

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064-AG24

Special Assessment Collection

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Interim final rule and request for comment.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) has been collecting a special assessment to recover losses arising from the protection of uninsured depositors under the systemic risk exception, as required by statute. To ensure that the FDIC recovers the correct amount of losses while minimizing the risk of overcollecting or undercollecting in aggregate, the FDIC is adopting this interim final rule to reduce the rate at which the special assessment will be collected in the eighth collection quarter from 3.36 basis points to 2.97 basis points, and provide an offset to regular quarterly deposit insurance assessments for banks subject to the special assessment if the amount collected exceeds losses following the resolution of litigation between the FDIC and SVB Financial Trust (SVBFT) and again following the termination of the receiverships.

DATES: The interim final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by RIN 3064–AG24, by any of the following methods:

- *FDIC Website:* <https://www.fdic.gov/federal-register-publications>. Follow instructions for submitting comments on the agency website.

- *E-mail: Comments@fdic.gov.* Include 3064–AG24 in the subject line of the message.
- *Mail:* Jennifer M. Jones, Deputy Executive Secretary, Attention: Comments–RIN 3064–AG24, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery to FDIC:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street NW) on business days between 7 a.m. and 5 p.m.
- *Public Inspection:* Comments received, including any personal information provided, may be posted without change to <https://www.fdic.gov/federal-register-publications>. Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of the proposed rule will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

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SUPPLEMENTARY INFORMATION:

I. Background

Section 13(c)(4)(G) of the Federal Deposit Insurance Act (FDI Act) permits the FDIC to take certain actions with respect to an insured depository institution (IDI) for which the FDIC has been appointed receiver, following a recommendation by the FDIC Board of Directors (Board), with the written concurrence of the Board of Governors of the Federal Reserve System (Board of Governors), and a determination of systemic risk by the Secretary of the U.S. Department of Treasury (Treasury) (in consultation with the President).¹ On March 12, 2023, the Secretary of the Treasury, acting on the recommendation of the Board and Board of Governors, and after consultation with the President, invoked the statutory systemic risk exception with respect to the resolutions of Silicon Valley Bank and Signature Bank.²

Under section 13(c)(4)(G) of the FDI Act, the loss to the Deposit Insurance Fund (DIF) arising from the use of a systemic risk exception must be recovered from one or more special assessments on IDIs, depository institution holding companies (with the concurrence of the Secretary of the Treasury with respect to holding companies), or both, as the FDIC determines to be appropriate.³

¹ 12 U.S.C. 1823(c)(4)(G). As used in this interim final rule, 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. 1813(c)(2).

² 12 U.S.C. 1823(c)(4)(G). See also: FDIC PR–17– 2023. “Joint Statement by the Department of the Treasury, Federal Reserve, and FDIC.” March 12, 2023. <https://www.fdic.gov/news/press-releases/2023/pr23017.html>.

³ 12 U.S.C. 1823(c)(4)(G)(ii)(I).

The estimated losses to the DIF attributable to Silicon Valley Bank and Signature Bank are periodically adjusted as the FDIC, as receiver of the failed banks, sells assets, satisfies liabilities, and incurs receivership expenses. The exact amount of actual losses incurred, and therefore the amount the FDIC must recover through the special assessment, will not be determined until the FDIC terminates the receiverships.

II. The Final Rule Implementing the Special Assessment

On November 29, 2023, the FDIC published in the *Federal Register* a final rule (the special assessment rule) to implement a special assessment, as required by the FDI Act, to recover the loss to the DIF arising from the protection of uninsured depositors following the closures of Silicon Valley Bank and Signature Bank.⁴

As stated in that rulemaking, the special assessment rule allocated the collection over eight quarterly assessment periods to reduce the likelihood of overcollecting and to mitigate the liquidity effects of the special assessment on IDIs by requiring smaller, consistent quarterly payments.

The FDIC began collecting the special assessment with the invoice for the first quarterly assessment period of 2024 (*i.e.*, January 1, 2024 through March 31, 2024), with a payment date of June 28, 2024. Throughout the initial eight-quarter collection period, the special assessment has been collected at a quarterly rate of 3.36 basis points, multiplied by an IDI's special assessment base of estimated uninsured deposits as reported in the Consolidated Reports of Condition and Income (Call Report) or Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002), reported for the quarter that ended December 31, 2022, adjusted to exclude the first \$5

⁴ See 88 FR 83329 (Nov. 29, 2023). See also 12 CFR 327.13.

billion in estimated uninsured deposits from the IDI, or for IDIs that are part of a holding company with one or more subsidiary IDIs, at the banking organization level.⁵

The special assessment rule included provisions to extend the collection period or cease collection early in response to changes to the estimated losses to the DIF or if assessments collected change due to corrective amendments to the amount of uninsured deposits reported for the December 31, 2022 reporting period. Specifically, the special assessment rule included provisions to allow the FDIC to extend the collection period over one or more quarters as needed to collect the difference between the amount collected after the initial eight collections and the estimated or actual losses at the end of the eight-quarter collection period. Conversely, if, prior to the end of the initial eight-quarter collection period, the estimated or actual losses are less than the amount collected, the special assessment rule included a provision to allow the FDIC to cease collection of the special assessment before the end of the initial eight-quarter collection period. However, pursuant to the special assessment rule, the FDIC is required to collect at a quarterly rate of 3.36 basis points until the FDIC has collected enough to recover actual or estimated losses, which means that it may collect more than the amount of estimated losses. Additionally, even if the FDIC ceased collection early, a future decrease in losses would result in the FDIC overcollecting.

⁵ Under the special assessment rule, the term “banking organization” includes IDIs that are not subsidiaries of a holding company as well as holding companies with one or more subsidiary IDIs. Estimated uninsured deposits are reported in Memoranda Item 2 on Schedule RC-O, Other Data for Deposit Insurance Assessments of both the Call Report and FFIEC 002. Insured depository institutions IDIs with less than \$1 billion in total assets as of June 30, 2021, were not required to report the estimated amount of uninsured deposits on the Call Report for December 31, 2022. Therefore, for IDIs that had less than \$1 billion in total assets as of June 30, 2021, the amount and share of estimated uninsured deposits as of December 31, 2022, would be zero. For an IDI that is part of a holding company with more than one subsidiary IDI, the \$5 billion deduction is apportioned based on its estimated uninsured deposits as a percentage of total estimated uninsured deposits held by all IDI affiliates in the banking organization.

As with all receiverships, the loss estimates attributable to Silicon Valley Bank and Signature Bank are periodically adjusted as the FDIC, as receiver of the failed banks, sells assets, satisfies liabilities, and incurs receivership expenses. The exact amount of actual losses incurred will be determined when the FDIC terminates the receiverships. In the event that the final loss amounts at the termination of the receiverships exceed the amount collected, the special assessment rule provides for a one-time final shortfall special assessment.

III. The Interim Final Rule

The objectives of the interim final rule are to ensure that the FDIC recovers the correct amount of losses, while minimizing the risk of overcollecting or undercollecting. Through this rule, during the eighth collection quarter, the FDIC will recover approximately the full amount of estimated losses as of September 30, 2025, while minimizing any amounts collected in excess of the estimated losses, by reducing the rate at which the special assessment will be collected from 3.36 basis points to 2.97 basis points. The interim final rule also requires the FDIC to provide an offset to regular quarterly deposit insurance assessments for IDIs subject to the special assessment if the aggregate amount collected exceeds estimated losses following the resolution of litigation between the FDIC and SVBFT, and again following the termination of the receiverships. As provided for in the special assessment rule, if losses at the termination of the receiverships exceed the amount collected, the FDIC will implement a one-time final shortfall special assessment to ensure the full amount of actual losses is recovered as required by law.

A. Reduction in Rate for Eighth Special Assessment Collection

As of September 30, 2025, the total loss estimate for Silicon Valley Bank and Signature Bank attributable to the protection of uninsured depositors pursuant to the systemic risk determination, which must be recovered through the special assessment, was \$16.7 billion. As of September 30, 2025, the FDIC completed six quarterly collections of the special assessment, at an average of \$2.1 billion per quarter, resulting in collection of \$12.7 billion. The FDIC anticipates collecting another \$2.1 billion for the seventh quarter of the initial collection period, with an invoice payment date of December 30, 2025, for a total projected collection of \$14.8 billion.

Absent the interim final rule, the FDIC would invoice and collect the eighth quarterly special assessment period, with an invoice payment date of March 30, 2026, at the quarterly rate of 3.36 basis points for a projected amount of \$2.1 billion. This would bring the projected cumulative amount collected for all eight collection quarters to \$16.9 billion. Thus, if the FDIC collects the eighth quarter at the quarterly rate of 3.36 basis points, as required by the special assessment rule, the FDIC would collect approximately \$250 million more than estimated losses as of September 30, 2025.

To ensure that the FDIC collects the correct amount (*i.e.*, an amount approximately equal to the loss estimate as of September 30, 2025, and to avoid overcollection), the FDIC, through this interim final rule, will collect the special assessment in the eighth collection quarter, with an invoice payment date of March 30, 2026, at a reduced rate of 2.97 basis points. This is the rate required to collect an amount approximately equal to the difference between estimated losses of \$16.7 billion as of September 30, 2025, and the anticipated collection amount of \$14.8 billion through the

seventh quarterly collection period. Because the cumulative amount collected through the initial special assessment period is projected to equal the loss estimate as of September 30, 2025, the extended assessment period will not be necessary, and therefore, as a conforming change, the interim final rule removes the extended assessment period provisions of the special assessment rule.

B. Potential Offset to Regular Quarterly Deposit Insurance Assessments

To ensure that the FDIC collects the correct amount, without overcollecting or undercollecting, the FDIC will provide offsets to regular quarterly deposit insurance assessments for IDIs subject to the special assessment, as described below. Any offsets provided would be an amount proportional to the amount that each bank paid towards the special assessment.⁶

The largest known variable that could result in banks overpaying is the outcome of pending litigation between the FDIC and SVBFT. SVBFT has asserted a \$1.71 billion deposit claim, and the special assessment calculation assumes the estimated \$1.71 billion claim will result in a \$1.71 billion loss to the DIF. However, the FDIC, as receiver, has asserted defenses to this deposit claim, and any amounts awarded based on its defenses would offset all or part of the \$1.71 billion loss and reduce the total amount of losses the FDIC needs to recover through the special assessment. Thus, the outcome of the litigation could result in a significant overpayment of the special assessment.

As a result, the FDIC has decided to provide an offset to IDIs subject to the special assessment at the subsequent quarterly assessment if, following the final

⁶ In the event that an IDI's regular quarterly deposit insurance assessment amount is less than the offset amount allocated to the IDI, the FDIC would apply the offset to the IDI's assessment amount for one or more additional quarters as needed, until the offset amount is exhausted.

resolution of the SVBFT litigation, the total amount collected through the special assessment exceeds the loss estimates at that time. More specifically, the offset would occur beginning the quarter after the resolution of the final, unappealable, judgment or settlement of the litigation between the FDIC and SVBFT. Under the interim final rule, the FDIC will provide an offset at that time if the collection amount exceeds loss estimates, including any changes to loss estimates resulting from estimated asset recoveries or other asset disposition efforts, and regardless of the outcome of the SVBFT litigation. However, if the collection amount is equal to or less than loss estimates, the FDIC will take no action until the termination of the receiverships, consistent with the special assessment rule. The FDIC will, potentially, provide an offset at that time due to the magnitude of the SVBFT litigation, which is significantly larger than other known variables impacting the loss estimates.

C. Final Offset to Regular Quarterly Deposit Insurance Assessments or One-Time Final Shortfall Special Assessment

In addition, under the interim final rule, upon termination of the receiverships, the FDIC will either: (1) provide an offset to regular quarterly deposit insurance assessments for IDIs subject to the special assessment if the amount collected exceeds losses, or (2) collect from IDIs subject to the special assessment a one-time final shortfall special assessment, as provided in the special assessment rule. In the latter scenario, the FDIC will implement a one-time final shortfall special assessment with advanced notice of 45 days.⁷ In aggregate, this will ensure that the FDIC ultimately collects the correct amount,

⁷ In the event that the FDIC provides an offset to regular quarterly deposit insurance assessments prior to the termination of the receiverships, and loss estimates later increase relative to amounts collected, the FDIC will collect the remaining amount needed to fully recover losses through the one-time final shortfall special assessment.

equal to losses attributable to the systemic risk exception.

D. Mergers, Consolidations, and Terminations of Deposit Insurance

Offsets applied following a merger or consolidation will be provided to a surviving or resulting IDI. Under the interim final rule, any offset that would have been applied to any bank with an insured status that is terminated after the effective date of this interim final rule or prior to the application of any offset, and for which the deposit liabilities were not assumed by another IDI, will not occur.

IV. Accounting Treatment

Each bank should account for the special assessment in accordance with U.S. generally accepted accounting principles (GAAP). In accordance with Financial Accounting Standards Board Accounting Standards Codification Topic 450, *Contingencies* (FASB ASC Topic 450), an estimated loss from a loss contingency shall be accrued by a charge to income if information indicates that it is probable that a liability has been incurred and the amount of loss is reasonably estimable.⁸ Therefore, a bank will recognize in the Call Report and other financial statements the accrual of a liability and estimated loss (*i.e.*, expense) from a loss contingency for the special assessment when the bank determines that the conditions for accrual under GAAP have been met. In addition, the General Instructions to the Call Report provide guidance on ASC Topic 855, Subsequent Events, which may be applicable.⁹

If a bank had previously accrued its best estimate of the liability for the special assessment and the related expense, a bank should adjust its previous accrual based on

⁸ FASB ASC paragraph 450-20-25-2.

⁹ See General Instructions to the Call Report, available at: <https://www.fdic.gov/bank-financial-reports/ffiec-reports-condition-and-income-instructions-ffiec-031-and-041-report-2>.

subsequent notifications from the FDIC relating to changes in the total special assessment in accordance with FASB ASC Subtopic 450-20.

Similarly, each bank should account for any shortfall special assessment in accordance with FASB ASC Topic 450 when the conditions for accrual under GAAP have been met.

V. Expected Effects

To estimate the economic effects of the interim final rule, this analysis considers all relevant regulations applicable to FDIC-insured institutions, as well as information on the financial condition of FDIC-insured institutions as of the quarter ending September 30, 2025, as the baseline to which the effects of the proposed rule are estimated. As of the quarter ending September 30, 2025, the FDIC-insured 4,388 depository institutions.¹⁰ The special assessment rule applies to banking organizations that reported estimated uninsured deposits in excess of \$5 billion as of the quarter ending December 31, 2022. The special assessment rule identified 114 banking organizations subject to the special assessment, and 110 banking organizations remain subject to the special assessment as of the quarter ending September 30, 2025.¹¹

The interim final rule will benefit IDIs subject to the special assessment by reducing the estimated overcollection in the eighth collection quarter by \$246 million. These funds are a transfer in the context of cost-benefit analysis.¹² To ensure the FDIC recovers approximately the full amount of estimated losses as of September 30, 2025,

¹⁰ FDIC Call Report and FFIEC 002 Data, September 30, 2025.

¹¹ The decline in the number of banking organizations subject to the special assessment between enactment and September 30, 2025, is due to bank mergers.

¹² Circular No. A-94, Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs, Appendix A, October 29, 1992 (Reinstated April 8, 2025).

while minimizing amounts collected in excess of the estimated losses, the interim final rule will reduce the rate at which the special assessment will be collected in the eighth collection quarter from 3.36 basis points to 2.97 basis points. Under the baseline, affected IDIs will pay \$2.1 billion scheduled to be assessed in the eighth quarterly collection. Under the interim final rule, affected IDIs will only pay \$1.9 billion in the eighth quarterly collection. The quarterly collection amount is projected to be \$246 million lower, which results in quarterly savings of 11.6 percent for banking organizations subject to the special assessment.¹³

The interim final rule could also benefit IDIs subject to the special assessment by providing an offset to regular quarterly deposit insurance assessments. If the special assessment amount collected exceeds estimated losses following the resolution of pending litigation between the FDIC and SVBFT, the FDIC will apply an offset to regular deposit insurance assessments. Any such offset will be applied to quarterly assessments beginning the quarter after the resolution of the litigation. If the amount collected exceeds losses upon termination of the receiverships, the FDIC will also apply an offset to regular deposit insurance assessments.

Any such assessment offset would increase retained income for affected IDIs. Affected IDIs could employ increased retained income by passing it on to equity holders, retaining it, or lending those funds to customers. As mentioned previously, estimated losses remain uncertain and the amount of actual losses incurred will be determined when the FDIC terminates the receiverships. Therefore, based on estimated losses as of

¹³ The difference between the \$250 million estimated overcollection and the \$246 million reduction in the eighth quarterly collection is the result of rounding when calculating the collection amount, using a special assessment rate in basis points out to two significant digits, when considering estimated losses.

September 30, 2025, the projected collection amount through the eighth quarterly collection, and continued uncertainty in estimated losses, the FDIC is not estimating an amount for any assessment offset.

Therefore, the FDIC estimates the interim final rule will convey benefits to IDIs subject to the special assessment through prospective returns on the \$246 million in funds they will retain from the reduced eighth quarterly collection amount. The FDIC does not have the information necessary to estimate how IDIs will utilize those funds. If the funds are invested at the effective federal funds rate of 3.88 percent, the affected IDIs will earn annual benefits of \$9.53 million.¹⁴ If the IDIs instead invest the funds in banking assets with a yield of 5.56 percent (the annualized yield on earning assets for the banking industry through September 30, 2025), the annual benefits will be \$13.66 million.¹⁵ Therefore, the FDIC estimates the economic effect of this interim final rule to be \$9.53 million or \$13.66 million annually.

VI. Request for Comment

The FDIC invites comments on all aspects of the interim final rule. In particular, the FDIC requests comment on the following:

Question 1. Are there alternative methodologies or timing for applying offsets or collecting the remaining amount of the estimated losses attributable to the protection of uninsured depositors pursuant to the systemic risk determination the FDIC should consider and why?

¹⁴ The effective federal funds rate was 3.88 percent as of November 25, 2025. <https://www.newyorkfed.org/markets/reference-rates/effr>. \$252 million * 3.88 percent = \$9.78 million.

¹⁵ Annualized yield on earning assets for the banking industry through the first three quarters of 2025 was 5.56 percent. FDIC Quarterly Banking Profile, Third Quarter 2025. <https://www.fdic.gov/quarterly-banking-profile/quarterly-banking-profile-third-quarter-2025-pdf.pdf#page=1>. \$252 million * 5.56 percent = \$14.01 million.

Question 2: Are there policy or accounting considerations regarding the special assessment collection or the application of an offset to regular quarterly deposit insurance assessments that are relevant, but not discussed in the interim final rule?

Question 3: The FDIC invites comments on expected effects. In particular, are there effects of the interim final rule that the FDIC did not consider?

VII. Administrative Law Matters

A. Administrative Procedure Act

The FDIC is issuing the interim final rule without prior notice and the opportunity for public comment and the delayed effective date ordinarily prescribed by the Administrative Procedure Act (APA).¹⁶ Pursuant to section 553(b)(B) of the APA, general notice and the opportunity for public comment are not required with respect to a rulemaking when an “agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”¹⁷ Pursuant to section 553(d)(1) of the APA, a rule may become effective without waiting for the delayed effective date to elapse where the rule “grants an exemption or relieves a restriction.”¹⁸

The eighth quarterly special assessment collection will occur in the first quarter of 2026, and there is material benefit to the FDIC in not delaying the collection (which would likely be necessary if going through a full notice-and-comment rulemaking process) and to IDIs subject to the special assessment, who benefit from having certainty

¹⁶ 5 U.S.C. 553.

¹⁷ 5 U.S.C. 553(b)(B).

¹⁸ 5 U.S.C. 553(d)(1).

regarding the amount to be collected in the first quarter of 2026. As a result, the FDIC finds that the public interest is best served by the interim final rule being effective immediately upon publication in the **Federal Register** and without prior notice and opportunity for public comment.

Nevertheless, the FDIC desires to have the benefit of public comment and invites interested parties to submit comments during a 30-day comment period, particularly on aspects of the rule that are less time-sensitive than the eighth collection amount. The 30-day comment period will allow the FDIC to receive comments in a timely manner, given that the interim rule will be effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. In adopting any final regulation, the FDIC will revise the interim final rule if appropriate in light of the comments received.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities.¹⁹ The RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). As discussed previously, consistent with section 553(b)(B) of the APA, the FDIC has determined for good cause that general notice and opportunity for public comment is unnecessary, and therefore the FDIC is not issuing a notice of proposed rulemaking. Accordingly, the FDIC has concluded that the RFA's requirements relating to initial and final regulatory flexibility analysis do not apply.

¹⁹ 5 U.S.C. 601 *et seq.*

Nevertheless, the FDIC is voluntarily presenting information in this RFA section and seeking comment on whether, and the extent to which, the interim final rule would affect a significant 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 \$850 million.²⁰

The FDIC insures 4,430 institutions as of June 30, 2025, of which 3,092 are small entities.²¹ The special assessment is paid by IDIs that are part of banking organizations that reported more than \$5 billion in uninsured deposits for the reporting period that ended December 31, 2022. Given that no small entity has reported more than \$5 billion in uninsured deposits, the FDIC does not believe the interim final rule will have a direct effect on any small entity.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA)²² states that no agency may conduct or sponsor, nor is the respondent 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 interim final rule does not create any new, or revise any of these existing assessment information collections pursuant to the PRA;

²⁰ The SBA defines a small banking organization as having \$850 million or less in assets, where an organization'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 by 87 FR 69118, effective December 19, 2022). In its determination, the "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 an insured depository institution's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the insured depository institution is "small" for the purposes of RFA.

²¹ June 30, 2025, Call Report data, the most current Call Reports for which the FDIC can determine which insured depository institutions are “small” for purposes of RFA.

²² 44 U.S.C. 3501 through 3521.

consequently, no submissions in connection with these OMB control numbers will be made to the OMB for review.

D. Riegle Community Development and Regulatory Improvement Act of 1994

The Riegle Community Development and Regulatory Improvement Act of 1994 generally provides that new regulations or amendments to regulations prescribed by a Federal banking agency that impose additional reporting, disclosure, or other new requirements on IDIs shall 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, unless the agency determines, for good cause published with the rule, that the rule should become effective for such time.²³ For the reasons discussed above, the FDIC has determined that good cause exists for the interim final rule to become effective immediately upon publication in the **Federal Register**.

E. Plain Language

Section 722 of the Gramm-Leach-Bliley Act²⁴ requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the **Federal Register** after January 1, 2000. The FDIC has sought to present the interim final rule in a simple and straightforward manner. The FDIC invites comments on whether the interim final rule is clearly stated and effectively organized and how the FDIC might make the proposal easier to understand.

F. Congressional Review Act

²³ 12 U.S.C. 4802.

²⁴ Pub. L. 106-102, section 722, 113 Stat. 1338, 1471 (1999), 12 U.S.C. 4809.

For purposes of the Congressional Review Act, the OMB makes a determination as to whether a final rule constitutes a “major” rule.²⁵ If a rule is deemed a “major rule” by the OMB, the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.²⁶

The Congressional Review Act defines a “major rule” as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in: (1) an annual effect on the economy of \$100,000,000 or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.²⁷

The OMB has determined that the interim final rule is not a major rule for purposes of the Congressional Review Act. The FDIC will submit the rule and other appropriate reports to Congress and the Government Accountability Office for review.

List of Subjects in 12 CFR Part 327

Bank deposit insurance, Banks, banking, Savings associations.

Authority and Issuance

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation amends 12 CFR part 327 as follows:

PART 327—ASSESSMENTS

²⁵ 5 U.S.C. 801 *et seq.*

²⁶ 5 U.S.C. 801(a)(3).

²⁷ 5 U.S.C. 804(2).

1. The authority citation for part 327 is revised to read as follows:

Authority: 12 U.S.C. 1813, 1815, 1817-19, 1821, 1823.

2. Revise and republish § 327.13 to read as follows:

§ 327.13 Special Assessment Pursuant to March 12, 2023, Systemic Risk

Determination.

(a) *Special Assessment.* A special assessment shall be imposed on each insured depository institution to recover losses to the Deposit Insurance Fund, as described in paragraph (b) of this section, resulting from the March 12, 2023, systemic risk determination pursuant to 12 U.S.C. 1823(c)(4)(G). The special assessment shall be collected from each insured depository institution on a quarterly basis as described in this section during the initial special assessment period as defined in paragraph (i) of this section and, if necessary, on a one-time basis as described in paragraph (l) of this section.

(b) *Losses to the Deposit Insurance Fund.* As used in this section, “losses to the Deposit Insurance Fund” refers to losses incurred by the Deposit Insurance Fund resulting from actions taken by the FDIC under the March 12, 2023, systemic risk determination, as may be revised from time to time.

(c) *Calculation of quarterly special assessment amount.* An insured depository institution's special assessment for each quarter during the initial special assessment period shall be calculated by multiplying the special assessment rate defined in paragraph (i)(2) of this section by the institution's special assessment base as defined in paragraph (i)(3) of this section.

(d) *Invoicing of special assessment.* For each assessment period in which the special assessment is imposed, the FDIC shall advise each insured depository institution

of the amount and calculation of any special assessment payment due in a form that notifies the institution of the special assessment base and special assessment rate exclusive of any other assessments imposed under this part. The FDIC shall also advise each insured depository institution subject to the special assessment of any revisions, if any, to losses to the Deposit Insurance Fund as defined in paragraph (b) of this section. This information shall be provided at the same time as the institution's quarterly certified statement invoice under § 327.2 for the assessment period in which the special assessment was imposed.

(e) *Payment of quarterly special assessment amount.* Each insured depository institution shall pay to the Corporation any special assessment imposed under this section in compliance with and subject to the provisions of §§ 327.3, 327.6, and 327.7. The date for any special assessment payment shall be the date provided in § 327.3(b)(2) for the institution's quarterly certified statement invoice for the calendar quarter in which the special assessment was imposed.

(f) *Uninsured deposits.* For purposes of this section, the term “uninsured deposits” means an institution’s estimated uninsured deposits as reported in Memoranda Item 2 on Schedule RC-O, Other Data For Deposit Insurance Assessments in the Consolidated Reports of Condition and Income (Call Report) or Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002) for the quarter ended December 31, 2022, reported as of the later of:

(1) November 2, 2023, adjusted for mergers prior to March 12, 2023; or

(2) The date of the institution’s most recent amendment to its Call Report or FFIEC 002 for the quarter ended December 31, 2022, if such amendment arises from, or

is confirmed through, the FDIC's Assessment Reporting Review. Institutions with less than \$1 billion in total assets as of June 30, 2021, were not required to report such items; therefore, for purposes of calculating the special assessment or a shortfall special assessment under this section, the amount of uninsured deposits for such institutions as of December 31, 2022, is zero.

(g) *\$5 billion deduction from the special assessment base—institution's portion.*

For purposes of this section, an institution's portion of the \$5 billion deduction shall equal the ratio of the institution's uninsured deposits to the sum of the institution's uninsured deposits and the uninsured deposits of all of the institution's affiliated insured depository institutions, multiplied by \$5 billion.

(h) *Affiliates.* For the purposes of this section, an affiliated insured depository institution is an insured depository institution that meets the definition of “affiliate” in section 3 of the FDI Act, 12 U.S.C. 1813(w)(6).

(i) *Special assessment during initial special assessment period—*

(1) *Initial special assessment period.* The initial special assessment period shall begin with the first quarterly assessment period of 2024 and end the last quarterly assessment period of 2025.

(2) *Special assessment rate during initial special assessment period.* The special assessment rate during the first seven quarters of the initial special assessment period is 3.36 basis points on a quarterly basis, and the rate during the last quarterly assessment period of 2025 is 2.97 basis points.

(3) *Special assessment base during initial special assessment period—*

(i) The special assessment base for an insured depository institution during the

initial special assessment period that has no affiliated insured depository institution shall equal:

(A) The institution's uninsured deposits; minus

(B) \$5 billion; provided, however, that an institution's assessment base cannot be negative.

(ii) The special assessment base for an insured depository institution during the initial special assessment period that has one or more affiliated insured depository institutions shall equal:

(A) The institution's uninsured deposits; minus

(B) The institution's portion of the \$5 billion deduction; provided, however, that an institution's special assessment base cannot be negative.

(j) Effect of mergers, consolidations, and other terminations of insurance on the special assessment—

(1) Final quarterly certified invoice for acquired institution. The surviving or resulting insured depository institution in a merger or consolidation shall be liable for any unpaid special assessment or one-time final shortfall special assessment outstanding at the time of the merger or consolidation on the part of the institution that is not the resulting or surviving institution consistent with § 327.6.

(2) Special assessment for quarter in which the merger or consolidation occurs and subsequent quarters. If an insured depository institution is the surviving or resulting institution in a merger or consolidation or acquires all or substantially all of the assets, or assumes all or substantially all of the deposit liabilities, of an insured depository institution, then the surviving or resulting insured depository institution or the insured

depository institution that acquires such assets or assumes such deposit liabilities, shall be liable for the acquired institutions' special assessment from the quarter of the acquisition through the remainder of the initial special assessment period, including any one-time final shortfall special assessment.

(3) *Other termination.* When the insured status of an institution is terminated, and the deposit liabilities of such institution are not assumed by another insured depository institution, the special assessment and any shortfall special assessment shall be paid consistent with § 327.6(c). When an insured depository institution voluntarily terminates its deposit insurance, the institution shall be liable for any unpaid special assessment or one-time final shortfall special assessment outstanding at the time of the termination and all future special assessments, if any, the institution would have been invoiced through the remainder of the initial special assessment period, as applicable, including any one-time final shortfall special assessment for which the institution has been given notice before termination. Any special assessment or one-time final shortfall special assessment liabilities will be included, in full, on the final quarterly assessment invoice following voluntary termination.

(k) *Corrective reporting amendments—*

(1) *Recalculation of quarterly special assessment amount.* Corrective amendments to an institution's uninsured deposits that arise from, or are confirmed through, the FDIC's Assessment Reporting Review will apply retroactively beginning the first quarterly collection period of the initial special assessment period. An institution's special assessment base and portion of the \$5 billion deduction, along with the portion of the \$5 billion deduction allocated to the institution's affiliated insured depository

institutions, will be recalculated for prior collection quarters. Any overpayment or underpayment in prior collection quarters as a result of the recalculation will be invoiced as described in paragraph (k)(2) of this section.

(2) *Invoicing overpayment and underpayment.* Any underpayment of the special assessment by an institution as the result of corrective amendments to uninsured deposits will be included, in full and with interest, on the invoice for the quarter following the date a corrective amendment is filed. If a corrective amendment results in an overpayment of the special assessment, the institution will be credited the overpayment amount, with interest, and such amount will be applied to the institution's subsequent special assessment invoices beginning in the quarter following the date of the amendment. If any excess credit amount remains after the end of the initial special assessment period, the excess credit amount shall be refunded to the institution. Payment and collection of interest on amounts resulting from overpayment and underpayment of the special assessment shall be consistent with § 327.7.

(l) *One-time final shortfall special assessment.* If the aggregate amount of the special assessment collected does not meet or exceed the losses to the Deposit Insurance Fund, as calculated after the receiverships resulting from the March 12, 2023, systemic risk determination are terminated, insured depository institutions shall pay a one-time final shortfall special assessment in accordance with this paragraph.

(1) *Notification of one-time final shortfall special assessment.* The FDIC shall notify each insured depository institution of the amount of such institution's one-time final shortfall special assessment no later than 45 days before such shortfall assessment is due.

(2) *Aggregate one-time final shortfall special assessment amount.* The aggregate amount of the one-time final shortfall special assessment imposed across all insured depository institutions shall equal the losses to the Deposit Insurance Fund, as of termination of the receiverships to which the March 12, 2023, systemic risk determination applied, minus the aggregate amount of the special assessment collected under this section less any amount applied as an offset, as described in paragraph (p)(1)(i) of this section, including the net amount of interest paid or received as a result of overpayments and underpayments.

(3) *One-time final shortfall special assessment rate.* The final shortfall special assessment rate shall be the aggregate final shortfall special assessment amount divided by the total amount of uninsured deposits, as described in paragraph (f) of this section, adjusted for mergers, consolidation, and termination of insurance as of the assessment period preceding the final shortfall special assessment period, minus the \$5 billion deduction for each insured depository institution or each institution's portion of the \$5 billion deduction.

(4) *One-time final shortfall special assessment base—*

(i) The one-time final shortfall special assessment base for an insured depository institution that has no affiliated insured depository institution shall equal:

(A) The institution's uninsured deposits; minus

(B) \$5 billion; provided, however, that an institution's one-time final shortfall special assessment base cannot be negative.

(ii) The one-time final shortfall special assessment base for an insured depository institution that has one or more affiliated insured depository institutions shall equal:

(A) The institution's uninsured deposits; minus

(B) The institution's portion of the \$5 billion deduction, adjusted for termination of insurance as of the assessment period preceding the final shortfall assessment period; provided, however, that an institution's one-time final shortfall special assessment base cannot be negative.

(5) *Calculation of one-time final shortfall special assessment.* An insured depository institution's final shortfall special assessment shall be calculated by multiplying the final shortfall special assessment rate by the institution's one-time final shortfall special assessment base.

(6) *One-time final special assessment.* The one-time final shortfall special assessment shall be collected on a one-time quarterly basis after losses to the Deposit Insurance Fund are determined after termination of the receiverships to which the March 12, 2023, systemic risk determination applied.

(7) *Payment, invoicing, and mergers.* Paragraphs (d), (e), and (j) of this section are applicable to the one-time shortfall special assessment.

(m) *Request for revisions.* An insured depository institution may submit a written request for revision of the computation of any special assessment or shortfall special assessment pursuant to this part consistent with § 327.3(f).

(n) *Special assessment collection in excess of losses.* Any special assessment collected under this section that exceeds the losses to the Deposit Insurance Fund, as of termination of the receiverships to which the March 12, 2023, systemic risk determination applied, shall be placed in the Deposit Insurance Fund.

(o) *Rule of construction.* Nothing in this section shall prevent the FDIC from

imposing additional special assessments as required to recover current or future losses to the Deposit Insurance Fund resulting from any systemic risk determination under 12 U.S.C. 1823(c)(4)(G).

(p) *Assessment Offsets.* The FDIC will provide offsets, in accordance with this paragraph, to the quarterly risk-based assessments calculated under 327.3(b)(1), of institutions that have paid the special assessment.

(1) *Timing.* Assessment offsets will be provided if the aggregate amount of the special assessment collected exceeds the losses to the Deposit Insurance Fund as of:

- (i) the final unappealable judgment or settlement of the litigation between the FDIC and SVB Financial Trust (Case No. 5:24-cv-01321-BLF, U.S. District Court for the Northern District of California); and
- (ii) the termination of the receiverships to which the March 12, 2023 systemic risk determination applied.

(2) *Application of Offsets.* Assessment offsets will be included on the quarterly certified statement invoice(s) for the assessment period following the timing provisions in paragraph p(1)(i) and (p)(1)(ii) of this section, if applicable.

(3) *Calculation.* To determine an institution's offset amount, the FDIC will calculate the percentage that an insured depository institution contributed towards the total amount of the special assessment collected and then multiply that percentage by the amount of special assessment collected in excess of losses to the Deposit Insurance Fund at the time of the calculation.

(4) *Mergers, consolidations, and other terminations of insurance.* An offset under

this paragraph shall be provided to the surviving or resulting insured depository institution that acquired, merged with, or acquired all or substantially all of the assets, or assumes all or substantially all of the deposit liabilities, of an insured depository that paid the special assessment. No offset, credit, or refund will be provided to an institution with an insured status that has been terminated, and for which the deposit liabilities of such institution were not assumed by another insured depository institution.

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Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, December 16, 2025.

Jennifer M. Jones,

Deputy Executive Secretary.

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