



March 23, 2011

**TO:** The FDIC Board of Directors

**FROM:** Mark Pearce  
Director

Michael H. Krimminger  
General Counsel

**SUBJECT:** Proposed Rule Reflecting Repeal of  
Prohibition on Paying Interest on Demand Deposits

**RECOMMENDATION:**

Staff recommends that the Board of Directors (the Board):

- 1) Repeal Part 329 (Interest on Deposits) of the FDIC's Regulations; and
- 2) Propose the amendment of Part 330 (Deposit Insurance Coverage) of the FDIC's Regulations to incorporate the Part 329 definition of "interest."

The removal of Part 329 is recommended because the Dodd-Frank Wall Street Reform and Consumer Protection Act (the DFA) has repealed the underlying statutory prohibition against the payment of interest on demand deposits, effective July 21, 2011. Part 329 implements this prohibition with respect to state-chartered nonmember (SNM) banks and will be rendered moot on that date by operation of the DFA.

With respect to the second step, because Part 329 contains the only definition of "interest" under the FDIC regulations, staff also recommends that the FDIC propose to move this definition into Part 330, the deposit insurance regulations. Retaining a regulatory definition of interest would assist the FDIC in implementing the DFA amendment that provides temporary, full deposit insurance coverage for noninterest-bearing accounts.

**BACKGROUND:**

Section 343 of the DFA amended section 11(a)(1) of the Federal Deposit Insurance Act, 12 U.S.C. § 1821(a)(1), to provide temporary, full insurance coverage for depository institution noninterest-bearing transaction accounts. Also, section 627 of the DFA repealed the statutory prohibition against the payment of interest on demand deposits, effective one year from the date of the DFA's enactment, July 21, 2011.

In light of the prospective repeal of the demand deposit interest prohibition, staff recommends that the Board propose to rescind 12 C.F.R. Part 329, the regulation which implements that prohibition with respect to SNM banks, to be effective on the same date as the statutory repeal, July 21, 2011.

Staff believes it would be useful to retain the Part 329 definition of “interest” for purposes of determining whether a deposit account qualifies as a noninterest-bearing transaction account under the DFA amendment providing temporary, unlimited deposit insurance coverage for such accounts. Thus, staff recommends that the Board propose moving this definition to Part 330, the deposit insurance rules, specifically the definitions section at 12 C.F.R. § 330.1.

**CONCLUSION:**

For the reasons explained above, the staff recommends that the Board approve the attached proposed rule to be published for comment in the Federal Register for a period of thirty days.

Staff members knowledgeable about this case:

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Attachments