website with an effective date of October 1 of each year.

(1) For each year, the Administrator will calculate the rates for services, per hour per inspection program employee using the following formulas:

(i) *Regular rate.* The Service's total inspection program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase, plus the benefits rate, plus the operating rate, plus the allowance for bad debt rate. If applicable, actual travel expenses may also be added to the cost of providing the service.

(ii) *Overtime rate.* The Service's total inspection program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 1.5, plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, actual travel expenses may also be added to the cost of providing the service.

(iii) *Holiday rate.* The Service's total inspection program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 2, plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, actual travel expenses may also be added to the cost of providing the service.

(2) For each year, based on previous year/historical actual costs, the Administrator will calculate the benefits, operating, and allowance for bad debt components of the regular, overtime, and holiday rates as follows:

(i) *Benefits rate.* The Service's total inspection program direct benefits costs divided by the total hours (regular, overtime, holiday) worked, which is then multiplied by the next year's percentage of cost of living increase. Some examples of direct benefits are health insurance, retirement, life insurance, and Thrift Savings Plan (TSP) retirement basic and matching contributions.

(ii) *Operating rate.* The Service's total inspection program operating costs divided by total hours (regular, overtime, and holiday) worked, which is then multiplied by the percentage of inflation.

(iii) *Allowance for bad debt rate.* Total allowance for bad debt, divided by total hours (regular, overtime, holiday) worked.

(3) The Administrator will use the most recent economic factors released by the Office of Management and Budget for budget development purposes to derive the cost of living expenses and percentage of inflation factors used in the formulas in this section.

§ 868.92 [Amended]

■ 3. Amend § 868.92 by:

■ a. Removing paragraph (a)(2) and redesignating paragraphs (a)(3) through (5) as paragraphs (a)(2) through (4), respectively.

■ b. In newly redesignated paragraph (a)(4), removing ''§ 868.92(c)'' and adding ''paragraph (c) of this section'' in its place.

Dated: August 23, 2019.

Greg Ibach,

Under Secretary, Marketing and Regulatory Programs.

[FR Doc. 2019–18602 Filed 8–28–19; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064–AF16

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 that would amend the deposit insurance assessment regulations that govern the use of small bank assessment credits (small bank credits) and one-time assessment credits (OTACs) by certain insured depository institutions (IDIs). Under the proposal, once the FDIC begins to apply small bank credits to quarterly deposit insurance assessments, such credits would continue to be applied as long as the Deposit Insurance Fund (DIF) reserve ratio is at least 1.35 percent (instead of, as currently provided, 1.38 percent). In addition, after small bank credits have been applied for eight quarterly assessment periods, and as long as the reserve ratio is at least 1.35 percent, the FDIC would remit the full nominal value of any remaining small bank credits in lump-sum payments to each IDI holding such credits in the next assessment period in which the reserve ratio is at least 1.35 percent, and would simultaneously remit the full nominal value of any remaining OTACs in lump-sum payments to each IDI holding such credits.

DATES: Comments must be received on or before September 30, 2019.

ADDRESSES: You may submit comments, identified by RIN 3064–AF16, 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–AF16 in the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery/Courier:* Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m. (EDT).
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Public Inspection:* All comments received will be posted without change to *https://www.fdic.gov/regulations/laws/federal,* including any personal information provided. 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;* LaVaughn Henry, Policy Analyst, Banking and Regulatory Policy Section, Division of Insurance and Research, (202) 898–6798, *lahenry@FDIC.gov;* Jithendar Kamuni, Manager, Assessment Operations Section, (703) 562–2568, *jikamuni@FDIC.gov;* Samuel B. Lutz, Counsel, Legal Division, (202) 898–3773, *salutz@FDIC.gov.*

SUPPLEMENTARY INFORMATION:

I. Policy Objectives

The FDIC maintains and administers the DIF in order to assure the agency's capacity to meet its obligations as the insurer of deposits and receiver of failed IDIs.[1] The FDIC considers the adequacy of the DIF in terms of the reserve ratio, which is equal to the DIF balance divided by estimated insured deposits. A higher reserve ratio reduces the risk that losses from IDI failures during an economic downturn will exhaust the DIF and also reduces the risk of large, pro-cyclical increases in deposit insurance assessments to maintain a

[1] As used in this Notice of Proposed Rulemaking, the term ''insured depository institution'' has the same meaning as the definition used in Section 3 of the Federal Deposit Insurance Act (FDI Act), 12 U.S.C. 1813(c)(2).

positive DIF balance during such a downturn.

The FDIC is proposing to amend its regulations governing the use of small bank credits and OTACs.[2] Currently, after the reserve ratio reaches or exceeds 1.38 percent, and provided that it remains at or above 1.38 percent,[3] the FDIC will automatically apply small bank credits up to the full amount of the IDI's credits or quarterly assessment, whichever is less.[4] Under the proposal, the FDIC would continue to apply small bank credits if the reserve ratio falls below 1.38 percent, as long as it does not fall below the statutory minimum reserve ratio of 1.35 percent. The FDIC proposes to remit the full nominal value of any remaining small bank credits after such credits have been applied for eight quarterly assessment periods. At the same time that any remaining small bank credits are remitted, the FDIC proposes to also remit the full nominal value of any remaining OTACs, issued under section 7(e)(3) of the FDI Act, to IDIs holding such credits.[5]

The primary objective of this proposal is to make the application of small bank credits to IDIs' quarterly assessments more predictable, and to simplify the FDIC's administration of small bank credits, without materially impairing the ability of the FDIC to maintain the required minimum reserve ratio of 1.35 percent. The proposal would affect the timing of when small bank credits would be applied to an IDI's quarterly assessment, but it would not change the aggregate amount of credits that banks have been awarded. Based on Consolidated Reports of Condition and Income and the quarterly Reports of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (together, ''quarterly regulatory reports''), data as of March 31, 2019, the aggregate amount of outstanding small bank credits, $764.4 million, represented less than one basis point of the reserve ratio. For each quarter that credits would be applied, such credits would represent less than one-half of one basis point of the reserve ratio.

In the FDIC's view, the proposed changes would lessen the likelihood that application of small bank credits would be suspended due to small variations in the reserve ratio. In particular, the proposed changes would lessen the likelihood that such credits would be applied in the quarter when the reserve ratio first reaches or exceeds 1.38 percent and then immediately suspended in the next quarter if the reserve ratio falls below 1.38 percent. The proposal is expected to result in more stable and predictable application of credits to quarterly assessments, permitting IDIs to better budget for their assessment cash flow, and could benefit certain IDIs that, under the proposal, might realize the full value of their credits at an earlier date.

Additionally, the proposal would simplify the FDIC's administration of the DIF from an operational perspective. While the proposal could affect the timing of DIF revenues by reducing the period of time during which small bank credits are applied, the long-term adequacy of the DIF would not be impacted because the total amount of credits awarded would not change.

An additional objective of the proposal is to establish a reasonable time period during which small bank credits would be applied and OTACs would continue to be applied to quarterly assessments, at the conclusion of which FDIC would formally conclude both programs. The FDIC proposes to accomplish this by remitting, after eight quarterly assessment periods, any remaining small bank credits and OTACs in lump-sum payments to each IDI holding such credits in the next quarterly assessment period in which the reserve ratio reaches or exceeds 1.35 percent. This proposed change would accelerate the time at which IDIs would receive the benefit of such credits, and would permit more efficient administration of the DIF on a going-forward basis.

II. Background

A. Small Bank Assessment Credits

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which raised the minimum reserve ratio for the DIF to 1.35 percent (from the former minimum of 1.15 percent), required the FDIC to ''offset the effect of the increase in the minimum reserve ratio on insured depository institutions with total consolidated assets of less than $10 billion'' when setting assessments.[6] To offset the effect of increasing the minimum reserve ratio on IDIs with total consolidated assets of less than $10 billion (small IDIs), on March 25, 2016, the FDIC published a final rule (the 2016 final rule) that, among other things, provided assessment credits to small IDIs for the portion of their regular assessments that contributed to the growth in the reserve ratio between 1.15 percent and 1.35 percent.[7] Pursuant to the rule, upon reaching the statutory minimum reserve ratio of 1.35 percent, small IDIs were awarded small bank credits for the portion of their assessments that contributed to the growth in the reserve ratio from 1.15 percent to 1.35 percent.[8] FDIC regulations provide that these small bank credits will be applied to quarterly deposit insurance assessments when the reserve ratio is at least 1.38 percent.[9]

As of September 30, 2018, the DIF reserve ratio reached 1.36 percent, exceeding the statutorily required minimum reserve ratio of 1.35 percent. All IDIs that were small IDIs, including small IDI affiliates of large IDIs, at any time during the ''credit calculation period'' [10] were awarded a share of credits.[11] The aggregate amount of small bank credits awarded is $764.4 million.[12]

The share of the aggregate small bank credits allocated to each IDI was proportional to its credit base, defined as the average of its regular assessment base during the credit calculation period.[13] [14] IDIs eligible to receive a

[2] *See* 12 CFR 327.11(c) (use of small bank credits) and 12 CFR 327.35 (use of OTACs).

[3] *See* 83 FR 14565 (April 5, 2018) (making technical amendments to FDIC's assessment regulations, including an amendment clarifying that small bank credits will be applied in assessment periods in which the reserve ratio is at least 1.38 percent).

[4] After the initial notice of an IDI's assessment credit balance, and the manner in which the credit was calculated, periodic updated notices will be provided to reflect adjustments that may be made as the result of credit use, request for review of credit amounts, any subsequent merger or consolidation. Under the proposal, such notices would also reflect adjustments that may be made as a result of an IDI's amendment to its quarterly Consolidated Reports of Condition and Income or quarterly Reports of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (as applicable).

[5] *See* 12 U.S.C. 1817(e)(3); *see also* 12 CFR part 327, subpart B.

[6] Public Law 111–203, 334(e), 124 Stat. 1376, 1539 (12 U.S.C. 1817 (note)).

[7] *See* 81 FR 16059 (Mar. 25, 2016).

[8] *See* 81 FR at 16066.

[9] 12 CFR 327.11(c)(11).

[10] The ''credit calculation period'' covers the period beginning July 1, 2016 (the quarter after the reserve ratio first reached or exceeded 1.15 percent) through September 30, 2018 (the quarter in which the reserve ratio first reached or exceeded 1.35 percent). *See* 12 CFR 327.11(c)(2).

[11] If a small IDI acquired another small IDI through merger or consolidation during the credit calculation period, the acquiring small IDI's regular assessment bases for purposes of determining its credit base included the acquired IDI's regular assessment bases for those quarters during the credit calculation period that were before the merger or consolidation.

[12] In January 2019, aggregate credits of $764.7 million were awarded by 5,381 institutions. Since then, due to mergers, IDI failures, and voluntary liquidations, 5,212 remaining institutions have credits and the aggregate amount of outstanding credits is $764.4 million.

[13] Individual shares of credits were adjusted so that the assessment credits awarded to an eligible institution would not exceed the total amount of quarterly deposit insurance assessments paid by the institution during the credit calculation period in which it was a credit accruing institution. The adjusted amount was then reallocated to the other

credit were notified of their individual credit allocation in January 2019 via FDIC*connect.* The FDIC plans to provide IDIs with periodic notices to reflect adjustments that may be made as the result of credit use or acquisition of an IDI with credits through merger or consolidation.[15]

B. One-Time Assessment Credits

The Federal Deposit Insurance Reform Act of 2005 (FDI Reform Act) required the FDIC to provide OTACs to IDIs that existed on December 31, 1996, and paid a deposit insurance assessment prior to that date, or that were successors to such an institution.[16][17] The purpose of the OTAC, which was described as a ''transitional'' credit when it was enacted, was to recognize the contributions that certain institutions made to capitalize the Bank Insurance Fund and Savings Association Insurance Fund, which had been recently merged into the Deposit Insurance Fund.[18] In October 2006, the FDIC adopted a final rule implementing the OTAC required by the FDI Reform Act. The aggregate amount of the OTAC was estimated to be approximately $4.7 billion.[19] The FDIC began to apply OTACs to offset an IDI's quarterly deposit insurance assessments beginning with the first assessment period of 2007. As of March 31, 2019, only two IDIs have outstanding OTACs totaling approximately $300,000. The assessment bases of these two IDIs have decreased significantly from December 31, 1996, which was the date used to calculate assessment bases when awarding OTACs to each eligible IDI. Based on the assessment bases of the two IDIs reported as of March 31, 2019, the FDIC estimates that application of the OTACs could continue for more than 13 years.

III. Description of the Proposal

A. Application of Small Bank Credits as Long as Reserve Ratio is at or Above 1.35 Percent

This proposal would amend the deposit insurance assessment regulations to suspend the application of small bank credits to an IDI's deposit insurance assessment when the reserve ratio is below 1.35 percent rather than below 1.38 percent. The proposal also would amend the assessment regulations to allow for the recalculation of credits applied each quarter as a result of subsequent amendments to the quarterly regulatory reports.[20] Under current regulations, small bank credits will be applied only in assessment periods in which the DIF reserve ratio is at least 1.38 percent, and the amount of credits that were applied for a prior quarter's assessment will not be recalculated as a result of amendments to that prior quarter's quarterly regulatory report.

In the FDIC's view, the proposal would result in more predictable application of credits to quarterly assessments and would simplify the FDIC's administration of the DIF. Otherwise, a small change in the reserve ratio—caused by, for example, insured deposit growth, changing interest rates, or low losses from bank failures—could cause the reserve ratio to fluctuate one basis point above or below 1.38 percent following the quarters in which the reserve ratio met or exceeded 1.38 percent. This uncertainty would make it difficult for IDIs with small bank credits to predict each quarter whether their deposit insurance assessments would be offset by credits, and would complicate the FDIC's ability to administer the DIF.

The proposed changes would not materially impair the ability of the FDIC to maintain the required minimum reserve ratio of 1.35 percent. In the 2016 final rule, the FDIC noted that ''allowing credit use only when the reserve ratio is at or above 1.38 percent should provide sufficient cushion for the DIF to remain above 1.35 percent in the event of rapid growth in insured deposits and ensure that credit use alone will not result in the reserve ratio falling below 1.35 percent. Allowing credit use before the reserve ratio reaches this level, however, would create a greater risk of the reserve ratio falling below 1.35 percent, triggering the need for a restoration plan.'' [21] However, as described below, the FDIC now projects that the reserve ratio will not decline below 1.35 percent due to credit use alone.

First, based on quarterly regulatory report data as of March 31, 2019, the aggregate amount of outstanding small bank credits, $764.4 million, represented less than one basis point of the reserve ratio. Furthermore, the FDIC expects that approximately 41 percent of all small bank credits would be used in the first quarter that credits are applied and would not be affected by the proposal. Application of small bank credits in future quarters almost certainly would represent a substantially smaller portion of the reserve ratio. The largest expected subsequent quarterly effect would be equal to approximately one-third of a basis point of the reserve ratio. Therefore, the application of small bank credits in any one quarter would not be sufficient on its own to cause the reserve ratio to fall below 1.35 percent in future quarters. Second, recent history suggests a generally positive near-term outlook for the banking sector (implying lower costs to the DIF). For example, since December 2017, only one IDI has failed, with an estimated cost to the DIF of $27 million. As of March 31, 2019, the number of ''problem banks'' was 59, the lowest since the first quarter of 2007.

Lowering the reserve ratio threshold at which the application of small bank credits is suspended would permit the FDIC to balance its goal of adequately maintaining the reserve ratio while increasing the likelihood that the application of small bank credits to quarterly assessments would remain stable and predictable over time. Furthermore, suspending the application of small bank credits when the reserve ratio falls below 1.35 percent is consistent with the statutory requirement that the FDIC adopt a restoration plan under the FDI Act when the reserve ratio falls below that level.[22]

Finally, as mentioned above, under current regulations, the recalculation of the amount of small bank credits applied for a prior quarter's assessment resulting from subsequent amendments to a bank's quarterly regulatory reports is impermissible.[23] The removal of this prohibition will result in a more appropriate assignment of credits to the

credit accruing institutions. *See* 12 CFR 327.11(c)(4)(iii).

[14] *See* 12 CFR 327.11(c)(4).

[15] If any IDI acquires an IDI with credits through merger or consolidation, the acquiring IDI will acquire any remaining small bank credits of the acquired institution. *See* 12 CFR 327.11(c)(9). Other than through merger or consolidation, credits are not transferrable. *See* 12 CFR 327.11(c)(12). Credits held by an IDI that fails or ceases to be an insured depository institution will expire.

[16] The FDI Reform Act was included as Title II, Subtitle B, of the Deficit Reduction Act of 2005, Public Law 109–171, 2107(a), 120 Stat. 18, 1539 (12 U.S.C. 1817(e)(3)).

[17] By statute, the aggregate amount of credits equaled the amount that would have been collected if the FDIC had imposed a 10.5 basis point assessment on the combined assessment base of the Bank Insurance Fund and the Savings Association Insurance Fund as of December 31, 2001. Individual shares were required to be based on the ratio of the institution's assessment base on December 31, 1996, to the aggregate assessment base of all eligible IDIs on that date.

[18] *See* H.R. Rep., No. 109–362, at 197 (Conf. Rep.); 71 FR 61374, 61381 (Oct. 18, 2006).

[19] 71 FR 61375; 12 CFR part 327, subpart B (327.30 *et seq.*).

[20] This aspect of the proposal addresses the use of credits once the DIF reserve ratio reaches 1.38 percent and the FDIC begins to apply credits to an institution's regular quarterly deposit insurance assessments. This aspect of the proposal would not affect the aggregate amount of credits that have been awarded to all eligible IDIs, nor would it affect the amount of credits awarded to an individual IDI.

[21] *See* 81 FR 16066.

[22] *See* 12 U.S.C. 1817(b)(3)(E).

[23] *See* 12 CFR 327.11(c)(11)(iii).

assessment period in which the credits originally would have been applied under a correct filing of the quarterly regulatory report. This change to the assessment regulations will not affect the overall amount of credits awarded to any institution nor will it affect the management of the DIF, but will improve its operational efficiency.

B. Remitting Small Bank Credits and One-Time Assessment Credits

The proposal further provides that after small bank credits have been applied for eight quarterly assessment periods, and as long as the reserve ratio is at least 1.35 percent, the FDIC would remit in the next assessment period the full balance of any remaining small bank credits to each IDI holding such credits in lump-sum payments. In addition, at the same time that the FDIC remits payment for any remaining small bank credits, FDIC proposes to remit the full balance of any remaining OTACs to each IDI holding such credits in lump-sum payments.

The FDIC anticipates that after applying small bank credits for eight quarterly assessment periods, nine institutions would hold an estimated $1.75 million in small bank credits. Under the proposal, these nine institutions would receive a payment for the nominal amount of the remaining balance. Similarly, the proposal would permit the FDIC to pay the outstanding balances of remaining OTACS at the same time that the FDIC remits payment for any remaining small bank credits. As of March 31, 2019, two institutions held OTACs of about $300,000. After eight more quarters of applying OTACs, the FDIC estimates that the two IDIs would have approximately $248,000 in remaining OTACs. Therefore, remittance of all remaining small bank credits and OTACs in individual lump-sum payments would affect only a small number of institutions, and the total amount of such payments should not be sufficient on their own to cause the DIF reserve ratio to fall below 1.35 percent.

Moreover, in the FDIC's view, remitting the full balance of remaining small bank credits, as well as OTACs, after eight quarters of applying small bank credits would provide a benefit to an IDI that was awarded small bank credits or OTACs. From an operational perspective, implementation of this aspect of the proposal also would allow FDIC to conclude both the small bank credit and OTAC programs at the same time, thereby simplifying the FDIC's administration of the DIF.

C. Proposed Effective Date and Application Date

The FDIC is proposing that this rule be immediately effective upon publication of the final rule in the **Federal Register**. Under current regulations, in the event that the reserve ratio reaches or exceeds 1.38 percent as of June 30, 2019, FDIC will begin applying small bank credits to invoices for the second quarterly assessment period, which began on April 1, 2019, and for which payment is due on September 30, 2019. However, if the reserve ratio falls below 1.38 percent as of September 30, 2019 (the third quarterly assessment period, which began on July 1, 2019, and for which payment is due on December 30, 2019), the FDIC will suspend application of credits. To address any possibility that the reserve ratio may reach or exceed 1.38 percent as of June 30, 2019 (the second quarterly assessment period), then decrease below 1.38 percent as of September 30, 2019 (the third quarterly assessment period), the FDIC is proposing an immediate effective date for this rule with application of the rule beginning in the third quarterly assessment period of 2019.

The proposed effective date and the proposed application date would provide certainty to IDIs with small bank credits that the proposed rule would apply to the third assessment period of 2019, and that the FDIC could apply small bank credits even if the DIF reserve ratio is less than 1.38 percent (but at least 1.35 percent) for that assessment period. As discussed below in Section VII.A (Administrative Procedure Act), the FDIC finds good cause for an immediate effective date, because IDIs would benefit by having increased stability and predictability in the FDIC's application of small bank credits to quarterly assessments over time.

Question 1: Does the proposal increase the predictability of the application of assessments for IDIs with small bank credits? Should the FDIC consider an alternative reserve ratio at or above 1.35 percent as the threshold for suspending the application of credits?

Question 2: Does the FDIC need to clarify the proposed effective date or the proposed application date of the rule? Do institutions have comments on the proposed effective or application date?

Question 3: What potential costs or benefits, or budgeting or accounting implications, should the FDIC consider regarding the proposal to remit all remaining small bank credits and OTACs in lump-sum payments to IDIs holding such credits after small bank credits have been applied for eight assessment periods? Should the FDIC apply credits for fewer or more assessment periods before remitting payment to IDIs for their remaining credit balances?

Question 4: Should the FDIC remit outstanding OTAC balances at the same time that small bank credits are remitted? What are the potential costs or benefits, including any accounting implications, to remitting outstanding OTACs to IDIs?

IV. Economic Effects

The FDIC believes that the expected economic effects of the proposed rule are likely to be small and positive for affected IDIs. As stated previously, the proposed rule lowers the possibility that the FDIC would begin applying small bank credits in the quarter when the reserve ratio first reaches or exceeds 1.38 percent, but then suspend the application of credits if the reserve ratio falls below 1.38 percent (but remains at or above 1.35 percent). The proposal would affect the timing of when small bank credits would be applied to an IDI's quarterly assessment, but it would not change the aggregate amount of credits that IDIs have been awarded. Therefore, the economic effect of this aspect of the proposed rule is a reduction in any potential future costs associated with a disruption in the application of small bank credits to the assessments of IDIs if the reserve ratio drops below 1.38 percent but remains at or above 1.35 percent. It is difficult to accurately estimate the magnitude of these benefits to IDIs because it depends, among other things, on future economic and financial conditions, the operational and financial management practices at affected IDIs, and future levels of the reserve ratio.

Based on quarterly regulatory report data as of March 31, 2019, 5,212 IDIs have small bank credits totaling $764.4 million. The FDIC expects to apply approximately 41 percent of the aggregate amount of small bank credits in the first quarter that the reserve ratio reaches or exceeds 1.38 percent, leaving IDIs uncertain about when the remaining 59 percent of small bank credits would be applied to their assessments. Using the same data, the FDIC estimates that 5,025 IDIs (or 96.4 percent) would exhaust their individual shares of small bank credits within four assessment periods of application. Of the 187 institutions which have small bank credits that would last more than four quarters, 160 IDIs are expected to exhaust their individual shares after being applied for two additional

assessment periods of application (*i.e.,* after a total of six assessment periods), and 18 IDIs within four additional assessment periods (*i.e.,* after a total of eight assessment periods). After applying small bank credits for eight assessment periods, the FDIC estimates that nine IDIs would hold an aggregate of $1.75 million in credits. Under the proposal, the FDIC would remit the remaining individual small bank credit balances to each of these nine institutions in a lump-sum payment. Therefore, the dollar amount of remaining small bank credits declines substantially after the initial application in the first quarter that the reserve ratio reaches or exceeds 1.38 percent, reducing the effects of credit application being suspended due to a decrease in the reserve ratio. Additionally, as mentioned above, recent history suggests a generally positive near-term outlook for the banking sector (implying lower costs to the DIF), therefore the probability of the suspension of applying small bank credits is low, particularly in the near-term quarters.

The proposal similarly would require the FDIC to remit the outstanding balances of remaining OTACs in a lump-sum payment, at the same time that the outstanding small bank credit balances are remitted. The FDIC believes that this aspect of the proposed rule is likely to provide a small benefit to affected institutions. As of March 31, 2019, two institutions held OTACs of approximately $300,000. After eight more quarters of OTAC use, the two banks would have approximately $248,000 remaining. Under the proposal, the FDIC would remit the remaining individual OTAC balances to each of these two IDIs in a lump-sum payment, in the next assessment period in which the reserve ratio is at least 1.35 percent. The benefit of this aspect of the proposed rule to the IDIs with OTACs is that they would receive and could utilize these funds after eight more quarters of use, rather than the expected program duration of more than 13 years. Since the IDIs holding OTACs are not currently earning any returns on these funds, and assuming the funds are invested for 11 years and earn 0.25 percent real rate of return,[24] this aspect of the proposed rule could provide a benefit of $6,635 to the affected institutions.

The FDIC would remit any remaining balances of small bank credits and OTACs into the deposit accounts designated by the IDIs for deposit insurance assessment payment purposes.

Question 5: The FDIC invites comments on all aspects of the information provided in this Economic Effects section. In particular, would this proposal have any significant effects on institutions that the FDIC has not identified?

V. Alternatives Considered

The FDIC considered several alternatives while developing this proposal. First, the FDIC considered leaving its regulation governing the use of small bank credits and OTACs unchanged. The FDIC rejected this alternative because small variations in the reserve ratio could result in the application of credits in one quarter and suspension of credit application in the next, reducing the stability and predictability of assessment obligations. The proposed change to the threshold for suspending application of small bank credits would benefit institutions receiving credits at no material cost to the DIF, since the aggregate amount of credits would not change under the proposal and the proposal would not materially impair the ability of the FDIC to maintain the required minimum reserve ratio of 1.35 percent. The proposed changes also would allow FDIC to remit any remaining small bank credits and OTACs in a lump-sum payment after eight quarterly assessment periods, in the next assessment period in which the reserve ratio is at least 1.35 percent, which would benefit IDIs that could utilize these funds sooner and would permit the FDIC to administer the DIF more efficiently.

Second, the FDIC also considered decreasing the amount of time during which it would apply small bank credits before remitting any remaining balances of such credits and OTACs to IDIs. For example, the FDIC considered immediately issuing a single lump sum payment in the amount of each IDI's aggregate credit to all eligible IDIs and holders of OTACs after the reserve ratio reached or exceeded 1.38 percent. The FDIC also considered applying credits for four quarterly assessment periods, then remitting the remaining balance of small bank credits and OTACs to IDIs. The FDIC rejected shorter time periods because applying credits over a longer period of time would result in less volatility for the DIF.

The FDIC also considered increasing the amount of time during which it would apply small bank credits before remitting any remaining balances of such credits and OTACs to IDIs. The FDIC rejected a period longer than eight quarters because only nine institutions are anticipated to hold an aggregate of $1.75 million in credits after eight quarters of application. Continued application of small bank credits and OTACs beyond eight quarters would unnecessarily complicate FDIC's administration of the DIF from an operational perspective, without providing a material benefit to the DIF.

Question 6: The FDIC invites comment on all alternatives discussed, including whether the FDIC should adopt an alternative instead of the proposal, and if so, why.

VI. Request for Comment

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. Regulatory Analysis and Procedure

A. Administrative Procedure Act

Under the Administrative Procedure Act, ''[t]he required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except as otherwise provided by the agency for good cause found and published with the rule.'' [25] Under the proposal, the amendments to the FDIC's deposit insurance assessment regulations would be effective upon publication of a final rule in the **Federal Register**, and the FDIC finds good cause that the publication of a final rule implementing this proposal can be less than 30 days before its effective date because IDIs would benefit from increased stability and predictability in the application of small bank credits to quarterly assessments before the final rule would otherwise become effective.

As explained above in the **SUPPLEMENTARY INFORMATION** section, because the FDIC invoices for quarterly deposit insurance assessments in arrears, invoices for the third quarterly assessment period of 2019 would be made available to IDIs in December 2019, with a payment date of December 30, 2019. To address any possibility that the reserve ratio may reach or exceed 1.38 percent as of June 30, 2019 (the end of the second quarterly assessment period), then decrease below 1.38 percent as of September 30, 2019 (the end of the third quarterly assessment period), the FDIC is proposing an immediate effective date for this rule with application of the rule beginning in the third quarterly assessment period of 2019. This effective date would provide certainty to IDIs with small bank credits

[24] Board of Governors of the Federal Reserve System, 10-Year Treasury Inflation-Indexed Security, Constant Maturity [DFII10] (July 22, 2019), *https://fred.stlouisfed.org/series/DFII10.*

[25] 5 U.S.C. 553(d).

that the proposed rule would apply to the third quarterly assessment period of 2019, and that the FDIC could apply small bank credits even if the DIF reserve ratio is less than 1.38 percent (but at least 1.35 percent) for that assessment period. Once the FDIC begins to apply small bank credits to each IDI's assessment when the reserve ratio reaches or exceeds 1.38 percent, it will continue to do so until all small bank credits have been applied or remitted, as long as the reserve ratio is at least 1.35 percent.

B. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Public Law 106–102, 113 Stat. 1338, 1471 (Nov. 12, 1999), requires the Federal banking agencies to use plain language in all proposed final rules published after January 1, 2000. The FDIC invites 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 improved?
- 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?

C. 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.[26] 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.[27] Generally, the FDIC considers a significant effect to be a quantified effect in excess of 5 percent of total annual salaries and benefits per institution, or 2.5 percent of total non-interest expenses. The FDIC believes that effects in excess of these thresholds typically represent significant effects for FDIC-insured institutions. Certain types of rules, such as rules of particular applicability relating to rates or 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.[28] 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 established small bank's assessment rate and is, therefore, not subject to the RFA. Nonetheless, the FDIC is voluntarily presenting information in this RFA section.

Based on quarterly regulatory report data as of March 31, 2019, the FDIC insures 5,371 depository institutions, of which 3,920 are defined as small entities by the terms of the RFA. Further, 3,917 RFA-defined small, FDIC-insured institutions have small bank credits totaling $172.4 million.

As stated previously, the proposed rule eliminates the possibility that affected small, FDIC-insured institutions would begin receiving small bank credits in the quarter when the reserve ratio first reaches or exceeds 1.38 percent but that these credits then would be suspended if the reserve ratio subsequently falls below 1.38 percent (but remains at least 1.35 percent). Therefore, the economic effect of this aspect of the proposed rule is a reduction in the potential future costs associated with a disruption of the type just described in the application of small bank credits by affected small, FDIC-insured institutions. It is difficult to accurately estimate the magnitude of this benefit to affected small, FDIC-insured institutions because it depends, among other things, on future economic and financial conditions, the operational and financial management practices at affected small, FDIC-insured institutions, and the future levels of the reserve ratio. However, the FDIC believes the economic effects of the proposed rule are likely to be small because an estimated 41 percent of the aggregate amount of small bank credits would be applied in the first quarter that the reserve ratio is at least 1.38 percent. Further, the FDIC estimates that 3,768 small, FDIC-insured institutions (or 96.2 percent) would exhaust their individual shares of small bank credits within four assessment periods. Of the 149 small, FDIC-insured institutions that the FDIC estimates would have small bank credits that would last more than four quarters, 138 are expected to exhaust their individual shares after being applied for two additional assessment periods (*i.e.,* after a total of six assessment periods of application), and four within four additional assessment periods of application (*i.e.,* after a total of eight assessment periods), and seven will last more than eight quarters. Therefore, the dollar amount of remaining small bank credits declines substantially after the initial application of credits in the first quarter of use, reducing the effects of credit application being suspended due to a decrease in the reserve ratio. Additionally, recent history suggests a generally positive near-term outlook for the banking sector (implying lower costs to the DIF), therefore the probability of suspension of applying small bank credits is low, particularly in the near-term quarters.

As stated previously, the proposed rule would require the FDIC to remit the outstanding balances of remaining OTACs in a lump-sum payment, in the next assessment period in which the reserve ratio is at least 1.35 percent, at the same time that the outstanding small bank credit balances are remitted. As of March 31, 2019, only two IDIs have outstanding OTACs totaling approximately $300,000. However, both institutions are subsidiaries of large banking organizations and therefore do not qualify as small entities under the RFA. Therefore, this aspect of the proposed rule would not affect any small, FDIC-insured institutions.

Question 7: The FDIC invites comments on all aspects of the supporting information provided in this RFA section. In particular, would this proposed rule have any significant effects on small entities that the FDIC has not identified?

D. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995,[29] 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

[26] 5 U.S.C. 601 *et seq.*

[27] 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.

[28] 5 U.S.C. 601.

[29] 44 U.S.C. 3501 *et seq.*

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.

E. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),[30] in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on IDIs, each Federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on IDIs, including small IDIs, and customers of IDIs, as well as the benefits of such regulations. In addition, subject to certain exceptions, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs 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.[31]

The proposed rule would not impose additional reporting or disclosure requirements on IDIs, including small IDIs, or on the customers of IDIs. It would provide for: Continued application of small bank credits as long as the reserve ratio is at least 1.35 percent, remittance of any remaining small bank credits in a lump-sum payment after such credits have been applied for eight quarterly assessment periods, in the next assessment period in which the reserve ratio is at least 1.35 percent, and remittance of any remaining OTACs in a lump-sum payment at the same time that any remaining small bank credits are remitted. Accordingly, section 302 of RCDRIA does not apply. Nevertheless, the requirements of RCDRIA will be considered as part of the overall rulemaking process, and the 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.

[30] 12 U.S.C. 4802(a).

[31] 12 U.S.C. 4802(b).

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:

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

■ 2. Amend § 327.11 by:

■ a. Revising paragraph (c)(11)(i);

■ b. Removing paragraph (c)(11)(iii); and

■ c. Adding paragraph (c)(13).

The revision and addition read as follows:

§ 327.11 Surcharges and assessments required to raise the reserve ratio of the DIF to 1.35 percent

* * * * *

(c) * * *

(11) *Use of credits.* (i) Effective as of July 1, 2019, the FDIC will apply assessment credits awarded under this paragraph (c) to an institution's deposit insurance assessments, as calculated under this part 327, beginning in the first assessment period in which the reserve ratio of the DIF is at least 1.38 percent, and in each assessment period thereafter in which the reserve ratio of the DIF is at least 1.35 percent, for no more than seven additional assessment periods.

* * * * *

(13) *Remittance of credits.* After assessment credits awarded under paragraph (c) of this section have been applied for eight assessment periods, the FDIC will remit the full nominal value of an institution's remaining assessment credits in a single lump-sum payment to such institution in the next assessment period in which the reserve ratio is at least 1.35 percent.

* * * * *

■ 3. Amend § 327.35 by adding paragraph (c) to read as follows:

§ 327.35 Application of credits.

* * * * *

(c) *Remittance of credits.* Subject to the limitations in paragraph (b) of this section, in the same assessment period that the FDIC remits the full nominal value of small bank assessment credits pursuant to § 327.11(c)(13), the FDIC shall remit the full nominal value of an institution's remaining one-time assessment credits provided under this subpart B in a single lump-sum payment to such institution.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on August 20, 2019.

Valerie Best,

Assistant Executive Secretary.

[FR Doc. 2019–18257 Filed 8–28–19; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 686

[DOL Docket No. ETA–2019–0006]

RIN 1205–AB96

Procurement Roles and Responsibilities for Job Corps Contracts

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Labor (Department) proposes two procedural changes to its Workforce Innovation and Opportunity Act (WIOA) Job Corps regulations to enable the Secretary to delegate procurement authority as it relates to the development and issuance of requests for proposals for the operation of Job Corps centers, outreach and admissions, career transitional services, and other operational support services. The Department proposes to take this procedural action to align regulatory provisions with the relevant WIOA statutory language and to provide greater flexibility for internal operations and management of the Job Corps program.

DATES: Comments to this proposal and other information must be submitted (transmitted, postmarked, or delivered) by September 30, 2019. All submissions must bear a postmark or provide other evidence of the submission date.

ADDRESSES: You may submit comments, identified by Regulatory Information Number (RIN) 1205–AB96, by one of the following methods:

Federal e-Rulemaking Portal: http://www.regulations.gov. Follow the website instructions for submitting comments.

Mail and Hand Delivery/Courier: Written comments, disk, and CD–ROM submissions may be mailed to Heidi Casta, Deputy Administrator, Office of Policy Development and Research, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–5641, Washington, DC 20210.

Instructions: Label all submissions with "RIN 1205–AB96."