FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 330

RIN 3064-AG06

Clarification of Deposit Insurance Coverage for Legacy Branches of U.S. Banks in the Federated States of Micronesia, the Marshall Islands, and Palau

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Interim final rule and request for comment.

SUMMARY: The FDIC is amending its regulations to clarify that it insures the deposits of legacy branches of U.S. insured depository institutions operating in the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

DATES: The interim final rule is effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments, identified by RIN 3064-AG06, by any of the following methods:

- *FDIC Website: https://www.fdic.gov/regulations/laws/federal/.* Follow instructions for submitting comments on the agency website.
- *Email: Comments@fdic.gov*. Include RIN 3064-AG06 in the subject line of the message.
- *Mail:* James P. Sheesley, Assistant Executive Secretary, Attention: Comments – RIN 3064-AG06, 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) 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/resources/regulations/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.

FOR FURTHER INFORMATION CONTACT: James Watts, Counsel, Legal Division, 202-898-6678, jwatts@fdic.gov; Kathryn Marks, Counsel, Legal Division, 202-898-3896, kmarks@fdic.gov; Anthony Sinopole, Associate Director, Division of Insurance and Research, 202-898-6507, asinopole@fdic.gov.

SUPPLEMENTARY INFORMATION:

A. Policy Objectives

The Federal Deposit Insurance Corporation (FDIC) has a long history of

providing deposit insurance coverage in the island nations that formerly were part of the Trust Territory of the Pacific Islands, which include the Federated States of Micronesia (FSM), the Republic of the Marshall Islands (Marshall Islands), and the Republic of Palau (Palau). Collectively, these three countries are known as the Freely Associated States. At one time, the FDIC provided deposit insurance coverage pursuant to the Federal Deposit Insurance Act (FDI Act) on the basis that these islands were part of the Trust Territory of the Pacific Islands administered by the United States. The FSM, the Marshall Islands, and Palau later became independent nations, and each entered into a Compact of Free Association (Compacts) with the United States that provided among other economic benefits, the availability of the FDIC's deposit insurance. The unique and somewhat complex legal framework comprised of the Compacts, their relevant subsidiary agreements, implementing legislation, and the FDI Act, is what has allowed the FDIC to insure deposits in the Freely Associated States.

The United States recently negotiated, and Congress approved, new agreements related to the Compacts with each of the Freely Associated States. Some of these new agreements include provisions relating to deposit insurance coverage for banks chartered by the Freely Associated States. In light of this, the FDIC believes it would be beneficial to clarify the application of the FDI Act and the deposit insurance regulations to the legacy branches of U.S. insured depository institutions (IDIs) operating in the Freely Associated States. For these reasons, the FDIC is issuing this interim final rule to clarify that it insures the deposits of legacy branches of U.S. IDIs operating in the FSM, the Marshall Islands, and Palau.

B. Background

The interim final rule implements the FDI Act, rather than the Compacts. However, a brief historical discussion and overview of the Compacts provides helpful context for understanding the interim final rule, which is based upon the special and historic relationship between the United States and the Freely Associated States.

The FSM, the Marshall Islands, and Palau were once part of the Trust Territory of the Pacific Islands, established by the United Nations following World War II and administered by the United States pursuant to a trusteeship agreement.[1] In 1981, Congress added the Trust Territory of the Pacific Islands to the FDI Act's definition of "State," with the result that deposits in banks located in the Trust Territory were eligible to be insured by the FDIC.[2]

1986 Compacts

The FSM, the Marshall Islands, and Palau each adopted a Compact of Free Association with the United States that was subsequently approved by the U.S. Congress. Each of these nations then exited the Trust Territory of the Pacific Islands by becoming an independent nation. Specifically, the U.S. Congress approved a Compact with the FSM and the Marshall Islands through the Compact of Free Association Act of 1985, which became effective in 1986.[3] The FSM and the Marshall Islands became independent effective October 2, 1986, and November 3, 1986, respectively. Congress approved the Compact with Palau in 1986,[4] and Palau became independent effective

---

[1] In addition to the FSM, the Marshall Islands, and Palau, the Trust Territory of the Pacific Islands also included the Northern Mariana Islands. The Northern Mariana Islands became a self-governing commonwealth of the United States in 1986, and has since been added to the FDI Act's definition of "State." *See* 12 U.S.C. 1813(a)(3).
[2] Pub. L. 97-110, § 103 (Dec. 26, 1981).
[3] Pub. L. 99-239 (Jan. 14, 1986).
[4] Pub. L. 99-658 (Nov. 14, 1986); Pub. L. 101-219 (Dec. 12, 1989).

October 1, 1994.[5] These Compacts contained provisions requiring certain agencies of the U.S. government, including the FDIC, to provide their programs and services to each nation.[6]

2003 Compacts

The United States, the FSM, and the Marshall Islands eventually renewed negotiations concerning their Compact, resulting in separate amended agreements between the United States and each of these nations that took effect in 2003.[7] The amended Compacts included changes to, among other things, the provision of deposit insurance coverage. Specifically, section 221(a)(5) of the amended U.S.-FSM Compact stated that the FDIC would provide deposit insurance "for the benefit only of the Bank of the Federated States of Micronesia," in accordance with a Federal Programs and Services Agreement executed by the two nations.[8,9] By contrast, the corresponding provision of the amended Compact with the Marshall Islands, section 221(a), included no reference to deposit insurance.[10]

---

[5] Pub. L. 99-658 was a joint resolution to approve the Palau Compact. Section 101(d) of that Act provided that the Compact would not take effect until, among other things, enactment of a joint resolution authorizing entry into force of the Compact. Pub. L. 101-219 was that joint resolution. Further delay, until 1994, occurred due to the need for multiple plebiscites to secure approval on Palau for implementation of the Compact.

[6] *See* Pub. L. 99-239, § 111(a) (making the programs and services of the FDIC available to the FSM and the Marshall Islands); Pub. L. 99-658, § 102(b) (applying § 111(a) of Pub. L. 99-239 to Palau). The Compacts provided continuing authority for the FDIC to insure banks chartered by the FSM, the Marshall Islands, and Palau, which, due to their exit from the Trust Territory of the Pacific Islands, no longer fell within the FDI Act's definition of "State."

[7] Pub. L. 108-188 (Dec. 17, 2003).

[8] Pub. L. 108-188, § 201(a).

[9] *See* Federal Programs and Services Agreement Between the Government of the United States and the Government of the Federated States of Micronesia Concluded Pursuant to Article III of Title One, Article II of Title Two (including Section 222), and Section 231 of the Compact of Free Association, as Amended, available at *https://www.doi.gov/sites/doi.gov/files/uploads/Compact-Subsidiary-Agreements-for-the-FSM.pdf*. Article XI of this Agreement governed the provision of FDIC programs and services.

[10] Pub. L. 108-188, § 201(b).

Review of Palau Compact

The U.S.-Palau Compact does not include a termination date, but requires formal review of its terms by the 15-year, 30-year, and 40-year anniversaries of its effective date. The direct economic assistance provisions of the Compact expired in 2009, and, following the required 15-year review, were renegotiated and signed on September 3, 2010. Congress approved a Compact Review Agreement with respect to the U.S.-Palau Compact in December 2017.[11]

2023 Compact Amendments

During 2023, the United States and each of the Freely Associated States concluded new agreements relating to their respective Compacts. The U.S. Congress approved the new agreements in March 2024.[12] Some of the new agreements include the provision of deposit insurance by the FDIC.

C. Statutory Framework

The FDI Act governs the FDIC's deposit insurance coverage for U.S. banks and savings associations. The statute includes two provisions on foreign deposits that are particularly relevant to the interim final rule.

Section 3

The FDI Act defines the "deposits" insured by the FDIC. As early as the Banking Act of 1933, Congress distinguished between domestic and foreign deposits, and the current statutory definition of "deposit" makes clear that foreign branch deposits of IDIs are not deposits for the purposes of the FDI Act except under prescribed circumstances. In particular, section 3(*l*)(5) of the FDI Act excludes the following from the definition of

[11] Pub. L. No. 115-91, § 1259C (2017).
[12] Pub. L. 118-42, div. G, tit. II.

“deposit”:

> any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State, unless—(i) such obligation would be a deposit if it were carried on the books and records of the depository institution, and would be payable at, an office located in any State; and (ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State.[13]

Accordingly, deposit obligations of a foreign branch of an IDI that would otherwise fall within the definition of “deposit” under section 3(*l*) of the FDI Act are deemed not to be deposits unless they 1) would be deposits if carried on the books and records of the IDI in the United States; and 2) are expressly payable at an office of the IDI located in the United States. The FDIC has generally referred to this second prong of subparagraph (A) of section 3(*l*)(5) of the FDI Act as requiring “dual payability” of a deposit.

Section 41

Section 41 of the FDI Act generally prohibits the payment of deposit insurance with respect to certain deposits carried on the books and records of foreign branches of U.S. IDIs.[14] Section 41(a) provides, in relevant part:

> Notwithstanding any other provision of law, the Corporation … may not, directly or indirectly, make any payment or provide any assistance, guarantee, or transfer under this Act or any other provision of law in connection with any insured depository institution which would have the direct or indirect effect of satisfying, in whole or in part, any claim against the institution for obligations of the institution which would constitute deposits as defined in section 3(*l*) but for subparagraphs (A) and (B) of section 3(*l*)(5).[15]

This provision of the statute generally prohibits payment of obligations that would have the direct or indirect effect of satisfying any claim against an IDI which would constitute

---

[13] 12 U.S.C. 1813(*l*)(5)(A).
[14] 12 U.S.C. 1831r.
[15] 12 U.S.C. 1831r(a).

deposits "but for subparagraphs (A) and (B) of section 3(*l*)(5)."

As described above, subparagraph (A) of section 3(*l*)(5) of the FDI Act excludes an obligation from being considered a "deposit" unless 1) the obligation would constitute a "deposit" if carried on the IDI's books and records in a State; and 2) the contract expressly provides dual payability. An obligation that constitutes a deposit "but for" subparagraph (A) is one that is excluded from the "deposit" definition only because it does not satisfy the two-part test in subparagraph (A). Put differently, obligations that constitute deposits "but for" subparagraph (A) include those that would constitute a "deposit" if carried on the IDI's books and records in a State, yet are not expressly payable at a location of the IDI within a State. Section 41 therefore prohibits the FDIC from paying deposit insurance on obligations of IDIs' foreign branches that are not dually payable. Dual payability is, in effect, a statutory prerequisite for deposit insurance with respect to U.S. IDIs' foreign branch deposits.

D. 2013 Rulemaking on the Definition of "Insured Deposit"

While dual payability is a statutory prerequisite for deposit insurance, the FDIC has also used its authority to limit the availability of deposit insurance for IDIs' foreign branch deposits. In 2013, the FDIC amended its deposit insurance rules to clarify the status of deposits maintained in foreign branches of U.S. banks.[16] This action was taken, among other reasons, to address a proposal by the Financial Services Authority of the United Kingdom to prohibit non-European Economic Area banks, including U.S. banks, from accepting deposits in their United Kingdom branches unless claims of United Kingdom depositors were treated the same as domestic depositors in resolution

[16] *See* 78 FR 56583 (Sept. 13, 2013).

proceedings of the bank.

The 2013 rule made clear that if a bank's deposits carried on the books of its foreign branches were made dually payable under section 3(*l*)(5)(A) of the FDI Act, this could make them deposits for purposes of depositor preference in resolution proceedings, but would not make them insured deposits. Specifically, the 2013 rule amended 12 CFR 330.3(e) of the FDIC's deposit insurance regulations to provide that obligations of IDIs payable solely at an office of the IDI located outside any State (as defined in section 3(a)(3) of the FDI Act) are not "deposits" for purposes of 12 CFR part 330. Thus, obligations that are not dually payable may not be considered "deposits." The 2013 rule further provided that even if such obligations are made dually payable at an office of the IDI located within a State, they are not "insured deposits" for purposes of 12 CFR part 330. The 2013 rule also included a rule of construction for overseas military banking facilities operated under U.S. Department of Defense regulations, stating that such offices would not be considered to be located outside any State. While the focus of the 2013 rule was clarifying the effect of dual payability, the FDIC also discussed the rule's effect on deposits in the Freely Associated States. Specifically, the FDIC stated that the 2013 rule was not intended to "affect the status of insured deposits, if any, located in the former Trust Territories."[17]

E. Statutory Authority for Interim Final Rule

The FDIC issues rules and regulations necessary to carry out the statutory mandates of the FDI Act. Providing deposit insurance to IDIs and maintaining public

[17] 78 FR 56583, 56587 (Sept. 13, 2013). As explained above, eligibility of a U.S. IDI's foreign branch obligations for deposit insurance coverage under the FDI Act would depend upon whether the deposits were expressly payable at an office of the IDI located in a State.

confidence in the banking system through deposit insurance in the event of a U.S. bank's insolvency are two central functions of the FDIC. In order to permit the FDIC to carry out these functions successfully, the FDIC is authorized to undertake rulemaking to implement the FDI Act effectively, particularly with respect to its deposit insurance functions.

The FDI Act contains several provisions granting the FDIC authority to issue regulations to carry out its core functions and responsibilities, which include the duty "to insure the deposits of all insured depository institutions." Section 11(d)(4)(B)(iv) authorizes the FDIC to promulgate "such regulations as may be necessary to assure that the requirements of this section [section 11, which addresses the payment of deposit insurance] can be implemented with respect to each insured depository institution in the event of its insolvency."[18] Other grants of FDIC rulemaking authority can be found in section 9(a)(Tenth) of the FDI Act, authorizing the FDIC's Board of Directors to prescribe "such rules and regulations as it may deem necessary to carry out the provisions of this chapter," and section 10(g) of the FDI Act, authorizing the FDIC to "prescribe regulations" and "define terms as necessary to carry out" the FDI Act.[19]

F. Interim Final Rule

As noted above, in light of the FDIC's role in the Freely Associated States under the new Compact-related agreements, the FDIC believes it would be beneficial to clarify the application of the FDI Act and the deposit insurance regulations to the legacy branches of U.S. IDIs operating in the Freely Associated States. The interim final rule clarifies that the FDIC, pursuant to the FDI Act, insures the deposits of legacy branches

---

[18] 12 U.S.C. 1821(d)(4)(B)(iv).
[19] 12 U.S.C. 1819(a)(Tenth); 1820(g).

of U.S. IDIs operating in the FSM, the Marshall Islands, and Palau, better aligning the regulation with the historical coverage provided for these deposits.

The interim final rule amends 12 CFR 330.3(e) of the FDIC's deposit insurance regulations, which governs deposits of IDIs that are payable outside of the United States and certain other locations. Currently under the regulation, an obligation of an IDI that is payable solely at an office of the IDI located outside any State is not considered a "deposit" for purposes of the deposit insurance regulations.[20] Where an obligation of an IDI is carried on the books and records of an office of the IDI located outside any State, the regulations provide that it shall not be considered an insured deposit, even if it is also made payable at an office of the IDI located within any State.[21] Essentially, where obligations booked outside the U.S. are made dually payable, they may be entitled to depositor preference (payment ahead of the institution's other creditors), but are not generally eligible for deposit insurance coverage. The regulation at 12 CFR 330.3(e)(3) includes a rule of construction providing a limited exception to these general rules for overseas military banking facilities operated under U.S. Department of Defense regulations. Military banking facilities are not considered to be offices located outside any State under the regulation, meaning that military banking facility deposits are eligible to be insured.

The interim final rule amends the rule of construction in 12 CFR 330.3(e) to apply expressly to deposits of legacy branches of U.S. IDIs operating in the FSM, the Marshall Islands, and Palau. Such branches will not be considered to be offices located outside any State for purposes of the deposit insurance rules, meaning that their deposits, if

[20] 12 CFR 330.3(e)(1).
[21] 12 CFR 330.3(e)(2).

dually payable, would be eligible to be insured by the FDIC pursuant to 12 CFR part 330.

The coverage for U.S. IDIs' legacy branches provided by the rule is intended to function as a limited-scope exception to the general rule that excludes IDIs' foreign branch deposits from deposit insurance coverage. This limited exception aligns the regulation with the historical coverage that has been provided for banks operating in the Freely Associated States through the special and historical relationship the United States has maintained with each of the Freely Associated States. Accordingly, the exception provided by the interim final rule is limited to the legacy branches of U.S. IDIs, meaning the number of branches operated by each U.S. IDI as of the interim final rule's effective date. Any changes to branch locations remain subject to existing applicable requirements depending on the circumstances.[22] The FDIC believes that limiting coverage to legacy branches of U.S. IDIs serves the FDIC's policy objectives while promoting consistency, to the extent possible, with the rules that generally apply to foreign deposits.

As explained above, dual payability is a statutory prerequisite for deposit insurance with respect to U.S. IDIs' foreign branch deposits. Therefore, deposits of U.S. IDIs' legacy branches in the Freely Associated States are only eligible for deposit insurance if they have been made dually payable. This means that, under the contract, they are expressly payable at an office of the IDI located in a State (as defined in 12 U.S.C. 1813(a)(3)).

Importantly, all dually payable deposits of the legacy branches of U.S. IDIs are

---

[22] *See* 12 CFR part 303, subparts C, D, and J.

eligible for deposit insurance coverage under the interim final rule.[23] Coverage is not limited to deposit balances maintained by the depositor as of the rule's effective date, or limited to deposit accounts opened prior to the rule's effective date. This aspect of the interim final rule ensures that coverage will be easily understood by consumers and bankers. It also reduces operational complexity for the FDIC in the event of a bank failure that would require a deposit insurance determination. Under the interim final rule, calculation of deposit insurance coverage will be determined by application of the deposit insurance regulations that generally apply to all IDIs, found in 12 CFR part 330.

It is important to note that the interim final rule does not affect the provision of deposit insurance to banks chartered by any of the Freely Associated States or branches of such banks. This is because the rule is intended to clarify the application of the FDI Act to branches of U.S.-chartered IDIs. Deposit insurance coverage is provided to certain banks chartered by the Freely Associated States pursuant to separate authority provided by legislation concerning the Compact-related agreements as discussed in further detail above.[24]

G. Expected Effects

The interim final rule amends 12 CFR part 330 to clarify that the FDIC insures dually payable deposits of the legacy branches of U.S. IDIs operating in the Freely Associated States. Given that these deposits have historically been and are currently insured, the interim final rule will not change the deposit insurance coverage for these

[23] Deposit insurance coverage only applies to "deposits" as that term is defined in the FDI Act. Other types of products, such as stocks, bonds, money market mutual funds, securities, commodities, and crypto assets are not insured under the interim final rule.
[24] The FDIC currently insures deposits of one bank chartered by the Federated States of Micronesia, the Bank of the Federated States of Micronesia, pursuant to this separate authority. The interim final rule does not affect deposit insurance coverage for this bank.

deposits, as compared to a baseline scenario in which the interim final rule had not been not promulgated. Thus, the effects of the rule are likely limited to the increased awareness of deposit insurance coverage in the Freely Associated States and the reduced likelihood of confusion regarding such coverage.

Any costs imposed by the interim final rule will directly affect IDIs that operate legacy branches in the Freely Associated States. According to recent Summary of Deposit data,[25] there are currently three IDIs operating eight total branches in these areas. As of June 30, 2023, these branches hold approximately $731 million in deposits. As discussed previously, the interim rule does not affect the provision of deposit insurance at these branches, so the interim final rule will likely not result in any operational changes at affected IDIs. Costs incurred by these IDIs are likely limited to costs associated with clarifications to the IDIs' customers regarding the nature of deposit insurance for products offered at these branches. The FDIC does not have data to quantify these costs, but believes they are de minimis.

The interim final rule will benefit both IDIs operating branches in the Freely Associated States as well as their customers. The publication of the interim final rule will remind affected IDIs of the statutory prerequisites for deposit insurance under the FDI Act with regards to deposits held in affected legacy branches. To the extent that customers in the Freely Associated States are unclear as to the status of deposit insurance for their deposits, the interim final rule could pose benefits to those customers. The clarity provided by these IDIs to holders of dually payable deposits could reinforce and/or increase awareness of the extent to which or the manner in which the IDIs'

[25] FDIC Summary of Deposits, as of June 30, 2023.

products are insured by the FDIC. This clarity will help customers more clearly understand when their funds are protected by the FDIC's deposit insurance. These benefits, in whole, will reinforce the role of FDIC deposit insurance and bolster confidence in the U.S. banking system in the Freely Associated States. Given that dually payable deposits in the Freely Associated States have been treated as FDIC-insured since 1981, the FDIC believes these benefits are likely de minimis.[26]

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

H. Request for Comment

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

1. Is there additional information that would be helpful in further clarifying the scope of the rule?

2. Are there legal or policy considerations regarding deposit insurance coverage for U.S. IDIs' branches in the Freely Associated States that are relevant, but not discussed in the interim final rule?

I. Administrative Law Matters

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).[27] Pursuant to section 553(b)(B) of the APA, general notice and the opportunity for public comment are not required with respect to a

[26] Pub. L. 97-110, § 103 (Dec. 26, 1981).
[27] 5 U.S.C. 553.

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."[28]

The FDIC believes that the public interest would be best served if the interim final rule is effective immediately upon publication in the *Federal Register*. The interim final rule aligns the FDIC's regulation with the deposit insurance coverage historically provided by the FDIC for IDIs in the Freely Associated States, clarifying the application of 12 CFR 330.3(e) of the FDIC's regulations in this context. Moreover, a delayed effective date could lead depositors of IDIs in the Freely Associated States to question whether their deposits are insured during the comment period. The FDIC has therefore determined that the public notice and participation ordinarily required by the APA before a regulation may take effect would, in this case, be contrary to the public interest and that good cause exists for waiving the customary 30-day delayed effective date.

Nevertheless, the FDIC desires to have the benefit of public comment before adopting a permanent final rule, and thus invites interested parties to submit comments during a 60-day comment period. In adopting a final regulation, the FDIC will revise the interim final rule if appropriate in light of the comments received.

Riegle Community Development and Regulatory Improvement Act

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

[28] 5 U.S.C. 553(b)(B).

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.[29] 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*.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) 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 interim final rule does not create new or revise any existing information collection requirements, and therefore, the FDIC will make no submissions to OMB in connection with this interim final rule.

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. 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 notice and opportunity for public comment prior to the rule's effective date is contrary to the public interest, and therefore 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 analyses do not apply. Nevertheless, the FDIC is

[29] 12 U.S.C. 4802.

interested in receiving feedback on ways that it could reduce any potential burden of the interim final rule on small entities.

Congressional Review Act

For purposes of the Congressional Review Act, the OMB makes a determination as to whether a final rule constitutes a "major" rule. 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.

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.

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.

Plain Language

Section 722 of the Gramm-Leach-Bliley Act[30] requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC has sought to present the interim final rule in a simple and

[30] Pub. L. 106-102, section 722, 113 Stat. 1338, 1471 (codified at 12 U.S.C. 4809)).

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.

List of Subjects in 12 CFR Part 330

Bank deposit insurance, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons stated in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation amends part 330 of title 12 of the *Code of Federal Regulations* as follows:

PART 330 – DEPOSIT INSURANCE COVERAGE

1. The authority citation for part 330 continues to read as follows:

Authority: 12 U.S.C. 1813(l), 1813(m), 1817(i), 1818(q), 1819(a)(Tenth), 1820(f), 1820(g), 1821(a), 1821(d), 1822(c).

2. Revise § 330.3(e)(3) to read as follows:

§ 330.3 General principles.

* * * * *

(e) * * *

(3) *Rule of construction*. For purposes of this paragraph (e), the following are not considered to be offices located outside any State, as referred to in paragraph (e)(1) of this section:

(i) Overseas Military Banking Facilities operated under U.S. Department of Defense regulations, 32 CFR parts 230 and 231; and

(ii) Legacy branches of U.S. insured depository institutions in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, which for purposes of this paragraph means the number of branches operated by each U.S. insured depository institution as of [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

* * * * *

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on [DATE], 2024.

James P. Sheesley,

Assistant Executive Secretary.