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FDIC Board Votes to Revise MOU on Backup Supervision Authority

The Board of Directors of the Federal Deposit Insurance Corporation (FDIC) today voted to revise its Memorandum of Understanding with the primary federal banking regulators to enhance the FDIC's existing backup authorities over insured depository institutions that the FDIC does not directly supervise.

The revised agreement will improve the FDIC's ability to access information necessary to understand, evaluate, and mitigate its exposure to insured depository institutions, especially the largest and most complex firms.

FDIC Chairman Sheila C. Bair said: "While the FDIC has had backup authority for several years, and for the most part it has worked rather well, the past financial crisis provided us with a strong and sober reminder that the activities of large banks are often very complex and opaque. The FDIC needs to have a more active on-site presence and greater direct access to information and bank personnel in order to fully evaluate the risks to the deposit insurance fund on an ongoing basis and to be prepared for all contingencies."

Specifically, the revised MOU gives the FDIC backup supervision authority under an expanded list of circumstances, including when the insurance pricing system suggests an insured depository institution might be at higher risk, when institutions are defined as "large" under international regulatory guidelines, or when large, interconnected bank holding companies are defined as "systemic" by the financial reform legislation pending in Congress. At large, complex insured depositary institutions, the FDIC will establish an expanded continuous, full-time staff presence on-site.

"The agreement reached today strikes that reasonable balance between preserving the role of the primary federal regulator and providing the FDIC with the information that is critical to meeting our statutory responsibilities," she said. "The FDIC supports the role of the primary federal regulator and has no interest in infringing upon their authorities. However, the FDIC has needs that are separate and distinct from the primary federal regulator that must be met in order to satisfy our statutory responsibilities."

The need to improve the last agreement -- one that was reached in January 2002 during the boom years of banking -- has been voiced by several stakeholders. For example, an Evaluation of Federal Regulatory Oversight of Washington Mutual Bank issued by the FDIC and Treasury Inspectors Generals in April criticized the existing MOU because it limited the FDIC's ability to make its own independent assessment of risk to the Deposit Insurance Fund and required the FDIC to place unreasonable reliance on the work of the primary federal regulator. Additionally, similar shortcomings were identified in oversight hearings on the WAMU failure held by Sen. Carl Levin, the chairman of the Permanent Subcommittee on Investigations.

"I believe today's agreement satisfies those recommendations and my commitment for action," Chairman Bair said. She emphasized, though, that "while significant effort has gone into developing this revised agreement, the real work lies ahead in implementing its terms. The FDIC will benefit from a stronger and more robust agreement. However, our ultimate success will be heavily dependent upon our ability to work together collectively as regulators and to respect the roles and responsibilities that we have each been given to protect the financial system."

Attachments:

MOU: http://www.fdic.gov/news/board/2010July12no1.pdf (PDF Help)

Summary of MOU

The MOU covers following major areas:

The first area involves insured depository institution coverage and broadens the definition to include four groups of IDIs.

- The first group includes Problem IDIs with a composite rating of "3," "4" or "5" or are undercapitalized as defined under Prompt Corrective Action
- The second group includes Heightened Insurance Risk IDIs where the insurance pricing system suggests higher risk.
- The third group includes institutions defined as "Large IDIs" consisting of mandatory Basel II "Advanced Approach" institutions, as may be determined from time to time, and IDI subsidiaries of any non-bank financial company or large interconnected bank holding company recommended by the Council for heightened prudential standards under Section 115(a)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 as may be agreed upon from time to time by the FDIC and the relevant PFR.
- The fourth group consists of IDIs that are affiliated with entities that have had greater than $5 billion of borrowings under the FDIC TLGP program.

The next area covers the scope of special examinations under the MOU and on-site presence. Once identified, problem IDIs and heightened risk IDIs will trigger targeted reviews for insurance purposes. At large, complex IDIs, and TLGP-IDIs, the FDIC will establish a continuous on-site full-time staff presence. The number of staff will depend on the size of the IDIs. On-site staffing will be based on size with no more than five full time staff members at IDIs with U.S holding companies that have total assets of $750 billion or more, and three full time on-site staff members for the remaining large, complex IDIs. Based on particular events or specific circumstances, additional temporary on-site staff will be utilized.

The MOU also covers how the FDIC and the other agencies will coordinate activities on an on-going basis, such as planning and scoping activities, meetings, targeted reviews and sharing of information.

Finally, the MOU covers how the agencies will handle differences in CAMELS ratings.