Proposed Rules

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064–AC31

Assessments

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board of Directors of the FDIC (Board) is proposing several changes to the FDIC's regulation governing assessments. The Board is proposing to change the reporting date used to determine the capital component of the assessment risk classifications assigned to FDIC-insured depository institutions. The proposal is to move that date closer by one calendar quarter to the assessment period for which the capital component is assigned. This change would permit the FDIC to use more up-to-date information in determining institutions' assessment risk classifications. The proposed date would coincide with the date currently used to determine the supervisory component of the assessment risk classification.

To permit the use of more up-to-date capital information, the Board is further proposing to shorten from 30 days to 15 days the prior notice that the FDIC sends to institutions advising them of their assessment risk classifications for the following semiannual assessment period. The same reduction is proposed for the invoice sent by the FDIC each quarter showing the amount of the assessment payment due for the next quarterly collection. At the other end of the process, the Board is proposing to increase from 30 days to 90 days the time within which an institution may request review of its assessment risk classification.

Additionally, to reflect a shift of certain assessment functions within the FDIC, the Board is proposing to revise two of the references in the regulation to FDIC offices or officials. Finally, the proposal would correct a typographical error in the form of a misstated cross-reference to another FDIC regulation.

DATES: Written comments must be received by the FDIC on or before October 25, 1999.

ADDRESSES: All written comments should be addressed to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429. Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) between 7:00 a.m. and 5:00 p.m. on business days. Comments may also be faxed to (202) 898–3838, or sent via the Internet to comments@fdic.gov. Comments will be available for inspection and photocopying at the FDIC Public Information Center, Room 100, 801 17th Street, NW, between 9:00 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: James W. Thornton, Senior Banking Analyst, Division of Insurance, (202) 898–6707; or Claude A. Rollin, Senior Counsel, Legal Division, (202) 898–8741, Federal Deposit Insurance Corporation, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Capital Group Determination Date

At present, the FDIC's risk-based assessments regulation specifies that the capital component of the assessment risk classification assigned to each FDIC-insured institution for each semiannual assessment period will be determined on the basis of data reported by an institution in its Consolidated Reports of Condition and Income, Thrift Financial Report, or Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (collectively, call reports) for the quarter ending six months earlier (12 CFR 327.4(a)(1)). As a result, an institution's capital group is assigned on the basis of information that is approximately six months old when the assessment period begins. While the FDIC has long preferred to use more current information, it has been constrained from doing so because of the time needed to process the capital data submitted by institutions in their call reports.[1] However, recent developments, such as improvements in the FDIC's internal processing procedures and an increase in the number of institutions filing reports electronically, now permit more rapid processing of the data. Accordingly, the Board is proposing to base capital group determinations on data reported by institutions in their call reports for the quarter ending three months before the beginning of the assessment period to which the determination will apply.

For ease of reference, the dates for capital group determinations would be stated in terms of actual dates—that is, March 31 for the semiannual period beginning the following July 1, and September 30 for the semiannual period beginning the following January 1. At present, the capital date is described by reference to other dates rather than specifically stated.

It is anticipated that this change would be effective beginning with the semiannual assessment period that commences July 1, 2000. For that period, the capital component of an institution's assessment risk classification would be determined based on data reported as of March 31, 2000, rather than as of December 31, 1999.

Change in Notice Dates for Assessment Risk Classifications and Quarterly Payment Invoices

The Board also is proposing to shorten—from 30 days to 15 days—the time between the date institutions are notified of their assessment risk classifications for the upcoming semiannual assessment period and the date the assessment is collected for the first quarter of that upcoming period. The same reduction is proposed, for both the first and second quarters of each semiannual assessment period, in the time between the date of the quarterly assessment invoice and the date the invoiced amount is collected.

Currently, the FDIC's assessments regulation specifies that notice of the assessment risk classification applicable to a particular semiannual period is to

[1] Institutions have 30 days (or 45 days for institutions with foreign branches) from quarter-end to file their call reports. Once the FDIC receives the reports, they are checked for obvious errors (such as omitted information) and then input into the FDIC's automated system. Only after this has been done can the calculations be performed to determine the appropriate capital group assignment for each of the more than 10,000 insured institutions. These functions must be performed in time to prepare and mail notices to eachinstitution before the beginning of the next semiannual assessment period.

be provided to the institution at the same time as the invoice showing the amount of the assessment payment due from the institution for the first quarter of that semiannual period (12 CFR 327.4(a)). This invoice and notice are to be provided no later than 30 days before the first-quarter payment date (12 CFR 327.3(c)). The regulation further requires that an invoice showing the amount of the assessment payment due for the second quarter of the semiannual period is to be provided no later than 30 days before the second-quarter payment date (12 CFR 327.3(d)).

The Board is proposing to reduce to 15 days each of these 30-day periods. For the first-quarter notice and invoice, the reduction is necessary to permit the use of more current capital data in determining an institution's capital group and, based on that determination, to calculate the institution's first-quarter assessment payment.

For example, if the date of the data used as a basis for capital group assignments for the assessment period beginning July 1 is changed from December 31 to March 31, and the prior-notice date remains May 30 (which is 30 days before the June 30 payment date), the FDIC would have as little as 15 to 30 days to receive the data, scan the reports, input the information into the FDIC's system, perform capital group calculations for more than 10,000 institutions, and prepare and mail the assessment notices. Although the call report filing deadline for most institutions is 30 days after the end of the quarter (April 30 in this example), the deadline for institutions with foreign offices is 15 days later (here, May 15). Although internal processing improvements and increased electronic filing allow the FDIC to perform these functions more quickly, the FDIC cannot perform them in 30 days.

For consistency, the same reduction in the invoicing period is proposed for both the first-and second-quarter assessment payments.

It is not anticipated that reduction of the notice and invoice periods would have a significantly adverse impact on insured institutions. The risk-based assessment system has been in place since 1993 and the industry is quite familiar with it. Institutions typically know (or can anticipate with substantial certainty) the assessment risk classification and corresponding assessment rate [2] they will be assigned for the next assessment period. For the second quarter of a semiannual period, institutions will have known their capital category for three months. An institution also knows the amount of its assessment base for each quarter, since that amount is calculated from data reported by the institution. By multiplying its rate by its assessment base, an institution can very closely estimate its payment well before it receives a FDIC assessment notice.

The proposed change should have little effect on the small number of institutions that believe they have received an incorrect assessment classification. Even with the existing notice and invoice dates, requests for review of assessment ratings that result in favorable changes for requesting institutions can only rarely be decided before the date on which the institution is required to pay the invoiced amount.

Institutions are also able to anticipate their Financing Corporation (FICO) assessment, which the FDIC bills and collects on FICO's behalf. Although the FICO assessment rate varies from one quarter to the next, the variation is typically small. Thus, under normal circumstances, institutions can estimate with reasonable accuracy the amount of their assessment payments well in advance of the payment date. However, the Board recognizes that there might be some instances in which significant developments could reduce that accuracy, such as significant changes in the assessment base for one or both of the deposit insurance funds that might cause material changes in the FICO assessment rates. In these cases, the FDIC intends to provide notice as early as possible through such means as mailings to insured institutions.

An example of a development expected to cause significant changes in FICO assessments is the statutory equalization of the FICO assessment rate applicable to deposits insured by the Bank Insurance Fund (BIF) with the rate for deposits insured by the Savings Association Insurance Fund (SAIF). However, under existing law, that change is to become effective on January 1, 2000, six months before the anticipated implementation of the changes proposed here. Thus, there would be sufficient time to adjust to the newer, equalized FICO rates before the shorter notice period is implemented.

Extension of Period for Requesting Reclassification

Another change proposed by the Board is to lengthen the period during which an institution may seek a change in its assessment risk classification. At present, the FDIC's assessments regulation requires that a request that the FDIC review an institution's classification be submitted within 30 days of the date of the notice by which the FDIC informs the institution of its classification (12 CFR 327.4(d)). Based on the FDIC's experience with the review process and the proposed reduction of the existing prior-notice period, the FDIC has concluded that a longer period would be beneficial. Thus, the Board is proposing to expand the time for requesting review to 90 days.

Redesignations Resulting From Internal FDIC Reorganization

In order to reflect reorganizations within the FDIC, the Board is further proposing to amend the assessments regulation to provide that requests for review of assessment risk classifications be submitted to the Director of the Division of Insurance, instead of the Director of the Division of Supervision. Similarly, the Board proposes to move from the Director of the Division of Supervision to the Director of the Division of Insurance the existing delegation of authority in 12 CFR 327.4(d) to act on most such requests. However, the authority to act on requests for changes in the supervisory subgroup assignment would remain with the Director of the Division of Supervision if the request is based on the appropriateness of that assignment as of the date set for determining supervisory subgroup assignments. This delineation of the delegated authority is represented by the phrase "as appropriate" in the proposed revision, which reads as follows: "Upon completion of a review, the Director of the Division of Insurance (or designee) or the Director of the Division of Supervision (or designee), as appropriate, shall promptly notify the institution in writing of his or her determination of whether reclassification is warranted."

Correction of Cross Reference

Section 327.5(f) of the FDIC's assessments regulation imposes disclosure restrictions regarding the supervisory subgroup assigned by the FDIC. At present, this section gives an erroneous cross-reference to another, nonexistent, section of the FDIC's regulations to identify the category of exempt information into which the

[2] In the event the Board makes a limited adjustment to the assessment rate schedule pursuant to the FDIC's assessments regulation at 12 CFR 327.9(c), the adjustment is to be announced no later than 15 days before the assessment notice date (which under the existing regulations is, in turn, 30 days before the assessment payment date). Under the proposal to move the assessment notice date closer to the payment date, an adjustment announcement would come at least 30 days before the assessment payment date.

supervisory subgroup information fits. The proposal corrects this erroneous cross-reference.

Request for Comment

The Board requests comment on the proposed regulatory amendments described above. In particular, comment is requested regarding any adverse impact the shorter notice periods might have. If it is believed that a 15-day notice period would be insufficient, comment is requested as to what period would be minimally sufficient to prove reasonable notice.

Comment is further requested on any alternative means of permitting the use of more up-to-date capital data without shortening the notice periods. Possible alternatives might include, for example, moving the assessment payment date to a later date. It is requested that suggestions for alternative means to those proposed by the Board include a discussion of any benefits and disadvantages associated with the alternatives suggested.

The comment period has been set at 45 days to allow the proposal, if adopted, to be implemented beginning with the second semiannual assessment period of 2000 and to give insured institutions as much time as possible before implementation to adjust to the changes. The Board wishes to address the proposal expeditiously because of its belief that the use of more current capital data would be of significant benefit for both the industry and the risk-based assessment system.

Regulatory Flexibility Act

The Board hereby certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). No new or increased reporting, recordkeeping, or other compliance requirements would be imposed by the proposed rule. Of the changes proposed, only one—lengthening the time for filing requests for review of assessment risk classifications—addresses actions to be initiated by insured institutions. The remaining proposals address actions to be undertaken by the FDIC. The proposal addressing actions to be initiated by institutions would relax an existing time restriction, and it is expected that any impact on insured institutions, of whatever size, would be positive rather than adverse.

Assessment of Impact of Federal Regulation on Families

The FDIC has determined that this proposed amendment would not affect family well-being within the meaning of section 654 of the Treasury Department Appropriations Act, 1999, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Pub. L. 105–277, 112 Stat. 2681).

List of Subjects in 12 CFR Part 327

Assessments, Bank deposit insurance, Banks, banking, Reporting and recordkeeping requirements, Savings associations.

For the reasons stated in the preamble, the Board proposes to amend 12 CFR part 327 as follows:

PART 327—ASSESSMENTS

1. The authority citation for part 327 continues to read as follows:

Authority: 12 U.S.C. 1441, 1441b, 1813, 1815, 1817–1819; Pub. L. 104–208, 110 Stat. 3009–479 (12 U.S.C. 1821).

2. Section 327.3 is amended by removing the phrase ''30 days'' and adding in its place the phrase ''15 days'' in paragraphs (c)(1) and (d)(1), respectively.

3. Section 327.4 is amended by removing the citation to ''309.5(c)(8)'' in paragraph (e) and adding in its place the citation ''309.5(g)(8)'', and by revising paragraphs (a)(1) introductory text and (d) to read as follows:

§ 327.4 Annual assessment rate.

(a) * * *

(1) Capital factors. Institutions will be assigned to one of the following three capital groups on the basis of data reported in the institution's Consolidated Reports of Condition and Income, Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks, or Thrift Financial Report dated as of March 31 for the assessment period beginning the following July and as of September 30 for the assessment period beginning the following January 1.

* * * * *

(d) Requests for review. An institution may submit a written request for review of its assessment risk classification. Any such request must be submitted within 90 days of the date of the assessment risk classification notice provided by the Corporation pursuant to paragraph (a) of this section. The request shall be submitted to the Corporation's Director of the Division of Insurance in Washington, DC, and shall include documentation sufficient to support the reclassification sought by the institution. If additional information is requested by the Corporation, such information shall be provided by the institution within 21 days of the date of the request for additional information. Any institution submitting a timely request for review will receive written notice from the Corporation regarding the outcome of its request. Upon completion of a review, the Director of the Division of Insurance (or designee) or the Director of the Division of Supervision (or designee), as appropriate, shall promptly notify the institution in writing of his or her determination of whether reclassification is warranted. Notice of the procedures applicable to reviews will be included with the assessment risk classification notice to be provided pursuant to paragraph (a) of this section.

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By order of the Board of Directors.

Dated at Washington, DC, this 31st day of August, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–24–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–80C2 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to General Electric Company (GE) CF6–80C2 series turbofan engines. This proposal would require replacement of the fuel tube connecting the flowmeter to the Integrated Drive Generator (IDG) and the fuel tube(s) connecting the Main Engine Control (MEC) or Hydromechanical (HMU) to the flowmeter with improved fuel tubes. This proposal is prompted by reports of fuel leaking in the core cowl cavity under high pressure that can be ignited by the hot engine case temperatures. The actions specified by the proposed AD are intended to prevent high-pressure fuel leaks caused by improper seating of fuel tube flanges, which could result in an engine fire and damage to the airplane.