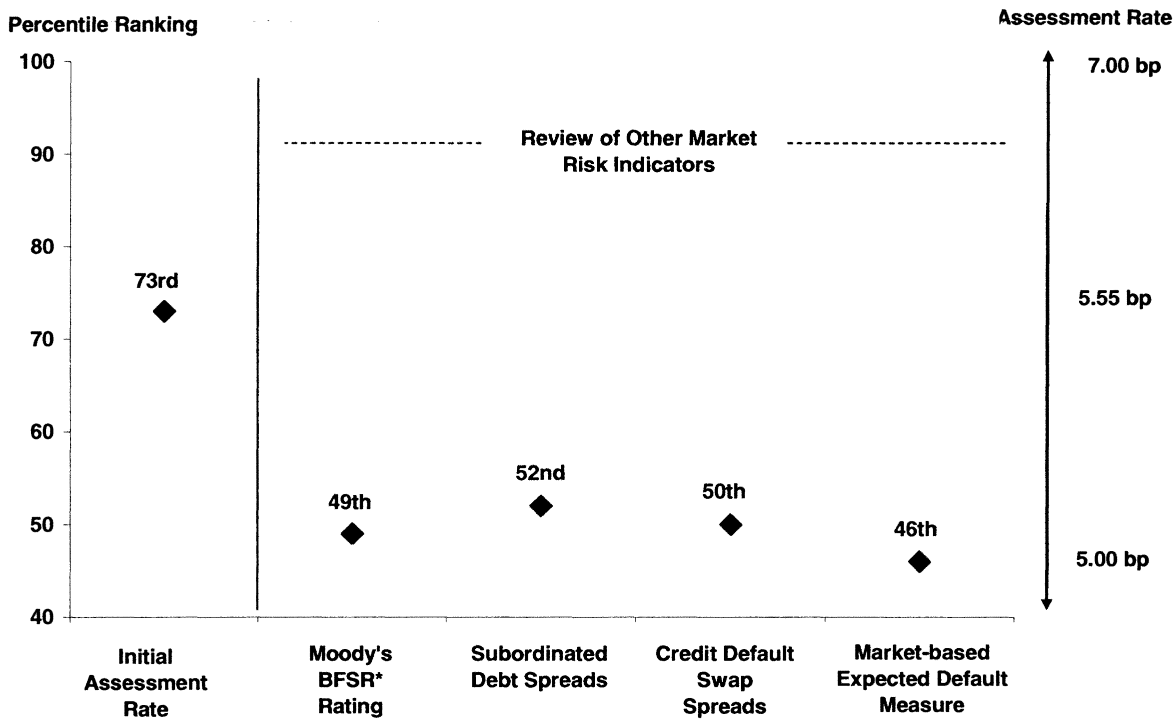
• When evaluating asset quality measures, use additional information from the supervisory process to determine if differences in risk rankings can be explained by other risk measures, such as estimated portfolio-level probabilities of default, losses given default, credit bureau scores, or collateral coverage, or by the existence or absence of credit risk concentrations and credit risk mitigants.

Continuing the example, the FDIC would also review other market risk indicators, as shown in Chart 3, to further supplement the evaluation of broad-based and focused risk measures. These additional market risk indicators will be useful in evaluating the risk rankings suggested by an institution's agency ratings. In this case, market information relating to the cost of the institution's debt obligations and other market-based measures are clearly inconsistent with the risk levels suggested by the institution's long-term debt issuer ratings (as depicted in Chart 1).[7]

[7] This situation might occur when recent changes in an institution's risk profile have not yet been fully reflected in the agency rating, or when investors in an institution's obligations have different views of risk than one or more rating agencies.

Chart 3

Risk Rankings Associated with Other Market Indicators Also Suggest Lower Risk Levels than Those Associated with the Initial Assessment Rate



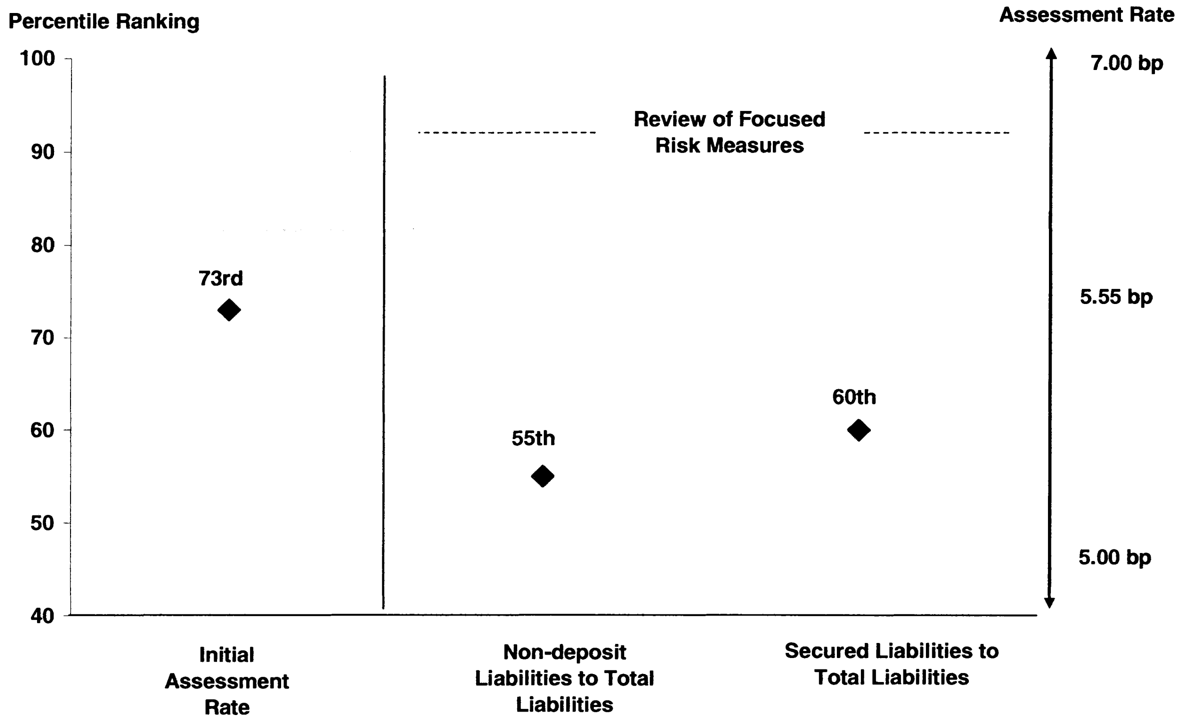
* Moody's Bank Financial Strength Rating.

As with the evaluation of performance risk measures, it is important to consider other factors that may influence any particular market risk measure. For instance, the FDIC will determine how market indicator risk rankings are affected when credit spreads or required rates of return are adjusted to control for differences in maturities, the existence of any embedded options (e.g., callable vs. non-callable), and differences in seniority in the event of default.

Extending the example further, the FDIC would also evaluate an institution's ability to withstand financial stress and the specific components of its loss severity estimates (referred to collectively as stress considerations). Chart 4 illustrates the comparison of rank orderings of two components of an institution's loss severity measure with the rank ordering associated with its initial assessment rate. As with other risk measures previously mentioned, these loss severity components appear to further support a lower level of risk than what is suggested by the initial assessment rate. Specifically, the institution has a higher level of non-deposit liabilities, which could serve as a buffer against losses in the event of failure, than institutions with similar initial assessment rate risk rankings. The institution also has a lower level of secured liabilities, which may take priority to FDIC claims in the event of failure, than institutions with similar initial assessment rate risk rankings.

Chart 4

Risk Rankings Associated with Loss Severity Indicators Further Support Lower Risk Levels Relative to the Risk Rankings Associated with the Initial Assessment Rate



To the extent possible, the FDIC will use stress consideration information to formulate comparisons of risk across institutions. Sources of this information are varied but might include analyses produced by the institution or the primary federal regulator, such as stress test results and capital adequacy assessments, as well as information about the risk characteristics of institution's lending portfolios and other businesses. The types of comparisons that might be possible using this information include evaluating differences between institutions in the level of protection provided by capital and earnings to varying stress scenarios and the implications of these scenarios to loss severity in the event of failure. Other factors that would be considered when making these comparisons are the degree to which results are influenced by differences in stress test assumptions or other model parameters.

To conclude the example, the FDIC would consider lowering this institution's assessment rate to better align its assessment rate with the risk levels suggested by other risk measures. In this case, lower levels of risk are supported by the rank orderings of risk associated with multiple broad-based measures. These rank orderings of risk are further supported by risk rankings derived from a number of financial performance measures, other market indicators, and loss severity components. Before proceeding with any adjustment, however, the FDIC will perform additional analyses and review, including the attainment of corroborating information from the supervisory process, as indicated in the guidelines that follow.

Additional Analytical Guidelines

Guideline 5: Comparisons of risk information will consider normal variations in performance measures and other risk indicators that exist among institutions with differing business lines.

The FDIC recognizes that it would not be reasonable to compare certain indicators across institutions engaged in fundamentally different businesses (e.g., comparing a mortgage lender's profitability and asset quality measures to that of a diversified lender). As a result, the FDIC will consider the effect of business line concentrations in its risk ranking comparisons. One possible way to consider business line concentrations is to evaluate risk rankings when institutions are grouped by their predominant business activity. The FDIC's notice of proposed rulemaking for deposit insurance assessments, issued in July 2006, referenced one possible set of business line groupings that included processing institutions and trust companies, residential mortgage lenders, non-diversified regional institutions, large diversified institutions, and diversified regional institutions.[8] Risk ranking comparisons within these business line groupings is one way the FDIC can control for business line concentrations when making assessment rate adjustment decisions.

Guideline 6: Adjustment will be made only if additional analysis suggests a meaningful risk differential between the institution's initial and adjusted assessment rates.

Where material inconsistencies between initial assessment rates and other risk indicators are present, additional analysis will determine the magnitude of adjustment necessary to

[8] See 71 FR 41910 (July 24, 2006).

align the assessment rate better with the rates of other institutions with similar risk profiles. The objective of this analysis will be to determine the amount of assessment rate adjustment that would be necessary to bring an institution's assessment rate into better alignment with those of other institutions that pose similar levels or risk. This process will entail a number of considerations, including: (1) The number of rank ordering comparisons that identify the institution as a potential outlier relative to institutions with similar assessment rates; (2) the direction and magnitude of differences in rank ordering comparisons; (3) a qualitative assessment of the relative importance of any apparent outlier risk indicators to the overall risk profile of the institution, and (4) an identification of mitigating factors. One example of a mitigating factor might be an institution that has significantly lower profitability measures than other institutions with similarly ranked initial assessment rates, but is engaged in fundamentally lower-risk businesses as evidenced by superior asset quality measures relative to institutions with similarly ranked initial assessment rates.

Based upon these considerations, the FDIC will determine the magnitude of adjustment that would be necessary to better align its assessment rate with institutions that pose similar levels or risk. When the assessment rate adjustment suggested by these considerations is not material, or when there are a number of risk comparisons that offer conflicting or inconclusive evidence of material inconsistencies, no assessment rate adjustment will be made.

V. Controls Over the Assessment Rate Adjustment Process

The FDIC proposes to implement various controls over the adjustment process to ensure fairness and transparency in its pricing decisions. These controls, many of which are contained in the final rule, are enumerated in the guidelines below.

Guideline 7: Decisions to adjust an institution's assessment rate must be well supported.

The FDIC will perform internal reviews of pending adjustments to an institution's assessment rate to ensure the adjustment is justified, well supported, based on the most current information available, and results in an adjusted assessment rate that is consistent with rates paid by other institutions with similar risk profiles.

Guideline 8: *The FDIC will consult with an institution's primary federal regulator and appropriate state banking supervisor prior to making any decision to adjust an institution's initial assessment rate (or prior to removing a previously implemented adjustment). Participation by the primary federal regulator or state banking supervisor in this consultation process should not be construed as concurrence with the FDIC's deposit insurance pricing decisions*.

Consistent with current practice, FDIC analysts and management will consult with the primary federal regulator and state banking supervisors on an ongoing basis regarding risk issues facing large institutions and recent events that may influence an institution's overall risk profile or supervisory ratings. Because of this ongoing contact, the primary federal regulator and state banking supervisor should always be aware when the FDIC views a need for an assessment rate adjustment. Nevertheless, the FDIC will formalize its determinations with the following steps:

1. The FDIC will formally notify the primary federal regulator, and state banking supervisors, of the pending adjustment in advance of the first opportunity to implement any adjustment.
2. Documentation related to any pending adjustment will include a discussion of why the adjusted assessment rate is more consistent with the risk profiles represented by institutions with similar assessment rates.
3. The FDIC will consider any additional information provided by either the primary federal regulator or state banking supervisor prior to proceeding with an adjustment of an institution's assessment rate.

Guideline 9: *The FDIC will give institutions advance notice of any decision to make an upward adjustment to its initial assessment rate, or to remove a previously implemented downward adjustment*.

The FDIC will notify institutions when it intends to make an upward adjustment to its initial assessment rate (or remove a downward adjustment). This notification will include the reasons for the adjustment, when the adjustment would take effect, and provide the institution up to 60 days to respond. Adjustments would not become effective until the quarterly assessment period following the date the notification was made. During this subsequent assessment period, the FDIC will determine whether an adjustment is still warranted based on an institution's response to the notification as well as any subsequent changes to an institution's weighted average CAMELS, long-term debt issuer ratings, financial ratios (when applicable), or other risk measures used to support the adjustment. The FDIC will also consider any actions taken by the institution, during the period for which the institution is being assessed, in response to the FDIC's concerns described in the notice.

Guideline 10: *The FDIC will continually re-evaluate the need for an assessment rate adjustment*.

The FDIC will re-evaluate the need for the adjustment during each subsequent quarterly assessment period. These evaluations will be based on any new information that becomes available, as well as any changes to an institution's weighted average CAMELS, long-term debt issuer ratings, financial ratios (when applicable), or other risk measures used to support the adjustment.

The institution can request a review of the FDIC's decision to adjust its assessment rate.[9] It would do so by submitting a written request for review of the assessment rate assignment, as adjusted, in accordance with 12 CFR 327.4(c). This same section allows an institution to bring an appeal before the FDIC's Assessment Appeals Committee if it disagrees with determinations made in response to a submitted request for review.

VI. Timing of Notifications and Adjustments

Upward Adjustments

As noted above, institutions will be given advance notice when the FDIC determines that an upward adjustment in its assessment rate appears to be warranted. The timing of this advance notification will correspond approximately to the invoice date for an assessment period. For example, an institution would be notified of a pending upward adjustment to its assessment rates covering the period April 1st through June 30th sometime around June 15th. June 15th is the invoice date for the January 1st through March 31st assessment period.[10] Institutions will have up to 60 days to respond to notifications of pending upward adjustments.

The FDIC would notify an institution of its decision to either proceed with or not proceed with the upward adjustment approximately 90 days following the initial notification of a

[9] The institution can also request a review of the FDIC's decision to remove a previous downward adjustment.

[10] Since the intent of the notification is to provide advance notice of a pending upward adjustment, the invoice covering the assessment period January 1st through March 31st in this case would not reflect the upward adjustment.

pending upward adjustment. If a decision were made to proceed with the adjustment, the adjustment would be reflected in the institution's next assessment rate invoice. Extending the example above, if an institution were notified of an upward adjustment on June 15th, it would have 60 days from this date to respond to the notification. If, after evaluating the institution's response and following an evaluation of updated information for the quarterly assessment period ending June 30th, the FDIC decides to proceed with the adjustment, it would communicate this decision to the institution on September 15th, which is the invoice date for the April 1st through June 30th assessment period. In this case, the adjusted rate would be reflected in the September 15th invoice. The adjustment would remain in effect for subsequent assessment periods until the FDIC determined that the adjustment is no longer warranted.[11]

Downward Adjustments

Decisions to lower an institution's assessment rate will not be communicated to institutions in advance. Rather, they would be reflected in the invoices for a given assessment period along with the reasons for the adjustment. Downward adjustments may take effect as soon as the first insurance collection for the January 1st through March 31, 2007 assessment period subject to timely approval of the guidelines by the Board of the FDIC. Downward adjustments will remain in effect for subsequent assessment periods until the FDIC determines that the adjustment is no longer warranted (and subject to the advance notification requirements indicated above for upward adjustments).[12]

VII. Request for Comment

The FDIC seeks comment on all aspects of the proposed guidelines for determining how to make adjustments to the initial assessment rates of large Risk Category I institutions. In particular, the FDIC seeks comments on:

1. Whether the objectives, listed under the heading Broad Objectives, for making assessment rate adjustments are appropriate?

2. Whether the proposed guidelines governing the analytical process are appropriate and sufficient to ensure fairness and consistency in deposit insurance pricing determinations? More specifically:

a. The appropriateness of considering additional risk information, including information pertaining to loss severity, to identify possible inconsistencies between an institution's initial assessment rate and risk measures of institutions with similar assessment rates;

b. The appropriateness of applying greater emphasis on broad-based risk measures than more focused measures when making assessment rate adjustment determinations;

c. The appropriateness of augmenting the analysis of broad-based risk measures with a review of more focused risk measures;

d. The appropriateness of basing adjustment decisions on considerations of multiple risk indicators;

e. The appropriateness of assessing financial performance risk measures relative to other institutions engaged in similar business activities; and

f. The appropriateness of using additional risk information to determine the magnitude of adjustment to an institution's assessment rate that would be necessary to bring its rate into better alignment with institutions with similar risk measures.

3. What information should the FDIC use to evaluate the qualitative loss severity factors enumerated under Guideline 1? For example, in the absence of a final rule that might implement certain requirements relating to deposit account system capabilities as described in the Advanced Notice of Proposed Rulemaking on Large Bank Deposit Insurance Determination Modernization,[13] to what extent should the FDIC consider the existing capabilities of deposit account systems? More specifically, should the FDIC consider whether an institution's systems have the ability to place and remove holds on deposit accounts en masse as well as the ability to readily identify the owner(s) of each deposit account (for example, by using a unique identifier) and identify the ownership category of each deposit account, be included in risk-based pricing determinations? If so, what should be the form of information that would demonstrate the existence of these capabilities, to include the scope of any account testing and the types of assurances that would document any such testing (as one example, an institution could demonstrate these capabilities by performing appropriate testing against a sufficiently large sample of deposit accounts and by confirming positive results of this testing to the FDIC in statement certified by a compliance officer or internal auditor of the institution)? Additionally, what information could the institution provide to assist the FDIC in evaluating the ability of the FDIC to isolate and control the main assets and critical business functions of a failed institution without incurring high costs; the level of an institution's foreign assets relative to its foreign deposits and prospects of foreign governments using these assets to satisfy local depositors and creditors in the event of failure; and the availability of sufficient information on qualified financial contracts to allow the FDIC to identify the counterparties to, and other details about, such contracts in the event of failure?

4. Whether there are additional guidelines that should govern the analytical process to ensure fairness and consistency in deposit insurance pricing determinations?

5. Whether it is appropriate for the FDIC to consider information, such as the results of an institution's stress testing or capital adequacy assessment analyses, that pertains to an institution's ability to withstand adverse events and if so, how such information should be incorporated into the analytical process described in these proposed guidelines?

6. Whether it is appropriate for the FDIC to consider risk information that will be developed from the implementation of proposed international capital standards into its analytical process for determining whether an assessment rate adjustment is appropriate and the magnitude of any such adjustments?

7. Whether it is appropriate for the FDIC to consider the willingness and ability of an institution's parent company or its affiliates to provide financial support to the institution or to mitigate the FDIC's loss in the event of failure? If so, what factors or characteristics might be useful in evaluating such considerations?

8. Whether the FDIC should consider certain additional supervisory information when determining whether a downward adjustment in assessment rates is appropriate? For example, should the FDIC preclude from consideration for a downward adjustment those situations where an institution has an outstanding supervisory order in place that may be less directly related to the institution's

[11] The timeframes and example illustrated here would also apply to a decision by the FDIC to remove a previously implemented downward adjustment as well as a decision to increase a previously implemented upward adjustment (the increase could not cause the total adjustment to exceed the 0.50 basis point limitation).

[12] As noted in the final rule, the FDIC may raise an institution's assessment rate without notice if the institution's supervisory or agency ratings or financial ratios (for institutions without debt ratings) deteriorate.

[13] 71 FR 74857 (December 13, 2006).

safety and soundness (such as a memorandum of understanding or consent and decree order relating to compliance regulations or the Bank Secrecy Act)?

9. Whether the proposed guidelines for controlling the assessment rate adjustment process are sufficient to ensure that adjustment decisions are justified, fully supported, and take into account responses and additional information from the primary federal regulator and the institution?

10. Whether there are additional guidelines that should control the assessment rate adjustment process?

Appendix—Examples of Risk Measures That Will Be Considered in Assessment Rate Adjustment Determinations [14]

Broad-Based Risk Measures

• *Composite and weighted average CAMELS ratings:* the composite rating assigned to an insured institution under the Uniform Financial Institutions Rating System and the weighted average CAMELS rating determined under the final rule.

• *Long-term debt issuer rating:* a current, publicly available, long-term debt issuer rating assigned to an insured institution by Moody's, Standard & Poor's, or Fitch.

• *Financial ratio measure:* the assessment rate determined for large Risk Category I institutions without long-term debt issuer ratings, using a combination of weighted average CAMELS ratings and five financial ratios as described in the final rule.

• *Offsite ratings:* ratings or numerical risk rankings, developed by either supervisors or industry analysts, that are based primarily on off-site data and incorporate multiple measures of insured institutions' risks.

• *Other agency ratings:* current and publicly available ratings, other than long-term debt issuer ratings, assigned by any rating agency that reflect the ability of an institution to perform on its obligations. One such rating is Moody's Bank Financial Strength Rating BFSR, which is intended to provide creditors with a measure of a bank's intrinsic safety and soundness, excluding considerations of external support factors that might reduce default risk, or country risk factors that might increase default risk.

• *Loss severity measure:* an estimate of insurance fund losses that would be incurred in the event of failure. This measure takes into account such factors as estimates of insured and non-insured deposit funding, obligations that would be subordinated to depositor claims, obligations that would be secured or would otherwise take priority claim over depositor claims, the estimated value of assets, prospects for "ring-fencing" whereby foreign assets are used to satisfy foreign obligor claims over FDIC claims, and other factors that could affect resolution costs.

Financial Performance and Condition Measures

Profitability

• *Return on assets:* net income (pre- and post-tax) divided by average assets.

• *Return on risk-weighted assets:* net income (pre- and post-tax) divided by average risk-weighted assets.

• *Core earnings volatility:* volatility of quarterly earnings before tax, extraordinary items, and securities gains (losses) measured over one, three, and five years.

• *Net interest margin:* interest income less interest expense divided by average earning assets.

• *Earning asset yield:* interest income divided by average earning assets.

• *Funding cost:* interest expense divided by interest bearing obligations.

• *Provision to net charge-offs:* loan loss provisions divided by losses applied to the loan loss reserve (net of recoveries).

• *Burden ratio:* overhead expenses less non-interest revenues divided by average assets.

• *Qualitative and mitigating profitability factors:* includes considerations such as earnings prospects and diversification of revenue sources.

Capitalization

• *Tier 1 leverage ratio:* tier 1 capital for Prompt Corrective Action (PCA) divided by adjusted average assets as defined for PCA.

• *Tier 1 risk-based ratio:* PCA tier 1 capital divided by risk-weighted assets.

• *Total risk-based ratio:* PCA total capital divided by risk-weighted assets.

• *Tier 1 growth to asset growth:* annual growth of PCA tier 1 capital divided by annual growth of total assets.

• *Regulatory capital to internally-determined capital needs:* PCA tier 1 and total capital divided by internally-determined capital needs as determined from economic capital models, internal capital adequacy assessments processes (ICAAP), or similar processes.

• *Qualitative and mitigating capitalization factors:* includes considerations such as strength of capital planning and ICAAP processes, and the strength of financial support provided by the parent.

Asset Quality

• *Non-performing assets to tier 1 capital:* nonaccrual loans, loans past due over 90 days, and other real estate owned divided by PCA tier 1 capital.

• *ALLL to loans:* allowance for loan and lease losses plus allocated transfer risk reserves divided by total loans and leases.

• *Net charge-off rate:* loan and lease losses charged to the allowance for loan and lease losses (less recoveries) divided by average total loans and leases.

• *Higher risk loans to tier 1 capital:* sum of sub-prime loans, alternative or exotic mortgage products, leveraged lending, and other high risk lending (e.g., speculative construction or commercial real estate financing) divided by PCA tier 1 capital.

• *Criticized and classified assets to tier 1 capital:* assets assigned to regulatory categories of Special Mention, Substandard, Doubtful, or Loss (and not charged-off) divided by PCA tier 1 capital.

• *EAD-weighted average PD:* weighted average estimate of the probability of default (PD) for an institution's obligors where the weights are the estimated exposures-at-default (EAD). PD and EAD risk metrics can be defined using either the Basel II framework or internally defined estimates.

• *EAD-weighted average LGD:* weighted average estimate of loss given default (LGD) for an institution's credit exposures where the weights are the estimated EADs for each exposure. LGD and PD risk metrics can be defined using either the Basel II framework or internally defined estimates.

• *Qualitative and mitigating asset quality factors:* includes considerations such as the extent of credit risk mitigation in place; underwriting trends; strength of credit risk monitoring; and the extent of securitization, derivatives, and off-balance sheet financing activities that could result in additional credit exposure.

Liquidity and Market Risk Indicators

• *Core deposits to total funding:* the sum of demand, savings, MMDA, and time deposits under $100 thousand divided by total funding sources.

• *Net loans to assets:* loans and leases (net of the allowance for loan and lease losses) divided by total assets.

• *Liquid and marketable assets to short-term obligations and certain off-balance sheet commitments:* the sum of cash, balances due from depository institutions, marketable securities (fair value), federal funds sold, securities purchased under agreement to resell, and readily marketable loans (e.g., securitized mortgage pools) divided by the sum of obligations maturing within one year, undrawn commercial and industrial loans, and letters of credit.

• *Qualitative and mitigating liquidity factors:* includes considerations such as the extent of back-up lines, pledged assets, and the strength of contingency and funds management practices.

• *Earnings and capital at risk to fluctuating market prices:* quantified measures of earnings or capital at risk to shifts in interest rates, changes in foreign exchange values, or changes in market and commodity prices. This would include measures of value-at-risk (VaR) on trading book assets.

• *Qualitative and mitigating market risk factors:* includes considerations of the strength of interest rate risk and market risk measurement systems and management practices, and the extent of risk mitigation (e.g, interest rate hedges) in place.

Other Market Indicators

• *Subordinated debt spreads:* dealer-provided quotes of interest rate spreads paid on subordinated debt issued by insured subsidiaries relative to comparable maturity treasury obligations.

• *Credit default swap spreads:* dealer-provided quotes of interest rate spreads paid by a credit protection buyer to a credit

[14] This listing is not intended to be exhaustive but represents the FDIC's view of the most important risk measures that should be considered in the assessment rate determinations of large Risk Category I institutions. This listing may be revised over time as improved risk measures are developed through an ongoing effort to enhance the FDIC's risk measurement and monitoring capabilities.

protection seller relative to a reference obligation issued by an insured institution.

• *Market-based default indicators:* estimates of the likelihood of default by an insured organization that are based on either traded equity or debt prices.

• *Qualitative market indicators or mitigating market factors:* includes considerations such as agency rating outlooks, debt and equity analyst opinions and outlooks, and the relative level of liquidity of any debt and equity issues used to develop market indicators defined above.

Risk Measures Pertaining to Stress Conditions

Ability To Withstand Stress Conditions

• *Concentration measures:* measures of the level of concentrated risk exposures and extent to which an insured institution's capital and earnings would be adversely affected due to exposures to common risk factors such as the condition of a single obligor, poor industry sector conditions, poor local or regional economic conditions, or poor conditions for groups of related obligors (e.g., subprime borrowers).

• *Results of stress tests or scenario analyses:* measures of the extent of capital, earnings, or liquidity depletion under varying degrees of financial stress such as adverse economic, industry, market, and liquidity events.

• *Qualitative and mitigating factors relating to the ability to withstand stress conditions:* includes considerations such as the comprehensiveness of risk identification and stress testing analyses, the plausibility of stress scenarios considered, and the sensitivity of scenario analyses to changes in assumptions.

Loss Severity Indicators

• *Non-deposit liabilities to total liabilities:* the sum of obligations, such as subordinated debt, that would have a subordinated claim to the institution's assets in the event of failure divided by total liabilities.

• *Secured (priority) liabilities to total liabilities:* the sum of claims, such as trade payables and secured borrowings, that would have priority claim to the institution's assets in the event of failure divided by total liabilities.

• *Foreign deposits to total liabilities:* foreign deposits divided by total liabilities.

• *Extent of insured assets held in foreign units:* amount of assets held in foreign offices.

• *Liquidation value of assets:* estimated value of assets, based largely on historical loss rates experienced by the FDIC on various asset classes, in the event of liquidation.

• *Qualitative and mitigating factors relating to loss severity:* includes considerations such as the sufficiency of information and systems capabilities relating to qualified financial contracts and deposits to facilitate quick and cost efficient resolution, the extent to which critical functions or staff are housed outside the insured entity, and prospects for ring-fencing in the event of failure.

By order of the Board of Directors.

Dated at Washington, DC, this 15th day of February, 2007.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E7–2906 Filed 2–20–07; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Environmental Health/Agency for Toxic Substances and Disease Registry

The Program Peer Review Subcommittee (PPRS) of the Board of Scientific Counselors (BSC), Centers for Disease Control And Prevention (CDC), National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (NCEH/ATSDR): Teleconference.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), CDC, NCEH/ATSDR announces the aforementioned subcommittee teleconference meeting:

Time and Date: 9 a.m.–11 a.m. Eastern Standard Time, March 9, 2007.

Place: The teleconference will originate at NCEH/ATSDR in Atlanta, Georgia. To participate, dial 877/315–6535 and enter conference code 383520.

Purpose: Under the charge of the BSC, NCEH/ATSDR, the PPRS will provide the BSC, NCEH/ATSDR with advice and recommendations on NCEH/ATSDR program peer review. They will serve the function of organizing, facilitating, and providing a long-term perspective to the conduct of NCEH/ATSDR program peer review.

Matters To Be Discussed: Review and approve minutes of February 2007 and December 2006; a report on site-specific activities peer review; a discussion of preparedness and emergency response peer review: breadth and approach of the review, and areas of expertise required for the review; nominations for a PPRS panel member, a chairperson, peer reviewers, and partners and customers.

Agenda items are subject to change as priorities dictate.

Supplementary Information: This meeting is scheduled to begin at 9 a.m. Eastern Standard Time. To participate, please dial (877) 315–6535 and enter conference code 383520. Public comment period is scheduled for 10 a.m.–10:15 a.m.

For Further Information Contact: Sandra Malcom, Committee Management Specialist, Office of Science, NCEH/ATSDR, M/S E–28, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone 404/498–0622.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: February 14, 2007.

Elaine Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–2885 Filed 2–20–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Help America Vote Act (HAVA) Voting Access Annual Report.

OMB No.: New Collection.

Description: An annual report is required by Federal statute (the Help America Vote Act (HAVA) of 2002, Public Law 107–252, Section 291, Payments for Protection and Advocacy Systems, 42 U.S.C. 15461). Each State or Unit of Local Government must prepare and submit an annual report at the end of every fiscal year. The report addresses the activities conducted with the funds provided during the year. The information collected from the annual report will be aggregated into an annual profile of how States have utilized the funds and establish best practices for election officials. It will also provide an overview of the State election goals and accomplishments and permit the Administration on Developmental Disabilities to track voting progress to monitor grant activities.

Respondents: Secretaries of State, Directors, State Election Boards, State Chief Election Officials.