

ADDITIONAL RISK CONSIDERATIONS FOR LARGE RISK CATEGORY I INSTITUTIONS—Continued

Information source	Examples of Associated Risk Indicators or Information
	<ul style="list-style-type: none"> <li>• Stress scenario development and analyses</li> <li>• Results of stress tests or scenario analyses that show the degree of vulnerability to adverse economic, industry, market, and liquidity events. Examples include:                             <ul style="list-style-type: none"> <li>i. an evaluation of credit portfolio performance under varying stress scenarios</li> <li>ii. an evaluation of non-credit business performance under varying stress scenarios.</li> <li>iii. an analysis of the ability of earnings and capital to absorb losses stemming from unanticipated adverse events</li> </ul> </li> <li>• Contingency or emergency funding strategies and analyses</li> <li>• Capital adequacy assessments</li> </ul> <p><i>Loss Severity Indicators</i></p> <ul style="list-style-type: none"> <li>• Nature of and breadth of an institution's primary business lines and the degree of variability in valuations for firms with similar business lines or similar portfolios</li> <li>• Ability to identify and describe discrete business units within the banking legal entity</li> <li>• Funding structure considerations relating to the order of claims in the event of liquidation (including the extent of subordinated claims and priority claims)</li> <li>• Extent of insured institutions assets held in foreign units</li> <li>• Degree of reliance on affiliates and outsourcing for material mission-critical services, such as management information systems or loan servicing, and products</li> <li>• Availability of sufficient information, such as information on insured deposits and qualified financial contracts, to resolve an institution in an orderly and cost-efficient manner</li> </ul>

[71 FR 69313, Nov. 30, 2006]

**Subpart B—Implementation of One-Time Assessment Credit**

AUTHORITY: 12 U.S.C. 1817(e)(3).

SOURCE: 71 FR 61383, Oct. 18, 2006, unless otherwise noted.

**§ 327.30 Purpose and scope.**

(a) *Scope.* This subpart B of part 327 implements the one-time assessment credit required by section 7(e)(3) of the Federal Deposit Insurance Act, 12 U.S.C. 1817(e)(3) and applies to insured depository institutions.

(b) *Purpose.* This subpart B of part 327 sets forth the rules for:

- (1) Determination of the aggregate amount of the one-time credit;
- (2) Identification of eligible insured depository institutions;
- (3) Determination of the amount of each eligible institution's December 31, 1996 assessment base ratio and one-time credit;
- (4) Transferability of credit amounts among insured depository institutions;
- (5) Application of such credit amounts against assessments; and
- (6) An institution's request for review of the FDIC's determination of a credit amount.

**§ 327.31 Definitions.**

For purposes of this subpart and subpart C:

(a) The *average assessment rate* for any assessment period means the aggregate assessment charged all insured depository institutions for that period divided by the aggregate assessment base for that period.

(b) *Board* means the Board of Directors of the FDIC.

(c) *De facto rule* means any transaction in which an insured depository institution assumes substantially all of the deposit liabilities and acquires substantially all of the assets of any other insured depository institution at the time of the transaction.

(d) An *eligible insured depository institution*:

(1) Means an insured depository institution that:

- (i) Was in existence on December 31, 1996, and paid a deposit insurance assessment before December 31, 1996; or
- (ii) Is a successor to an insured depository institution referred to in paragraph (d)(1)(i) of this section; and

(2) does not include an institution if its insured status has terminated as of or after the effective date of this regulation.

(e) *Merger* means any transaction in which an insured depository institution merges or consolidates with any other insured depository institution. Notwithstanding part 303, subpart D, for purposes of this subpart B and subpart C of this part, *merger* does not include transactions in which an insured depository institution either directly

## Federal Deposit Insurance Corporation

## § 327.34

or indirectly acquires the assets of, or assumes liability to pay any deposits made in, any other insured depository institution, but there is not a legal merger or consolidation of the two insured depository institutions.

(f) *Resulting institution* refers to the acquiring, assuming, or resulting institution in a merger.

(g) *Successor* means a resulting institution or an insured depository institution that acquired part of another insured depository institution's 1996 assessment base ratio under paragraph 327.33(c) of this subpart under the *de facto* rule.

### § 327.32 Determination of aggregate credit amount.

The aggregate amount of the one-time credit shall equal \$4,707,580,238.19.

### § 327.33 Determination of eligible institution's credit amount.

(a) Subject to paragraph (c) of this section, allocation of the one-time credit shall be based on each eligible insured depository institution's 1996 assessment base ratio.

(b) Subject to paragraph (c) of this section, an eligible insured depository institution's 1996 assessment base ratio shall consist of:

(1) Its assessment base as of December 31, 1996 (adjusted as appropriate to reflect the assessment base of December 31, 1996, of all institutions for which it is the successor), as the numerator; and

(2) The combined aggregate assessment bases of all eligible insured depository institutions, including any successor institutions, as of December 31, 1996, as the denominator.

(c) If an insured depository institution is a successor to an eligible insured depository institution under the *de facto* rule, as defined in paragraph 327.31(c) of this subpart, the successor and the eligible insured depository institution will divide the eligible insured depository institution's 1996 assessment base ratio pro rata, based on the deposit liabilities assumed in the transaction. In any subsequent transaction involving an insured depository institution that previously engaged in a transaction to which the *de facto* rule applied, the insured depository institu-

tion may not be deemed to have transferred more than its remaining 1996 assessment base ratio. If the transferring institution is no longer an insured depository institution after the transfer, the last successor will acquire the transferring institution's remaining 1996 assessment base ratio.

### § 327.34 Transferability of credits.

(a) Any remaining amount of the one-time assessment credit and the associated 1996 assessment base ratio shall transfer to a successor of an eligible insured depository institution.

(b) Prior to the final determination of its 1996 assessment base and one-time assessment credit amount by the FDIC, an eligible insured depository institution may enter into an agreement to transfer any portion of such institution's one-time credit amount and 1996 assessment base ratio to another insured depository institution. The parties to the agreement shall notify the FDIC's Division of Finance and submit a written agreement, signed by legal representatives of both institutions. The parties must include documentation stating that each representative has the legal authority to bind the institution. The adjustment to credit amount and the associated 1996 assessment base ratio shall be made in the next assessment invoice that is sent at least 10 days after the FDIC's receipt of the written agreement.

(c) An eligible insured depository institution may enter into an agreement after the final determination of its 1996 assessment base ratio and one-time credit amount by the FDIC to transfer any portion of such institution's one-time credit amount to another insured depository institution. The parties to the agreement shall notify the FDIC's Division of Finance and submit a written agreement, signed by legal representatives of both institutions. The parties must include documentation stating that each representative has the legal authority to bind the institution. The adjustment to the credit amount shall be made in the next assessment invoice that is sent at least 10 days after the FDIC's receipt of the written agreement.