

June 29, 2023

James P. Sheesley
Assistant Executive Secretary
Attention: Comments – RIN 3064 – AF93
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington DC 20429

Dear Mr. Sheesley:

The New Jersey Bankers Association (NJBankers) represents sixty-five institutions of all sizes from systematically important financial institutions to single branch entities. We write today to respectfully provide comments on the proposed amendments to 12 CFR part 327 (the “Proposed Rule”) as announced under the FDIC’s Notice of Proposed Rulemaking on Special Assessment Pursuant to Systemic Risk Determination (the “Notice”) released in connection with FIL-24-2023 (May 11, 2023).

Per the public statement in the Notice, the proposal applies the special assessment to the types of banking organizations that benefitted most from the protection of uninsured depositors, while ensuring equitable, transparent, and consistent treatment based on amounts of uninsured deposits. **NJBankers welcomes the FDIC’s release of the Proposed Rule and strongly supports finalization of the Proposed Rule under this primary objective.**

To meet this objective, we believe it is important to use the same uninsured deposits definition for the special assessment base as the current assessment rate and methodology in place.¹ Further details are provided below.

Deposit Insurance Assessments Methodology

Per the Small and Large Institution Scorecard’s Data Mapping Instructions,² insured and uninsured deposits are defined under the Loss Severity Measure³ as follows:

- Insured deposits = $\text{MIN} ((\text{RCONF236}^4 - \text{RCONF237}^5 - \text{RCON5597}^6), \text{RCON2200})^7$
- Uninsured deposits = $\text{RCON2200} - \text{MIN} ((\text{RCONF236} - \text{RCONF237} - \text{RCON5597}), \text{RCON2200})$

¹ Deposit Insurance Fund Assessments Rates & Methodology (last updated January 26, 2023), *available at:* <https://www.fdic.gov/resources/deposit-insurance/deposit-insurance-fund/dif-assessments.html>

² “Data Mapping All Forms 2021.pdf” per the FDIC’s “Current Assessment Rate Calculator for Large Institutions” zip file at: <https://www.fdic.gov/resources/deposit-insurance/deposit-insurance-fund/dif-calculator.html>

³ Information is presented for institutions without consolidated insured depository subsidiaries.

⁴ Total gross deposit liabilities before exclusions as reported in line item 1 on Schedule RC–O, Other Data for Deposit Insurance Assessments (“Schedule RC–O”).

⁵ Total allowable exclusions as reported in line item 2 on Schedule RC–O.

⁶ Estimated uninsured deposits as reported in Memoranda Item 2 on Schedule RC–O.

⁷ Total consolidated deposits as reported in line item 13 of Schedule RC–Balance Sheet

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The calculation does not allow the total insured and uninsured deposits to exceed the total deposits reported on a consolidated basis. The calculation further accounts for the differences between amounts presented on a consolidated and unconsolidated basis with the “minimum” function being applied specifically the amounts reported on an unconsolidated basis.

Illustrative Example of Member Bank’s (the “Bank”) Fact Pattern

Within the Bank’s legal entity structure, the Bank has several fully consolidated subsidiaries (“Subsidiaries”) which are used solely for the purposes and benefits of the Bank. Cash owned by the Subsidiaries and held at the Bank (referred to as “intercompany accounts”) are included as Bank deposits on an unconsolidated basis but are excluded and eliminated on a fully consolidated basis by the Bank. This amount represents a substantial amount of the Bank’s estimate of uninsured deposits (as reported in Schedule RC–O). The following illustrates the magnitude of this based on the Bank’s data as of March 31, 2023:

- A. *Deposit Insurance Fund Assessments Rates & Methodology*
 - i. Insured deposits = \$5,957,865
 - ii. Uninsured deposits = \$4,104,607
 - iii. Estimated uninsured deposits from Schedule RC-O (RCON5597) = \$5,753,546
 - iv. Difference of A.ii and A.iii = \$1,648,939
- B. *Total deposits on a consolidated vs. unconsolidated basis*
 - i. Consolidated from Schedule RC (RCON2200) = \$10,062,472
 - ii. Unconsolidated from Schedule RC-O (RCFDF236) = \$11,711,411
 - iii. Difference of B.i and B.ii = \$1,648,939

In the Bank’s circumstance, the special assessment base, as outlined in the Proposed Rule, would include \$1.6 billion of intercompany accounts, which inflates the perceived uninsured deposit risk of the Bank.

Recordkeeping for Timely Deposit Insurance Determination

NJBankers further believes the Deposit Insurance Fund generally does not protect depositors of institutions of intercompany accounts and would not be offered the same protections should the Bank fail. This is evidenced by the 8th question under FDIC Section 370.4 for FDIC’s Regulation 12 CFR Part 370 Recordkeeping for Timely Deposit Insurance Determination (emphasis added).⁸

Q: Are Covered Institutions’ internal operational processing accounts outside of the scope of Part 370?

Internal operational accounts, including intercompany accounts, zero-balance accounts, accounts payable, disbursement accounts, error accounts, suspense accounts, mortgage application fees, and bank teller accounts are generally not covered by FDIC insurance and, therefore, are outside of the scope of Part 370, to the extent that these are bank-owned funds. In the event of failure, the FDIC will address these accounts through specific instructions.

⁸ Regulation 12 CFR Part 370 Recordkeeping for Timely Deposit Insurance Determination (last updated February 14, 2023), *available at:* <https://www.fdic.gov/regulations/resources/recordkeeping/index.html>

Request for Modification to the Proposed Rule

To conclude, NJBankers supports the issuance and finalization of the Proposed Rule, with a modest modification. We respectfully request that the Proposed Rule to be modified to define and compute estimates of uninsured deposit amounts for the special assessment base consistent with the methodology used in determining uninsured deposits under the existing Deposit Insurance Fund Assessments Rates & Methodology criteria.

We believe this change will still support and meet the objective to distribute the special assessment across banking organizations that benefitted most from the protection of uninsured depositors, while ensuring equitable, transparent, and consistent treatment.

Once again, we greatly appreciate the opportunity to submit these comments. Should you wish to discuss any of the above or desire any clarification, please let us know and we will make ourselves available.

Sincerely,



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