

§ 327.10

(3) *Adjustment procedure.* Any adjustment adopted by the Board pursuant to this paragraph (c) will be adopted by rulemaking. Nevertheless, because the Corporation is generally required by statute to set assessment rates as necessary (and only to the extent necessary) to maintain or attain the target designated reserve ratio, and because the Corporation must do so in the face of constantly changing conditions, and because the purpose of the adjustment procedure is to permit the Corporation to act expeditiously and frequently to maintain or attain the designated reserve ratio in an environment of constant change, but within set parameters not exceeding 5 basis points, without the delays associated with full notice-and-comment rulemaking, the Corporation has determined that it is ordinarily impracticable, unnecessary and not in the public interest to follow the procedure for notice and public comment in such a rulemaking, and that accordingly notice and public procedure thereon are not required as provided in 5 U.S.C. 553(b). For the same reasons, the Corporation has determined that the requirement of a 30-day delayed effective date is not required under 5 U.S.C. 553(d). Any adjustment adopted by the Board pursuant to a rulemaking specified in this paragraph (c) will be reflected in an adjusted assessment schedule set forth in paragraph (b)(2) or (b)(3) of this section, as appropriate.

(4) *Announcement.* Except with respect to assessments for the first semi-annual period of 1997, the Board shall announce the semiannual assessment schedule and the amount and basis for any adjustment thereto not later than 30 days before the invoice date specified in § 327.3(c) for the first quarter of the semiannual period for which the adjustment shall be effective.

(d) *Refunds or credits of certain assessments.* If the amount paid by an institution for the regular semiannual assessment for the second semiannual period of 1996 exceeds, as a result of the reduction in the rate schedule for a portion of that semiannual period, the amount due from the institution for that semi-annual period, the Corporation will refund or credit any such excess payment and will provide interest on the excess

12 CFR Ch. III (1–1–06 Edition)

payment in accordance with the provisions of § 327.7. Notwithstanding § 327.7(a)(3)(ii), such interest will accrue beginning as of October 1, 1996.

[61 FR 67696, Dec. 24, 1996, as amended at 62 FR 27176, May 19, 1997; 64 FR 70181, Dec. 16, 1999]

§ 327.10 Interpretive rule: Section 7(b)(2)(A)(v).

This interpretive rule explains certain phrases used in section 7(b)(2)(A)(v) of the Federal Deposit Insurance Act, 12 U.S.C. 1817(b)(2)(A)(v).

(a) An institution classified in supervisory subgroup B or C pursuant to § 327.4(a)(2) exhibits “financial, operational, or compliance weaknesses ranging from moderately severe to unsatisfactory” within the meaning of such section 7(b)(2)(A)(v).

(b) An institution classified in capital group 2 or 3 pursuant to § 327.4(a)(1) is “not well capitalized” within the meaning of such section 7(b)(2)(A)(v).

[61 FR 67698, Dec. 24, 1996]

Subpart B—Insured Depository Institutions Participating in Section 5(d)(3) Transactions

§ 327.31 Scope.

(a) *Affected institutions.* This subpart B applies to any insured depository institution that:

(1) Is either a BIF or SAIF member; and

(2) Is the assuming, surviving, or resulting institution in a transaction undertaken pursuant to section 5(d)(3) of the Federal Deposit Insurance Act.

(b) *Duration.* This subpart B shall cease to apply to an insured depository institution if:

(1) On or after August 9, 1994, the Corporation approves an application by an insured depository institution to treat the transaction described in paragraph (a) of this section as a conversion transaction; and

(2) The insured depository institution pays the amount of any exit and entrance fee assessed by the Corporation with respect to such transaction.

[57 FR 45286, Oct. 1, 1992, as amended at 59 FR 67165, Dec. 29, 1994]