FDIC

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Financial Institution Letter
FIL-15-2012
March 20, 2012

ASSESSMENTS

Notice of Proposed Rulemaking on Assessments, Large Bank Pricing

Summary: On March 20, 2012, the FDIC Board of Directors (FDIC Board) adopted the attached Notice of Proposed Rulemaking (NPR) and request for comment, which would amend and clarify some definitions related to higher-risk assets as used in the deposit insurance pricing scorecards for large and highly complex insured depository institutions.

Statement of Applicability to Institutions Under $1 Billion in Total Assets: The NPR would apply only to institutions with $10 billion or more in assets. The NPR would have no impact on institutions with less than $1 billion in assets.

Distribution:
All FDIC-Insured Institutions

Suggested Routing:
Chief Executive Officer
President
Chief Financial Officer

Related Topics:
FDIC Regulations Governing the Assessment Process, 12 CFR Part 327

Attachment:
Notice of Proposed Rulemaking

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Note:
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Paper copies may be obtained through the FDIC's Public Information Center, 3501 Fairfax Drive, E-1002, Arlington, VA 22226 (1-877-275-3342 or 703-562-2200).

Highlights

The NPR would:

- Revise the definition of certain higher-risk assets, specifically leveraged loans, which would be renamed "higher-risk C&I loans and securities," and subprime consumer loans, which would be renamed "higher-risk consumer loans and securities";
- Clarify the timing of identifying an asset as higher risk;
- Clarify the way securitizations (including those that meet the definition of nontraditional mortgage loans) are identified; and
- Further define terms that are used in the large bank pricing rule adopted on February 25, 2011 (Assessments, Large Bank Pricing, 76 Fed Reg. 10672 (Feb. 25, 2011)).

Implementation and Effective Date:

- The proposed amendments would become effective October 1, 2012, predicated on changes to the Consolidated Reports of Condition and Income (Call Report). The subsequent pages explain the effective date in more detail.
- The attached NPR outlines how loans and securities covered by the NPR would be reported.

Financial Institution Letter
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Notice of Proposed Rulemaking: Assessments, Large Bank Pricing

On March 20, 2012, the FDIC adopted the attached notice of proposed rulemaking (NPR) and request for comment related to the large bank pricing methodology. The proposed changes would amend the assessment regulations for large bank pricing that were adopted on February 25, 2011 (February 2011 rule). A summary of the major provisions of the NPR follows.

Definitions

The proposed rule would revise the definition of certain higher-risk assets and further define terms that are used to define higher-risk assets in the February 2011 rule.

Higher-Risk C&I Loans and Securities

Higher-risk C&I loans and securities would include:

- Any commercial loan (funded or unfunded, including irrevocable and revocable commitments) owed by a borrower to the evaluating depository institution with an original amount greater than $5 million if the conditions specified in (a) or (b) below are met as of origination, or, if the loan has been refinanced, as of refinance, and the loan does not meet the asset based lending (ABL) exclusion or the floor plan line of credit exclusion (discussed in Appendix C to the attached NPR).

  (a) (i) The purpose of any of the borrower's debt (whether owed to the evaluating insured depository institution or another lender) that was incurred within the previous seven years was to finance a buyout, acquisition, or capital distribution and such debt was material; and

  (ii) The ratio of the borrower's total debt to trailing twelve-month EBITDA (*i.e.*, operating leverage ratio) is greater than 4 or the ratio of the borrower's senior debt to trailing twelve-month EBITDA (*i.e.*, operating leverage ratio) is greater than 3; or

  (b) Any of the borrower's debt (whether owed to the evaluating institution or another lender) is designated as a highly leveraged transaction by a syndication agent.

- All securities held by the evaluating institution that are issued by a commercial borrower, if the conditions specified in (a) or (b) above are met, except securities classified as trading book; and

- All securitizations held by the evaluating institution that are more than 50 percent collateralized by commercial loans or securities that would meet the higher-risk C&I loans and securities definition if directly held by the evaluating institution, except securities classified as trading book.

Higher-Risk Consumer Loans and Securities

Higher-risk consumer loans and securities would be defined as:

- All consumer loans where, as of origination, or, if the loan has been refinanced, as of refinance, the probability of default (PD) within two years, as determined using a defined historical stress period, was greater than 20 percent, excluding those consumer loans that meet the definition of a nontraditional mortgage loan; and

- Securitizations that are more than 50 percent collateralized by consumer loans meeting the criteria in (a), except those classified as trading book.

Nontraditional Mortgage Loans

Nontraditional mortgage loans would continue to be defined as under the February 2011 rule. The NPR would clarify that nontraditional mortgage loans include:

- Securitizations that are more than 50 percent collateralized by nontraditional mortgage loans meeting the criteria of the definition.

<u>Implementation and Effective Date</u>

The proposed amendments would become effective October 1, 2012, predicated on Call Report changes. Because no amendments to the definitions of C&D and nontraditional mortgage loans are being proposed, other than clarifying how securitizations are identified, institutions would continue to define and report these higher-risk assets as they have been doing under the February rule.

Transition Guidance until Effective Date

Prior to October 1, 2012, large institutions and highly complex institutions will continue to use the transition guidance included in the instructions to the Call Report updated as of March 31, 2012.

Rules in Effect on the Effective Date and Thereafter

Effective October 1, 2012, the proposed definitions described above would apply to:

- All C&I loans and securities originated or purchased on or after October 1, 2012;

- All consumer loans and securities whenever originated or purchased, except securitizations of consumer loans and securities (see last bullet below for treatment of securitizations);

- All residential loans and securities whenever originated or purchased, except securitizations of residential real estate loans (see last bullet below for treatment of securitizations); and

- All securitizations of C&I, consumer, and residential real estate loans originated or purchased on or after October 1, 2012.

For consumer and residential real estate loans and securities (other than securitizations) originated or purchased prior to October 1, 2012, an institution would have to determine whether the loan or security met the definition of a higher-risk consumer loan and security no later than December 31, 2012, using information as of the date of the origination of the loan or security if the institution had that information.

For C&I loans and securities originated or purchased before October 1, 2012, and all securitizations originated or purchased before October 1, 2012, institutions would have to either continue to use their existing internal methodology or existing guidance provided by their primary federal regulator or use the amended definitions to determine whether to report the loan, security or securitization as a higher-risk asset.

Arthur J. Murton
Director
Division of Insurance and Research