List of Subjects in 7 CFR Part 1206

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Mango promotion, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 7411–7425 and 7 U.S.C. 7401.

Dated: February 14, 2019.

Bruce Summers,

Administrator.

[FR Doc. 2019–02851 Filed 2–20–19; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064–AE98

Assessments

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) invites public comment on a notice of proposed rulemaking (NPR or proposal) that would amend its deposit insurance assessment regulations to apply the community bank leverage ratio (CBLR) framework to the deposit insurance assessment system. The FDIC, the Board of Governors of the Federal Reserve System (Federal Reserve) and the Office of the Comptroller of the Currency (OCC) (collectively, the Federal banking agencies) recently issued an interagency proposal to implement the community bank leverage ratio (the CBLR NPR). Under this proposal, the FDIC would assess all banks that elect to use the CBLR framework (CBLR banks) as small banks. Through amendments to the assessment regulations and corresponding changes to the Consolidated Reports of Condition and Income (Call Report), CBLR banks would have the option of using either CBLR tangible equity or tier 1 capital for their assessment base calculation, and using either the CBLR or the tier 1 leverage ratio for the Leverage Ratio that the FDIC uses to calculate an established small bank's assessment rate. Through this NPR, the FDIC also would clarify that a CBLR bank that meets the definition of a custodial bank would have no change to its custodial bank deduction or reporting items required to calculate the deduction; and the assessment regulations would continue to reference the prompt corrective action (PCA) regulations for the definitions of capital categories used in the deposit insurance assessment system, with technical amendments to align with the CBLR NPR. To assist banks in understanding the effects of the NPR, the FDIC plans to provide on its website an assessment estimation tool that estimates deposit insurance assessment amounts under the proposal.

DATES: Comments must be received on or before April 22, 2019.

ADDRESSES: You may submit comments, identified by RIN 3064–AE98, by any of the following methods:

- *Agency website: https://www.fdic.gov/regulations/laws/federal/.* Follow the instructions for submitting comments on the Agency website.
- *Email: Comments@FDIC.gov.* Include RIN 3064–AE98 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. Include RIN 3064–AE98 in the subject line of the letter.
- *Hand Delivery/Courier:* Guard station at the rear of the 550 17th Street NW building (located on F Street) on business days between 7 a.m. and 5 p.m. (EDT).
- *Public Inspection:* All comments received, including any personal information provided, will be posted without change to *https://www.fdic.gov/regulations/laws/federal*. Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1002, Arlington, VA 22226 or by telephone at (877) 275–3342 or (703) 562–2200.

FOR FURTHER INFORMATION CONTACT: Ashley Mihalik, Chief, Banking and Regulatory Policy Section, Division of Insurance and Research, (202) 898–3793, *amihalik@fdic.gov*; Daniel Hoople, Financial Economist, Banking and Regulatory Policy Section, Division of Insurance and Research, *dhoople@fdic.gov*; (202) 898–3835; Nefretete Smith, Counsel, Legal Division, (202) 898–6851, *NefSmith@fdic.gov*.

SUPPLEMENTARY INFORMATION:

I. Policy Objectives

The Federal Deposit Insurance Act (FDI Act) requires that the FDIC establish a risk-based deposit insurance assessment system.[1] Pursuant to this requirement, the FDIC first adopted a risk-based deposit insurance assessment system effective in 1993 that applied to all insured depository institutions (IDIs).[2] The FDIC implemented a risk-based assessment system with the goals of making the deposit insurance system fairer to well-run institutions and encouraging weaker institutions to improve their condition, and thus, promote the safety and soundness of IDIs.[3] Deposit insurance assessments based on risk also provide incentives for IDIs to monitor and reduce risks that could increase potential losses to the DIF. Since 1993, the FDIC has met its statutory mandate and has pursued these policy goals by periodically introducing improvements to the deposit insurance assessment system's ability to differentiate for risk.

The primary objective of this proposal is to incorporate the CBLR framework[4] into the current risk-based deposit insurance assessment system in a manner that: (1) Maximizes regulatory relief for small institutions that use the CBLR framework; and (2) minimizes increases in deposit insurance assessments that may arise without a change in risk. The rulemaking also would maintain fair and appropriate pricing of deposit insurance for institutions that use the CBLR.

II. Background

The FDIC assesses all IDIs an amount for deposit insurance equal to the bank's[5] deposit insurance assessment base multiplied by its risk-based assessment rate.[6] A bank's assessment base and risk-based assessment rate depend in part, on tier 1 capital and the tier 1 leverage ratio. This information would no longer be reported on the Consolidated Reports of Condition and Income (Call Report) by banks that elect the CBLR framework.

A. Notice of Proposed Rulemaking: Community Bank Leverage Ratio

On February 8, 2019, the Federal banking agencies published in the **Federal Register** the CBLR NPR.[7] The CBLR NPR would provide for a

[1] 12 U.S.C. 1817(b). Generally, a ''risk-based assessment system'' means a system for calculating a depository institution's assessment based on the institution's probability of causing a loss to the Deposit Insurance Fund (DIF) due to the composition and concentration of the institution's assets and liabilities, the likely amount of any such loss, and the revenue needs of the DIF. *See* 12 U.S.C. 1817(b)(1)(C).

[2] 57 FR 45263 (Oct. 1, 1992).

[3] *See* 57 FR at 45264.

[4] In this proposal, the term ''CBLR framework'' refers to the simplified measure of capital adequacy provided in the CBLR NPR, as well as any subsequent changes to that proposal that are adopted during the rulemaking process.

[5] As used in this NPR, the term ''bank'' is synonymous with the term ''insured depository institution'' as it is used in section 3(c)(2) of the FDI Act, 12 U.S.C. 1817(c)(2).

[6] *See* 12 CFR 327.3(b)(1).

[7] *See* 84 FR 3062 (February 8, 2019).

simplified measure of capital adequacy for qualifying community banking organizations, consistent with Section 201 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA or the Act).[8] The Act defines a qualifying community banking organization as a depository institution or depository institution holding company with total consolidated assets of less than $10 billion.[9] In addition, the Act states that the Federal banking agencies may determine that a banking organization is not a qualifying community bank based on its risk profile.[10] A qualifying community banking organization that reports a community bank leverage ratio, or CBLR (defined as the ratio of tangible equity capital to average total consolidated assets, both as reported on an institution's applicable regulatory filing), exceeding the level established by the Federal banking agencies of not less than 8 percent and not more than 10 percent would be considered well capitalized. The CBLR NPR proposed to define tangible equity capital (CBLR tangible equity) as total bank equity capital, prior to including minority interests, and excluding accumulated other comprehensive income (AOCI), deferred tax assets arising from net operating loss and tax credit carryforwards, goodwill, and certain other intangible assets, calculated in accordance with a qualifying community bank organization's regulatory reports.[11] The Federal banking agencies further proposed that qualifying community banking organizations [12] that elect to use the CBLR framework (CBLR banks) would report their CBLR and other relevant information on a simpler regulatory capital schedule in the Call Report, as opposed to the current schedule RC–R of the Call Report.[13] Finally, under the CBLR NPR, a CBLR bank must have a CBLR greater than 9 percent to be considered well capitalized.[14] The Federal banking agencies also proposed proxy CBLR thresholds for the adequately capitalized, undercapitalized, and significantly undercapitalized PCA categories.[15]

In the interagency CBLR NPR, the Federal banking agencies noted that deposit insurance assessment regulations would be affected by the proposed CBLR framework.[16] CBLR banks would no longer be required to calculate or report the components of regulatory capital used in the calculation of the tier 1 leverage ratio or risk-based capital, such as tier 1 capital or risk weighted assets.[17]

B. Use of Capital Measures in the Current Deposit Insurance Assessment System

Assessment Base

In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) required that the FDIC amend its regulations to redefine the assessment base to equal average consolidated total assets minus average tangible equity.[18] In implementing this requirement, the FDIC defined tangible equity as tier 1 capital, in part, because it minimized regulatory reporting.[19] The FDIC also provides a deduction to the assessment base for custodial banks [20] equal to a certain amount of low risk-weighted assets.[21]

In addition, the FDIC applies certain adjustments to a bank's assessment rate as part of the risk-based assessment system to better account for risk among banks based on their funding sources. The adjustments are calculated, in part, using a bank's assessment base. One adjustment, the depository institution debt adjustment (DIDA), is limited based on a bank's tier 1 capital.[22]

Assessment Rate

Under the FDI Act, the FDIC has the authority to ''establish separate risk-based assessment systems for large and small members of the Deposit Insurance Fund.'' [23] Separate systems for large banks and small banks have been in place since 2007.[24] Assessment rates for established small banks [25] are calculated based on a formula that uses financial measures and a weighted average of supervisory ratings (CAMELS).[26] The financial measures are derived from a statistical model estimating the probability of failure over three years. The measures are shown in Table 1 below.

TABLE 1—FINANCIAL MEASURES USED TO DETERMINE ASSESSMENT RATES FOR ESTABLISHED SMALL BANKS

Financial measures
• Leverage Ratio.
• Net Income before Taxes/Total Assets.
• Nonperforming Loans and Leases/Gross Assets.
• Other Real Estate Owned/Gross Assets.
• Brokered Deposit Ratio.
• One Year Asset Growth.
• Loan Mix Index.

One of the measures, the Leverage Ratio, is defined as tier 1 capital divided by adjusted average assets (herein referred to as the tier 1 leverage ratio). The numerator and denominator of the Leverage Ratio are both based on the

[8] Public Law 115–174 (May 24, 2018).

[9] *See* section 201(a)(3)(A) of the Act.

[10] *See* section 201(a)(3)(B) of the Act.

[11] *See* 84 FR at 3068–69.

[12] In accordance with the Act, the Federal banking agencies propose to define a qualifying community bank generally as a depository institution or depository institution holding company with less than $10 billion in total consolidated assets and that has limited amounts of off-balance sheet exposures, trading assets and liabilities, mortgage servicing assets, and certain deferred tax assets. An advanced approaches banking organization, including a subsidiary of a depository institution, bank holding company, or intermediate holding company that is an advanced approaches banking organization, would not be a qualifying community bank. *See* 84 FR at 3065–67.

[13] In the CBLR NPR, the Federal banking agencies state that they intend to separately seek comment on the proposed changes to regulatory reports for qualifying community banking organizations that elect to use the CBLR framework; however, the CBLR NPR provides an illustrative reporting form, using the Call Report as an example, as an indication of the potential reporting format and potential reporting burden relief for CBLR banks. *See* 84 FR at 3065 and 3074.

[14] *See* 84 FR at 3064 and 3071. However, to be considered and treated as well capitalized under the CBLR framework, and consistent with the Federal banking agencies' current PCA rule, the qualifying community banking organization must demonstrate that it is not subject to any written agreement, order, capital directive, or prompt corrective action directive to meet and maintain a specific capital level for any capital measure. *See* 84 FR at 3064.

[15] *See* 84 FR at 3071–72.

[16] *See* 84 FR at 3073–74.

[17] *See* 84 FR at 3073.

[18] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 331(b), 124 Stat. 1376, 1538 (codified at 12 U.S.C. 1817(note)).

[19] *See* 76 FR 10673, 10678 (Feb. 25, 2011) (''Defining tangible equity as Tier 1 capital provides a clearly understood capital buffer for the DIF in the event of the institution's failure, while avoiding an increase in regulatory burden that a new definition of capital could cause.'').

[20] Generally, a custodial bank is defined as an IDI with previous calendar year-end trust assets (that is, fiduciary and custody and safekeeping assets, as reported on Schedule RC–T of the Call Report) of at least $50 billion or those insured depository institutions that derived more than 50 percent of their revenue (interest income plus non-interest income) from trust activity over the previous calendar year. *See* 12 CFR 327.5(c)(1).

[21] The adjustment to the assessment base for banker's banks under 12 CFR 327.5(b) would not be affected by this proposal.

[22] *See* 12 CFR 327.16(e)(2).

[23] 12 U.S.C. 1817(b)(1)(D).

[24] Under the assessment regulations, a ''small institution'' generally is an institution with less than $10 billion in total assets, and a ''large institution'' generally is an institution with $10 billion or more in total assets. *See* 12 CFR 327.8(e) and (f). A separate system for highly complex institutions has been in place since 2011. *See* 12 CFR 326.16(b)(2).

[25] Generally, an established institution is one that has been federally insured for at least five years. *See* 12 CFR 327.8(v).

[26] *See* 12 CFR 327.16(a)(1).

definitions for the relevant PCA measure.[27]

III. Summary of Proposal

Summary

In this NPR, the FDIC is proposing to apply the CBLR framework to the deposit insurance assessment system in a way that minimizes or eliminates any resulting increase in assessments that may arise without a change in risk and, to the fullest extent practicable, reduces regulatory reporting burden consistent with the objective of the CBLR framework, as discussed in the CBLR NPR.[28] As discussed more fully below, the FDIC is proposing to price all CBLR banks as small banks. The FDIC is also proposing to amend its assessment regulations to calculate the assessment base of CBLR banks using either CBLR tangible equity or tier 1 capital, and the assessment rate of established CBLR banks using the higher of either the CBLR or the tier 1 leverage ratio. For a minority of small banks, the use of the CBLR or CBLR tangible equity could result in a higher assessment rate or a larger assessment base, respectively. Therefore, through corresponding changes to the Call Report, the FDIC would propose to allow CBLR banks the option to use tier 1 capital in lieu of CBLR tangible equity when reporting ''average tangible equity'' on their Call Report, for purposes of calculating their assessment base. Through Call Report changes, CBLR banks also would have the option to report the tier 1 leverage ratio on Schedule RC–O of the Call Report, in addition to the CBLR on the simpler regulatory capital schedule under the CBLR framework, and the FDIC would apply the value that would result in the lower assessment rate (*i.e.,* the higher value). The FDIC, in coordination with the Federal Financial Institutions Examination Council (FFIEC), would seek comment on proposed changes to Schedule RC–O and its instructions in the Call Reports in a separate Paperwork Reduction Act notice that would align with the proposed amendments to the assessment regulations. This proposal meets the FDIC's goal of extending the regulatory relief made available to small institutions under the proposed CBLR framework while minimizing or potentially eliminating increases in deposit insurance assessments that are unrelated to a change in risk.

The FDIC, through this NPR, also proposes to clarify that a CBLR bank that meets the definition of a custodial bank would have no change to its custodial bank deduction or reporting items required to calculate the deduction. A CBLR bank that meets the definition of a custodial bank would continue to report items related to the custodial bank deduction on Schedule RC–O of the Call Report for assessment purposes, one of which is calculated based on the risk weighting of qualifying low-risk liquid assets; however, to utilize the deduction the bank would not be required to report the more detailed schedule of risk-weighted assets for regulatory capital purposes consistent with adoption of the CBLR framework. In addition, the proposal would clarify that the assessment regulations would continue to reference the PCA regulations for the definitions of capital categories for deposit insurance assessment purposes, including the proposed CBLR capital categories.

A. Assessment Base and Assessment Rate Adjustments

Tangible Equity

The FDIC is proposing to amend the definition of ''tangible equity,'' for purposes of calculating a CBLR bank's average tangible equity and the assessment base, to mean either CBLR tangible equity or tier 1 capital.[29] For CBLR banks that do not elect the option, discussed below, to use tier 1 capital when reporting average tangible equity, CBLR tangible equity would be used to calculate the bank's assessment base. All other banks would continue to use tier 1 capital when reporting average tangible equity, which the FDIC would use to calculate a bank's assessment base.

The proposed change minimizes increases in deposit insurance assessments for CBLR banks that may arise without a change in risk. Based on Call Report data as of September 30, 2018, the FDIC estimates that for most, but not all, CBLR banks, CBLR tangible equity would equal or exceed tier 1 capital. However, in the event that a bank's CBLR tangible equity is less than tier 1 capital, calculating a bank's assessment base using CBLR tangible equity instead of tier 1 capital could result in a larger assessment base and a higher assessment amount. Therefore, the FDIC is proposing to give CBLR banks the option to use either tier 1 capital or CBLR tangible equity when calculating ''average tangible equity'' for purposes of the bank's assessment base calculation.[30] Banks currently report average tangible equity on item 5 of Schedule RC–O of their Call Report. Through changes to the Call Report, the FDIC would propose to retain this item, but amend the Call Report instructions to allow CBLR banks to report average tangible equity using either CBLR tangible equity or, if using tier 1 capital would result in a higher amount for average tangible equity (and subsequently a lower assessment base), the bank would have the option to use tier 1 capital.[31] As discussed above, the FDIC, in coordination with the FFIEC, would seek comment on corresponding changes to Schedule RC–O and its instructions in a separate Paperwork Reduction Act notice.

The proposed change to ''tangible equity'' also maximizes regulatory relief for CBLR banks. A CBLR bank would experience a decrease in reporting burden as a result of this proposal. If the bank chooses the option to use tier 1 capital for assessment purposes, the bank would experience an increase in reporting burden relative to other CBLR banks by having to calculate tier 1 capital for purposes of reporting average tangible equity. Compared to current reporting, however, this would still result in an overall reduction in reporting, because the number of items reported by a CBLR bank that elects to use tier 1 capital for assessment purposes would not increase (tier 1 capital would be used in lieu of CBLR tangible equity in calculating and reporting ''average tangible equity'' on Schedule RC–O of its Call Report). The FDIC would continue to require all banks to maintain records required to verify the correctness of any assessment for three years from the due date of the assessment.[32] The FDIC expects that a CBLR bank would only elect the option to use tier 1 capital if it would result in a lower assessment.

[27] *See* 12 CFR 327.16(a)(1)(ii).

[28] The changes proposed in this rulemaking do not apply to insured branches of foreign banks. These institutions file the FFIEC 002, which does not include many of the items, including capital measures, found in the Call Report schedules filed by other IDIs.

[29] As previously stated, the assessment base is equal to average consolidated total assets minus average tangible equity. This proposal would not change the calculation of average consolidated total assets as it relates to an IDI's assessment base.

[30] All IDIs are instructed to calculate average tangible equity using the average of the three month-end balances within a quarter (monthly averaging). Some institutions with total consolidated assets of less than $1 billion may report average tangible equity using an end-of-quarter balance. *See* 12 CFR 327.5(a)(2).

[31] To illustrate the effect of using CBLR tangible equity or tier 1 capital on an IDI's assessment, the FDIC plans to provide on its website an assessment estimation tool that banks can use to estimate deposit insurance assessment amounts under the proposal.

[32] *See* 12 U.S.C. 1817(b)(4).

The proposed definition of ''tangible equity'' for purposes of calculating an IDI's assessment base would affect adjustments that could apply to a CBLR bank's initial base assessment rate because the assessment base is used in the denominator of each adjustment.[33] The FDIC expects that a CBLR bank would consider how the proposed change to ''tangible equity'' for purposes of calculating its assessment base could affect adjustments to its assessment rate when it makes its decision of whether to optionally report average tangible equity using tier 1 capital for deposit insurance assessment purposes. Thus, the FDIC does not propose any additional change to the assessment base as it is used for purposes of calculating the adjustments referenced above.

Question 1: The FDIC invites comment on providing a CBLR bank with the option to use tier 1 capital for purposes of reporting average tangible equity, which is used in the assessment base calculation. Is the proposed change appropriate? Should the FDIC only use CBLR tangible equity to calculate the assessment base of a CBLR bank, even if it could result in a higher assessment amount? Should CBLR banks be required to specify whether they are reporting tier 1 capital or CBLR tangible equity for assessments purposes in a separate line item of the Call Report? Should this option only stay in effect for a limited time to permit a transition to the new CBLR?

Depository Institution Debt Adjustment

The FDIC also proposes to amend the DIDA to incorporate CBLR tangible equity for CBLR banks. Under the proposal, the FDIC would exclude from the unsecured debt amount used in calculating the DIDA of a CBLR bank an amount equal to no more than 3 percent of CBLR tangible equity. For all other banks, the FDIC would continue to exclude an amount equal to no more than 3 percent of tier 1 capital, and thus those banks would see no change.[34] The NPR would not change the 3 percent cap for the exclusion and would not require any change in reporting. For a CBLR bank, the FDIC would calculate the exclusion using end-of-quarter CBLR tangible equity, as reported in the simpler regulatory capital schedule under the CBLR framework. For a non-CBLR bank, the FDIC would continue to calculate the exclusion using end-of-quarter tier 1 capital, as reported in Schedule RC–R of the Call Report.

The FDIC is proposing to only use CBLR tangible equity for purposes of calculating the DIDA for CBLR banks because the adjustment currently applies to so few banks. Based on Call Report data as of September 30, 2018, 24 IDIs are subject to the DIDA and 22 of those could qualify as a CBLR bank. The majority of the 22 CBLR banks subject to the DIDA would experience little to no effect if the FDIC substitutes CBLR tangible equity for tier 1 capital. Based on the latest Call Report data, only 2 of the 22 CBLR banks subject to the DIDA would experience a change in their DIDA calculation, and the effect would be approximately $1,500 per quarter. As such, the FDIC is proposing to substitute CBLR tangible equity, as reported on the simpler regulatory capital schedule under the CBLR framework, for tier 1 capital so that CBLR banks subject to the DIDA would not have to report tier 1 capital separately. The proposed change would extend the regulatory relief made available to small institutions under the proposed CBLR framework while minimizing increases to the DIDA that may arise without a corresponding increase to the debt issued by another IDI that is held by the bank.

Question 2: Should the FDIC allow CBLR banks to use either CBLR tangible equity or tier 1 capital for the DIDA calculation, whichever is highest? If so, should CBLR banks be required to report an additional line item for tier 1 capital?

Question 3: Should the FDIC use average tangible equity as a proxy for tier 1 capital for CBLR banks only, so that such banks do not have to report an additional line item for tier 1 capital? In this case, for CBLR banks only, the FDIC would use the amount reported in line item 5 of Schedule RC–O of their Call Report for the DIDA calculation in place of tier 1 capital.

B. Assessment Rates for Established Small Institutions

The FDIC is proposing to amend the definition of the Leverage Ratio in the small bank pricing methodology, which is used to calculate an established small bank's assessment rate, to mean the higher of either the CBLR or tier 1 leverage ratio, as applicable. For established CBLR banks, the CBLR would be used to calculate the bank's assessment rate unless the bank opts to additionally report the tier 1 leverage ratio. For all other established small banks, the FDIC would continue to use the tier 1 leverage ratio to calculate an institution's assessment rate. As discussed in more detail below, FDIC analysis suggests that substituting the CBLR for the current Leverage Ratio in the small bank pricing methodology would not materially change the predictive accuracy of the underlying statistical model used to determine assessment rates for established small banks.

The proposed change to ''Leverage Ratio'' minimizes increases in deposit insurance assessments that may arise without a change in risk. Based on Call Report data as of September 30, 2018, the FDIC estimates that for most, but not all, CBLR banks, the CBLR would equal or exceed the tier 1 leverage ratio and, therefore, would reduce or have no effect on an established small bank's deposit insurance assessment rate. In the event that an established small bank's CBLR is less than its tier 1 leverage ratio, however, calculating the bank's assessment rate using the CBLR instead of the tier 1 leverage ratio could result in a higher assessment rate and a higher assessment amount.[35] Therefore, through upcoming Call Report changes, CBLR banks would have the option to separately report their tier 1 leverage ratio, in addition to the CBLR. As reflected in the proposed changes to the definition of ''Leverage Ratio,'' the FDIC would then use the higher value (*i.e.,* the value that results in the lower assessment when calculating the institution's assessment rate). To provide for this option in reporting, the FDIC, through changes to the Call Report, would retain and transfer item 44 from Schedule RC–R of the Call Report, to Schedule RC–O. A CBLR bank that elects to report its tier 1 leverage ratio for purposes of calculating its assessment rate would report that ratio on the item transferred to Schedule RC–O. A CBLR bank that does not elect to report the tier 1 leverage ratio would leave this item blank.[36] All CBLR banks

[33] For example, the unsecured debt adjustment applied to an IDI's assessment rate equals the amount of long-term unsecured liabilities an IDI reports times the sum of 40 basis points plus the bank's initial base assessment rate (that is, the assessment rate before any adjustments) divided by the assessment base. The other two adjustments affected by the proposed change to the definition of ''tangible equity'' for purposes of calculating an IDI's assessment base are: the depository institution debt adjustment and the brokered deposit adjustment. *See* 12 CFR 327.16(e).

[34] The FDIC implemented the DIDA in a 2011 final rule to offset the benefit received by institutions that issue long-term, unsecured liabilities when these liabilities are held by another IDI. The exclusion of no more than 3 percent of tier 1 capital represents a de minimis amount of risk. *See* 76 FR at 10681.

[35] To illustrate the effect of using the CBLR or tier 1 leverage ratio on an IDI's assessment rate, the FDIC will provide on its website an assessment estimation tool that banks can use to estimate deposit insurance assessment rates under the proposal.

[36] By leaving this item blank, the FDIC would consider the value for the tier 1 leverage ratio to be

Continued

would report their CBLR as part of the simpler capital schedule under the CBLR framework. As discussed above, to effectuate this option, the FDIC, in coordination with the FFIEC, would seek comment on corresponding changes to Schedule RC–O and its instructions in a separate Paperwork Reduction Act notice.

The proposed change to ''Leverage Ratio'' also maximizes regulatory relief for CBLR banks. A CBLR bank would experience a decrease in its reporting burden under the proposal. If the bank chooses the option to report the tier 1 leverage ratio for assessment purposes, the bank would experience an increase in reporting burden relative to other CBLR banks by having to calculate and report this additional line item on Schedule RC–O. The FDIC expects that a CBLR bank would only elect the option to calculate and report its tier 1 capital ratio if it would result in a lower assessment. A CBLR bank that elects to report its tier 1 leverage ratio would still benefit from the reduced reporting provided by the simpler regulatory capital schedule under the CBLR framework, relative to non-CBLR banks. All banks would continue to be required to maintain all records that the FDIC may require for verifying the correctness of any assessment for three years from the due date of the assessment.[37]

Question 4: The FDIC invites comment on allowing a CBLR bank to additionally report the tier 1 leverage ratio to determine its deposit insurance assessment rate. Is the proposed change appropriate? Should the FDIC only use the CBLR to calculate the assessment rate of a CBLR bank, even if it could result in a higher assessment amount?

C. Pricing CBLR Banks as Small Institutions

The FDIC is proposing to amend the definition of ''small institution'' to include all banks that elect to adopt the CBLR framework, even if such a bank would otherwise be classified as a ''large institution'' under the assessment regulations.[38] This modification is necessary because otherwise the different eligibility thresholds used to define a small bank in assessment regulations and a CBLR bank under the CBLR framework could result in a CBLR bank being assessed as a large bank.[39]

For example, a substantial divestiture might cause a bank classified as large for the purpose of pricing deposit insurance to have less than $10 billion in total consolidated assets in a particular quarter. Assuming that the bank meets the other criteria to be a qualifying community banking organization, the bank would be eligible to report under the CBLR framework beginning with the following quarter. Under existing assessment regulations, however, the bank would still be classified as a large institution until it reported total assets below $10 billion for four consecutive quarters. Therefore, the bank could report the CBLR for regulatory capital purposes but, for a short period, it would continue to be priced as a large bank.

The proposed change to the assessment definition of ''small institution'' would prevent a scenario, such as the one described above, where a CBLR bank is priced as a large bank because it has not yet reported total assets below $10 billion for four consecutive quarters. In addition, the FDIC also proposes to clarify that a CBLR bank with assets of between $5 billion and $10 billion cannot request to be treated as a large bank.[40] The FDIC believes that pricing a CBLR bank as a large bank would be inconsistent with the intention of the proposed CBLR framework to provide regulatory relief to small, community banks with a limited risk profile.[41] The pricing methodology for large banks uses measures that are not reported by small banks and are meant to measure the risk of banks with more complex operations and organizational structures.[42] Further, CBLR banks would no longer report the tier 1 leverage ratio or tier 1 capital, which are used for multiple measures in the large bank pricing methodology. Substituting the CBLR for the tier 1 leverage ratio or CBLR tangible equity for tier 1 capital in the large bank assessment methodology would require more extensive modifications to ensure that risk is priced appropriately.

Question 5: The FDIC invites comment on amending the definition of ''small institution'' to include CBLR banks. Are there limited instances where the FDIC should permit CBLR banks to be assessed as large institutions? If so, what are they and how should such institutions report the data necessary to be priced as a large bank (as determined under the assessment regulations)?

D. Clarifications Not Requiring a Substantive Change to Regulations

The FDIC, through this NPR, proposes to clarify that for any CBLR bank that meets the definition of a custodial bank there is no change in the reporting that is necessary to calculate and receive the custodial bank deduction under the assessment regulations. The NPR would not change the custodial bank deduction. A CBLR bank that also meets the definition of a custodial bank under the assessment regulations would continue to report items related to the custodial bank deduction on Schedule RC–O of the Call Report for assessment purposes, one of which is calculated based on the risk weighting of qualifying low-risk liquid assets. However, consistent with the CBLR framework, CBLR banks that meet the definition of a custodial bank would not be required to report the more detailed schedule of its risk-weighted assets for regulatory capital purposes in order to utilize the deduction.

In calculating the assessment base for custodial banks, the FDIC excludes a certain amount of low-risk assets, which are reported in Schedule RC–R of the Call Report, subject to the deduction limit.[43] Under the CBLR framework, these line items would not be included in the simpler regulatory capital schedule that would be filed by CBLR banks in the Call Report.[44] However, the FDIC is clarifying that it would not

zero and the CBLR would be used to calculate a CBLR bank's assessment rate because it would be the higher amount.

[37] *See* 12 U.S.C. 1817(b)(4).

[38] A CBLR bank that meets the definition of an established institution under 12 CFR 327.8(v), generally one that has been federally insured for at least five years, would be assessed as an established small bank. A CBLR bank that has been federally insured for less than five years would be assessed as a new small bank. *See* 12 CFR 327.8(w).

[39] Under the current assessment regulations, a large bank is reclassified as small once it has reported less than $10 billion in total assets for four consecutive quarters, and a small bank is reclassified as large once it has reported $10 billion or more in total assets for four consecutive quarters. *See* 12 CFR 327.8(e). Under the CBLR NPR, a qualifying community banking organization is defined generally as a depository institution or depository institution holding company with less than $10 billion in total consolidated assets at the end of the most recent quarter and that meet certain qualifying criteria. *See* 84 FR at 3065.

[40] Under current regulations, a bank with between $5 billion and $10 billion may request treatment as a large bank for deposit insurance assessments. *See* 12 CFR 327.16(f).

[41] *See* 84 FR at 3067.

[42] For example, the FDIC uses data on Schedule RC–O regarding higher-risk assets to calculate financial ratios used to determine a large or highly complex institution's assessment rate, and small institutions are not required to report such information.

[43] *See* 12 CFR 327.5(c)(2) (the FDIC will exclude from a custodial bank's assessment base the daily or weekly average (depending on how the bank reports its average consolidated total assets) of all asset types described in the instructions to lines 1, 2, and 3 of Schedule RC of the Call Report with a standardized approach risk weight of 0 percent, regardless of maturity, plus 50 percent of those asset types described in the instructions to lines 1, 2, and 3 of Schedule RC of the Call Report, with a standardized approach risk-weight greater than 0 and up to and including 20 percent, regardless of maturity).

[44] *See* 84 FR at 3073.

require a custodial bank that elects to use the CBLR framework to separately report these items in order to continue utilizing the custodial bank deduction. A custodial bank would continue to report the numerical value of its custodial bank deduction and custodial bank deduction limit in Schedule RC–O of the Call Report. Also, the FDIC would require custodial banks to continue to maintain the proper documentation of their calculation for the custodial bank adjustment, and to make that documentation available upon request.[45]

Question 6: The FDIC invites comment on allowing a custodial bank that is a CBLR bank to continue to utilize the custodial bank deduction by only reporting its custodial bank deduction and custodial bank limit on Schedule RC–O of its Call Report. Should such a bank be required to report additional items on the Call Report to support its calculation of the custodial bank deduction?

The FDIC also proposes to clarify that the assessment regulations would continue to reference the PCA regulations for the definitions of capital categories used in the deposit insurance assessment system. Capital categories for deposit insurance assessment purposes are defined by reference to the agencies' regulatory capital rules that would be amended under the CBLR NPR.[46] Any changes to the thresholds that are made as a result of the CBLR rulemaking process will be automatically incorporated into the assessment regulations. In the NPR, the FDIC also proposes to make technical amendments to the FDIC's assessment regulations to align with the changes in the CBLR NPR.

IV. Expected Effects

Based on Call Report data as of September 30, 2018, the FDIC does not expect that the proposed changes to the assessment regulations would have a material impact on aggregate assessment revenue or on rates paid by individual institutions. The FDIC estimates that 4,450 out of 5,477 IDIs (81.2 percent) would meet the proposed qualifying community banking organization criteria for the CBLR framework and would have a CBLR greater than 9 percent.[47] Of all banks, 4,479 (81.8 percent) would see no change in their deposit insurance assessment under the proposal.

Certain CBLR banks, however, could see a decrease or, potentially an increase, in their assessments under the proposal. A CBLR bank could experience a decreased assessment amount because its tier 1 capital is less than its CBLR tangible equity (resulting in a smaller assessment base and any applicable assessment adjustments) or because its tier 1 leverage ratio is lower than its CBLR (resulting in a higher Leverage Ratio and potentially a lower assessment rate). Conversely, a CBLR bank could experience an increased assessment amount if its tier 1 capital is greater than its CBLR tangible equity (resulting in a larger assessment base) or because its tier 1 leverage ratio is higher than its CBLR (resulting in a lower Leverage Ratio and potentially a higher assessment rate).

The FDIC estimates that the proposal would decrease assessments for 560 CBLR banks (10.2 percent of all banks). Of those, 458 (8.4 percent of all banks) would experience a decrease of less than 1 percent, and 40 (0.7 percent of all banks) would experience a decrease greater than 5 percent. On the other hand, the proposal could also result in increased assessments for 438 banks (8.0 percent of all banks). Of those, 347 (6.3 percent of all banks) could experience an increase of less than 1 percent, and 22 (0.4 percent of all banks) could experience an increase greater than 5 percent. CBLR banks facing an increase in assessments would have the option of avoiding that increase by using tier 1 capital for the assessment base calculation, reporting the tier 1 leverage ratio for the assessment rate calculation, or both. Therefore, the number of banks that would experience an increase in assessments as the result of this proposal is likely to be less than 438, depending on the number of banks that utilize the options.

If all CBLR banks that could experience an increase in assessments by opting into the CBLR framework choose to use tier 1 capital for the assessment base calculation and the tier 1 leverage ratio for the assessment rate calculation (in order to prevent an increase in assessments), and assessments for the remaining CBLR banks are determined using CBLR tangible equity and the CBLR, the FDIC estimates that aggregate revenue to the DIF would decline by $4.3 million annually (0.08% of annual assessments), based on Call Report data as of September 30, 2018.

Based on Call Report data as of September 30, 2018, five custodial banks would meet the definition of a ''qualifying community banking organization'' under the CBLR NPR. Under the proposal, a custodial bank that is a CBLR bank would be able to continue to report the custodial bank deduction for its assessment base and would be able to report the simpler regulatory capital schedule proposed under the CBLR NPR. All five custodial banks that would meet the definition of a ''qualifying community banking organization'' would see no change to their assessments.

The relatively small change in aggregate deposit insurance assessment revenue suggests that substituting the CBLR for the tier 1 leverage ratio, as proposed, would have minimal impact on the FDIC's ability to fairly and adequately price a bank's risk to the DIF. The FDIC further evaluated this claim by performing out-of-sample backtesting to compare the accuracy ratio[48] of a model that uses the CBLR to the accuracy ratio of the current model that uses the tier 1 leverage ratio.

The backtests show that substituting the CBLR for the tier 1 leverage ratio would not materially change the predictive accuracy of the underlying statistical model used to determine assessment rates for established small banks. To make this point, the table below compares the accuracy ratios of the statistical model using a close approximation of the CBLR in lieu of the tier 1 leverage ratio (column A) with the current model using the tier 1 leverage ratio (column B).[49] Column A shows that the resulting accuracy ratio when substituting the CBLR for the tier 1 leverage ratio is 0.646. Column B shows that the current small bank assessment system basically performed

[45] *See* 12 U.S.C. 1817(b)(4).

[46] *See* 12 CFR 327.8(z).

[47] In the CBLR NPR, the Federal banking agencies estimated that 4,469 IDIs met all of the proposed qualifying criteria, as of June 30, 2018. *See* 84 FR at 3072. The estimate of 4,450 qualifying community banking organizations in this NPR is based on data as of September 30, 2018. The difference of 19 institutions is attributable to changes in the number of institutions and to relevant Call Report data and was not the result of any change to the proposed qualifying criteria.

[48] Briefly, an accuracy ratio is a number between 0 and 1 (inclusive) that measures how well the model performs a correct rank-ordering of banks that failed over the projection horizon. A ''perfect'' model is one that always assigns a higher probability of failure to a bank that subsequently failed in the projection horizon compared to a bank that does not fail; such a model receives an accuracy ratio of 1. At the other extreme, a model that performs no better than random guessing would receive an accuracy ratio of 0. A technical explanation of an accuracy ratio can be found at 81 FR 6127–28 (Feb. 4, 2016).

[49] The substitution of the CBLR for the tier 1 leverage ratio is made only for cases in which the bank is estimated to meet the definition of a qualifying community bank organization. Regressions were done on an out-of-sample basis. For example, the backtest from the first row is based on parameter estimates based on data from 2003 and earlier. Then the projection is made using data available at the end of 2006 to make projections over the next three years.

the same, with an accuracy ratio of 0.645. Similar backtests are repeated for other years with the average accuracy ratio for all of the backtests virtually the same between a model that uses the CBLR in lieu of the tier 1 leverage ratio and a model that reflects the current small bank assessment system. These results provide a strong case that substituting the CBLR for the tier 1 leverage ratio has little impact on predictive accuracy of the underlying model used to determine assessments for established small banks.

TABLE 2—ACCURACY RATIO COMPARISON BETWEEN THE PROPOSED RULE AND THE CURRENT SMALL BANK DEPOSIT INSURANCE ASSESSMENT SYSTEM

Year of projection	Accuracy ratio for the proposal * (A)	Accuracy ratio for the current small bank assessment system (B)	Accuracy ratio for the proposal—accuracy ratio for the current system (A − B)
2006	0.646	0.645	0.001
2007	0.746–0.754	0.748	(0.002)–0.006
2008	0.910–0.912	0.910	0.000–0.002
2009	0.937–0.938	0.938	0.000–0.001
2010	0.969	0.969	0.000
2011	0.952–0.953	0.953	(0.001)–0.000
2012	0.917–0.919	0.918	(0.001)–0.001
2013	0.958–0.960	0.960	(0.002)–0.000
2014	0.879–0.887	0.889	(0.010)–(0.002)
2015	0.857	0.857	0.000
Average	0.877–0.879	0.879	(0.002)–0.000

Note: Table only includes institutions with less than $10 billion in assets that filed a Call Report. Thus, for projections made from 2011 and earlier, Thrift Financial Report filers are excluded.

* Data necessary to calculate the CBLR, as defined in the CBLR rule, are not available prior to 2015 (except for a small number of banks in 2014). Instead, the FDIC used two alternative capital ratio definitions that are upper and lower bounds of the CBLR in over 99 percent of cases. Column (A) reflects a range of estimates of accuracy ratios for the proposal based on those two alternative capital ratio definitions.

** The difference uses the midpoint of the range in column (A).

Question 7: The FDIC invites comments on all aspects of the information provided in this Expected Effects section. In particular, would this proposal have any significant effects on institutions that the FDIC has not identified?

V. Alternatives

The FDIC considered the reasonable and possible alternatives described below. On balance, the FDIC believes the current proposal would meet its stated policy objectives in the most appropriate and straightforward manner.

One alternative would be to leave in place the current assessment regulations and require CBLR banks to report all of the necessary data related to tier 1 capital and the tier 1 leverage ratio, to determine the bank's assessment base and rate. In other words, the FDIC would not incorporate CBLR tangible equity or the CBLR into the current assessment regulations and require CBLR banks to report all of the necessary data related to tier 1 capital and the tier 1 leverage ratio, to determine an institution's assessment base and rate. This option, however, would not accomplish the policy objective of aligning with the CBLR framework to reduce regulatory reporting burden for small institutions.

The FDIC could also require all CBLR banks to use CBLR tangible equity and the CBLR, as appropriate, for determining deposit insurance assessments, either without the option to use tier 1 capital or report the tier 1 leverage ratio if it resulted in a lower deposit insurance assessment, or with a time limit on a bank's ability to elect that option. This alternative would be easy to understand and implement, but it would raise costs for some banks and, therefore, would fail to meet the policy objective of minimizing increases in deposit insurance assessments for some banks with no corresponding change in their risk profile.

Under a third alternative, the FDIC could use historical data to estimate each CBLR bank's assessment amount based on the CBLR framework and compare this estimate to the bank's assessment amount based on tier 1 capital and the tier 1 leverage ratio. For CBLR banks that are expected to experience an assessment increase, the FDIC could estimate the amount of the increase using historical data and reduce the bank's assessment by the estimated increase for one year. This alternative would temporarily eliminate the unintended consequence of higher assessments for banks with no change in risk profile, but the estimates would only be valid for the historical quarter estimated and the relationship between the estimate and the actual amount would likely become less accurate over time. At the conclusion of the one year period, a CBLR bank may continue to experience a higher assessment, but would no longer receive an assessment reduction and would have no other option to offset that increase other than to alter its risk profile. Finally, this alternative would also be operationally complex, particularly in comparison to the current proposal, which the FDIC believes would achieve a similar result in a more straightforward manner.

Question 8: The FDIC invites comment on the reasonable and possible alternatives described in this proposed rule. Should the FDIC consider other reasonable and possible alternatives?

VI. Request for Comments

In addition to its request for comment on specific parts of the proposal, the FDIC seeks comment on all aspects of this proposed rulemaking.

VII. Effective Date

The effective date of amendments to the assessment regulations that accommodate reduced reporting under the CBLR framework would coincide with the effective date of a final rule establishing the CBLR framework, but is not expected to occur prior to September 30, 2019.

VIII. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act[50] requires the Federal banking agencies to use plain language in all proposed final rules published after January 1, 2000. The FDIC has sought to present the proposed regulation in a simple and straightforward manner, and invites your comments on how to make this proposal easier to understand. For example:

- Has the FDIC organized the material to suit your needs? If not, how could the material be better organized?
- Are the requirements in the proposed regulation clearly stated? If not, how could the regulation be stated more clearly?
- Does the proposed regulation contain language or jargon that is unclear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand?

IX. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities.[51] However, a regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined ''small entities'' to include banking organizations with total assets of less than or equal to $550 million.[52] Certain types of rules, such as rules of particular applicability relating to rates, corporate or financial structures, or practices relating to such rates or structures, are expressly excluded from the definition of ''rule'' for purposes of the RFA.[53] Because the proposed rule relates directly to the rates imposed on IDIs for deposit insurance and to the deposit insurance assessment system that measures risk and determines each bank's assessment rate, the proposed rule is not subject to the RFA. Nonetheless, the FDIC is voluntarily presenting information in this RFA section.

As of June 30, 2018—the most recent period for which full data on small entities is available—there were 4,062 FDIC-insured depository institutions considered to be small entities for the purposes of RFA.[54] Of these, 3,450 (84.9 percent) institutions are currently eligible to use the CBLR. The proposed rule could affect deposit insurance assessments for these FDIC-insured small entities, but as explained below, these effects are likely to be small.

Using data from the Call Report as of September 30, 2018, the FDIC calculated that 2,870 small, FDIC-insured institutions (83.2 percent) are unlikely to experience a change in their assessments because of this rule. The FDIC estimates that 378 small, FDIC-insured institutions (11.0 percent) are likely to experience a decrease in their assessments under the proposal; however 305 of these (7.5 percent) are likely to see assessments reduced by less than one percent. Only 30 small institutions (0.7 percent) are likely to see their assessments reduced by more than five percent. The FDIC estimates that 202 small, FDIC-insured institutions (5.9 percent) could experience an increase in their assessments under the proposal. However, since the proposal allows banks the option to report tier 1 capital or the tier 1 leverage ratio if it results in a lower assessment, the FDIC presumes that none of these banks would choose higher assessments.

The proposed changes would not require any additional reporting, unless a CBLR bank chooses the option to report its tier 1 leverage ratio to calculate its assessment rate or use tier 1 capital in the calculation of its assessment base. The FDIC expects that a CBLR bank would only elect to use tier 1 capital or the tier 1 leverage ratio if it would result in a lower assessment.

The proposed rule could pose some additional regulatory costs for covered institutions associated with changes to internal systems or processes, or changes to reporting requirements. However, the FDIC believes that these additional costs are likely to be de minimis because the banks likely already collect and report the data that would be used in revised calculations. Banks opting to report the tier 1 leverage ratio on Schedule RC–O would have an offsetting reduction in burden from no longer reporting the current Schedules RC–R and would benefit from a lower assessment than it would have using the CBLR.

Question 9: The FDIC invites comments on all aspects of the supporting information provided in this RFA section. In particular, would this rule have any significant effects on small entities that the FDIC has not identified?

X. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995,[55] the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently-valid Office of Management and Budget (OMB) control number. The FDIC's OMB control numbers for its assessment regulations are 3064–0057, 3064–0151, and 3064–0179. The proposed rule does not revise any of these existing assessment information collections pursuant to the PRA and consequently, no submissions in connection with these OMB control numbers will be made to the OMB for review. However, the proposed rule will require changes to Schedule RC–O of the Call Reports (FFIEC 031, FFIEC 041, and FFIEC 051 (OMB No. 3064–0052 (FDIC), 7100–0036 (Federal Reserve System) and 1557–0081 (Office of the Comptroller of the Currency)), which will be coordinated by the Federal Financial Institutions Examination Council and addressed in a separate **Federal Register** notice.

XI. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),[56] in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, each Federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such

[50] Public Law 106–102, sec. 722, 113 Stat. 1338, 1471 (1999).

[51] 5 U.S.C. 601 *et seq.*

[52] The SBA defines a small banking organization as having $550 million or less in assets, where ''a financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' *See* 13 CFR 121.201 (as amended, effective December 2, 2014). ''SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.'' *See* 13 CFR 121.103. Following these regulations, the FDIC uses a covered entity's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is ''small'' for the purposes of RFA.

[53] 5 U.S.C. 601.

[54] This is the latest date for which data from bank holding company financial reports (Y–9C) is available for determining which banks are small under the SBA definition.

[55] 44 U.S.C. 3501 *et seq.*

[56] 12 U.S.C. 4802(a).

regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on insured depository institutions generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.[57]

The FDIC notes that comment on these matters has been solicited in other sections of this **SUPPLEMENTARY INFORMATION** section, and that the requirements of RCDRIA will be considered as part of the overall rulemaking process. In addition, FDIC invites any other comments that further will inform the FDIC's consideration of RCDRIA.

List of Subjects in 12 CFR Part 327

Bank deposit insurance, Banks, Banking, Savings associations.

Authority and Issuance

For the reasons set forth above, the FDIC proposes to amend part 327 of title 12 of the Code of Federal Regulations as follows:

PART 327—ASSESSMENTS

■ 1. The authority for 12 CFR part 327 continues to read as follows:

Authority: 12 U.S.C. 1441, 1813, 1815, 1817–19, 1821.

■ 2. In § 327.5 revise paragraphs (a)(2) and (a)(2)(iii) to read as follows:

§ 327.5 Assessment base.

(a) * * *

(1) * * *

(2) *Average tangible equity defined and calculated.* Average tangible equity is defined as tangible equity using either the monthly averaging or quarter-end averaging in paragraphs (a)(2)(i) or (ii) of this section, as applicable. Tangible equity is defined as Tier 1 capital, except that in the case of a qualifying community banking organization that elects to use the community bank leverage ratio framework under 12 CFR 3.12(a)(3), 12 CFR 217.12(a)(3), or 12 CFR 324.12(a)(3), tangible equity is defined as Tier 1 capital or CBLR tangible equity as defined in 12 CFR 3.12(b)(2), 12 CFR 217.12(b)(2), and 12 CFR 324.12(b)(2).

(i) * * *

(ii) * * *

(iii) *Calculation of average tangible equity for the surviving institution in a merger or consolidation.* For the surviving institution in a merger or consolidation, tangible equity shall be calculated as if the merger occurred on the first day of the quarter in which the merger or consolidation occurred.

* * * * *

■ 3. Revise § 327.6, paragraph (b) to read as follows:

§ 327.6 Mergers and consolidations; other terminations of insurance.

* * * * *

(b) *Assessment for quarter in which the merger or consolidation occurs.* For an assessment period in which a merger or consolidation occurs, consolidated total assets for the surviving or resulting institution shall include the consolidated total assets of all insured depository institutions that are parties to the merger or consolidation as if the merger or consolidation occurred on the first day of the assessment period. Tangible equity shall be reported in the same manner.

* * * * *

■ 4. Revise § 327.8, paragraphs (e) and (z) to read as follows:

§ 327.8 Definitions.

* * * * *

(e) *Small institution.* An insured depository institution with assets of less than $10 billion as of December 31, 2006, and an insured branch of a foreign institution shall be classified as a small institution. If, after December 31, 2006, an institution classified as large under paragraph (f) of this section (other than an institution classified as large for purposes of §§ 327.9(e) and 327.16(f)) reports assets of less than $10 billion in its quarterly reports of condition for four consecutive quarters, the FDIC will reclassify the institution as small beginning the following quarter. An insured depository institution that elects to use the community bank leverage ratio framework under 12 CFR 3.12(a)(3), 12 CFR 217.12(a)(3), or 12 CFR 324.12(a)(3) shall be classified as a small institution, even if that institution otherwise would be classified as a large institution under paragraph (f) of this section.

* * * * *

(z) *Well capitalized, adequately capitalized and undercapitalized.* For any insured depository institution other than an insured branch of a foreign bank, Well Capitalized, Adequately Capitalized and Undercapitalized have the same meaning as in: 12 CFR 6.4 (for national banks and federal savings associations), as either may be amended from time to time, except that 12 CFR 6.4(b)(1)(E) and (e), as they may be amended from time to time, shall not apply; 12 CFR 208.43 (for state member institutions), as either may be amended from time to time, except that 12 CFR 208.43(b)(1)(E) and (c), as they may be amended from time to time, shall not apply; and 12 CFR 324.403 (for state nonmember institutions and state savings associations), as either may be amended from time to time, except that 12 CFR 324.403(b)(1)(E) and (d), as they may be amended from time to time, shall not apply.

■ 5. Revise the table under § 327.16, paragraph (a)(1)(ii)(A) to read as follows:

§ 327.16 Assessment pricing methods—beginning the first assessment period after June 30, 2016, where the reserve ratio of the DIF as of the end of the prior assessment period has reached or exceeded 1.15 percent.

(a) * * *

(1) * * *

(i) * * *

(ii) *Definitions of measures used in the financial ratios method*—(A) *Definitions.* The following table lists and defines the measures used in the financial ratios method:

DEFINITIONS OF MEASURES USED IN THE FINANCIAL RATIOS METHOD

Variables	Description
Leverage Ratio (%)	The Leverage Ratio means Tier 1 capital divided by adjusted average assets (numerator and denominator are both based on the definition for prompt corrective action). In the case of a qualifying community banking organization that elects to use the community bank leverage ratio framework under 12 CFR 3.12(a)(3), 12 CFR 217.12(a)(3), or 12 CFR 324.12(a)(3), the Leverage Ratio means the higher of: Tier 1 capital divided by adjusted average assets (numerator and denominator are both based on the definition for prompt corrective action); or CBLR tangible equity divided by average total consolidated assets (numerator and denominator are both based on the definition for prompt corrective action, as applicable).

[57] *Id.*

DEFINITIONS OF MEASURES USED IN THE FINANCIAL RATIOS METHOD—Continued

Variables	Description
Net Income before Taxes/ Total Assets (%).	Income (before applicable income taxes and discontinued operations) for the most recent twelve months divided by total assets.[1]
Nonperforming Loans and Leases/Gross Assets (%).	Sum of total loans and lease financing receivables past due 90 or more days and still accruing interest and total nonaccrual loans and lease financing receivables (excluding, in both cases, the maximum amount recoverable from the U.S. Government, its agencies or government-sponsored enterprises, under guarantee or insurance provisions) divided by gross assets.[2]
Other Real Estate Owned/ Gross Assets (%).	Other real estate owned divided by gross assets.[2]
Brokered Deposit Ratio	The ratio of the difference between brokered deposits and 10 percent of total assets to total assets. For institutions that are well capitalized and have a CAMELS composite rating of 1 or 2, reciprocal deposits are deducted from brokered deposits. If the ratio is less than zero, the value is set to zero.
Weighted Average of C, A, M, E, L, and S Component Ratings.	The weighted sum of the "C," "A," "M," "E", "L", and "S" CAMELS components, with weights of 25 percent each for the "C" and "M" components, 20 percent for the "A" component, and 10 percent each for the "E", "L", and "S" components.
Loan Mix Index	A measure of credit risk described paragraph (a)(1)(ii)(B) of this section.
One-Year Asset Growth (%)	Growth in assets (adjusted for mergers [3]) over the previous year in excess of 10 percent.[4] If growth is less than 10 percent, the value is set to zero.

[1] The ratio of Net Income before Taxes to Total Assets is bounded below by (and cannot be less than) −25 percent and is bounded above by (and cannot exceed) 3 percent.
[2] Gross assets are total assets plus the allowance for loan and lease financing receivable losses (ALLL).
[3] Growth in assets is also adjusted for acquisitions of failed banks.
[4] The maximum value of the Asset Growth measure is 230 percent; that is, asset growth (merger adjusted) over the previous year in excess of 240 percent (230 percentage points in excess of the 10 percent threshold) will not further increase a bank's assessment rate.

* * * * *

■ 6. Revise § 327.16, paragraph (e)(2)(i) to read as follows:

§ 327.16 Assessment pricing methods—beginning the first assessment period after June 30, 2016, where the reserve ratio of the DIF as of the end of the prior assessment period has reached or exceeded 1.15 percent.

* * * * *

(e) * * *

(2) * * *

(i) *Application of depository institution debt adjustment.* An insured depository institution shall pay a 50 basis point adjustment on the amount of unsecured debt it holds that was issued by another insured depository institution to the extent that such debt exceeds 3 percent of the institution's Tier 1 capital or, in the case of a qualifying community banking organization that elects to use the community bank leverage ratio framework under 12 CFR 3.12(a)(3), 12 CFR 217.12(a)(3), or 12 CFR 324.12(a)(3), CBLR tangible equity as defined in 12 CFR 3.12(b)(2), 12 CFR 217.12(b)(2), or 12 CFR 324.12(b)(2), as applicable. The amount of long-term unsecured debt issued by another insured depository institution shall be calculated using the same valuation methodology used to calculate the amount of such debt for reporting on the asset side of the balance sheets.

* * * * *

Dated at Washington, DC, on December 18, 2018.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2019–02761 Filed 2–20–19; 8:45 am]

BILLING CODE 6714–01–P

FARM CREDIT ADMINISTRATION

12 CFR Part 614

RIN 3052–AD32

Advance Notice of Proposed Rulemaking—Young, Beginning, and Small Farmers and Ranchers

AGENCY: Farm Credit Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Farm Credit Administration (FCA, Agency, we, our) is requesting comments on ways to collect, evaluate, and report data on how the Farm Credit System (FCS or System) is fulfilling its mission to finance and provide services to young, beginning, and small (YBS) farmers, ranchers, and producers or harvesters of aquatic products (YBS Farmer(s)). Additionally, we are seeking comments on how FCA should define or clarify key terms associated with the collection and reporting of YBS data.

DATES: You may send comments on or before May 22, 2019.

ADDRESSES: We offer a variety of methods for you to submit comments on this advance notice of proposed rulemaking (ANPRM). For accuracy and efficiency reasons, commenters are encouraged to submit comments by email or through the Agency's website. As facsimiles (fax) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we are no longer accepting comments submitted by fax. Regardless of the method you use, please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- *Email:* Send us an email at *regcomm@fca.gov.*
- *FCA website: https://www.fca.gov/.* Click inside the "I want to . . ." field near the top of the page; select "comment on a pending regulation" from the dropdown menu; and click "Go."
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Barry F. Mardock, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

You may review copies of all comments we receive at our office in McLean, Virginia, or on our website at *http://www.fca.gov.* Once you are in the website, click inside the "I want to . . ." field near the top of the page; select "find comment on pending regulation" from the dropdown menu; and click "Go." We will show your comments as submitted, but for technical reasons we may omit items such as logos and special characters. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove