Model Number: HI–STORM 100.

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Dated at Rockville, Maryland, this 22nd day of September, 2006.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Acting Executive Director for Operations.

[FR Doc. E6–17077 Filed 10–13–06; 8:45 am]

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064–AD09

Assessments: Initial Regulatory Flexibility Act Analysis

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking; supplemental notice.

SUMMARY: On July 24, 2006, the Federal Deposit Insurance Corporation (FDIC) issued a notice of proposed rulemaking with request for comments to better price deposit insurance for risk as required by the Federal Deposit Insurance Act, as amended by the Federal Deposit Insurance Reform Act (''Reform Act'') (*see* 71 FR 41910 (July 24, 2006)). The FDIC is supplementing that notice of proposed rulemaking with an initial regulatory flexibility analysis to aid the public in commenting upon the small business impact of its proposed rule.

DATES: Comments on the initial regulatory flexibility analysis must be received on or before October 26, 2006.

ADDRESSES: You may submit comments, identified by ''Regulatory Flexibility Act Analysis'', by any of the following methods:

- Agency Web site: *http://www.FDIC.gov/regulations/laws/federal/propose.html*.
- Mail: Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- Hand Delivered/Courier: The guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.
- E-mail: *comments@FDIC.gov*. Include ''RFA Analysis'' in the subject line of the message.
- Public Inspection: Comments may be inspected and photocopied in the FDIC Public Information Center, Room E–1002, 3502 Fairfax Drive, Arlington, Virginia 22226, between 9 a.m. and 5 p.m. on business days.

Instructions: Submissions received must include the agency name and RIN for this rulemaking. Comments received will be posted without change to *http://www.FDIC.gov/regulations/laws/federal/propose.html*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Munsell W. St. Clair, Senior Policy Analyst, Division of Insurance and Research, (202) 898–8967; and Christopher Bellotto, Counsel, Legal Division, (202) 898–3801.

SUPPLEMENTARY INFORMATION:

Initial Regulatory Flexibility Act Analysis

The Reform Act [1] requires that the FDIC prescribe final regulations, after notice and opportunity for comment, to provide for deposit insurance assessments under section 7(b) of the Federal Deposit Insurance Act (the FDI Act). This notice supplements the FDIC's initial notice of proposed rulemaking , 71 FR 41910 (July 24, 2006), to amend 12 CFR 327 to: (1) Create different risk differentiation frameworks for smaller and larger institutions that are well capitalized and well managed; (2) establish a common risk differentiation framework for all other insured institutions; and (3) establish a base assessment rate schedule. The proposal would improve risk differentiation and deposit insurance pricing by drawing upon established measures of risk and existing best practices of the industry and Federal regulators for evaluating risk. The proposal would make the assessment system more sensitive to risk and fairer, by limiting the subsidization of riskier institutions by safer ones. The 60-day period for public comment on the proposed rule expired on September 22, 2006.

The FDIC's notice of proposed rulemaking did not include an initial regulatory flexibility analysis pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 603) based on an exception for rules of particular applicability relating to rates or practices relating to such rates, which are expressly excluded from the definition of ''rule'' for purposes of the RFA (5 U.S.C. 601). The FDIC continues to believe that the rate exception applies to this rulemaking. Nonetheless, the FDIC is voluntarily undertaking an initial regulatory flexibility analysis of the proposal and seeking comment on it.

The Reform Act requires that the FDIC prescribe final regulations, after notice and opportunity for comment, to provide for deposit insurance assessments under section 7(b) of the Federal Deposit Insurance Act (the FDI Act).[2] The Reform Act enacted the bulk of the recommendations made by the FDIC in 2001; it defines a risk-based system generally as one based on an institution's probability of incurring loss to the deposit insurance fund due to the composition and concentration of the institution's assets and liabilities, the likely amount of loss, and the revenue needs of the Deposit Insurance Fund (DIF).[3]

The Reform Act also grants the FDIC's Board of Directors the discretion to price deposit insurance according to risk for all insured institutions regardless of the level of the fund reserve ratio; it leaves in place the existing statutory provision allowing the FDIC to ''establish separate risk-based assessment systems for large and small members of the Deposit Insurance Fund.'' [4] These separate systems are subject to a new requirement that ''[n]o insured depository institution shall be barred from the lowest-risk category solely because of size.'' [5] In short, Congress directed the FDIC to differentiate for risk among all depository institutions and gave it the tools to do so.

The FDIC's proposal would improve risk differentiation and pricing by drawing upon established measures of risk and existing best practices of the industry and Federal regulators for evaluating risk. The FDIC believes that the proposal would make the assessment system more sensitive to risk, and also make the risk-based assessment system fairer, by limiting the subsidization of riskier institutions by safer ones. The proposed system for risk differentiation would consolidate the existing nine categories into four and name them Risk Categories I, II, III and IV. Risk Category I would replace the current 1A risk category (*see* 71 FR 41910).

Within Risk Category I, the FDIC proposed one method of risk differentiation for small institutions

[1] Federal Deposit Insurance Reform Act of 2005, Public Law 109–171, 120 Stat. 9; Federal Deposit Insurance Conforming Amendments Act of 2005, Public Law 109–173, 119 Stat. 3601.

[2] Pursuant to the Reform Act, current assessment regulations remain in effect until the effective date of new regulations. Section 2109 of the Reform Act. The Reform Act requires the FDIC, within 270 days of enactment, to prescribe final regulations, after notice and opportunity for comment, providing for assessments under section 7(b) of the Federal Deposit Insurance Act. Section 2109(a)(5) of the Reform Act.

[3] 12 U.S.C. 1817(b)(1)(A) and (C).

[4] 12 U.S.C. 1817(b)(1)(D).

[5] Section 2104(a)(2) of the Reform Act (to be codified at 12 U.S.C. 1817(b)(2)(D)).

(institutions with less than $10 billion in assets), and another for large institutions (institutions with $10 billion or more in assets).[6] For small institutions within Risk Category I, the FDIC proposed to combine CAMELS component ratings with current financial ratios to determine an institution's assessment rate.[7] Within Risk Category I, the FDIC proposed to link assessment rates for small institutions to a combination of certain financial ratios and supervisory ratings based on a statistical analysis relating these measures to the probability that an institution will be downgraded to CAMELS 3, 4, or 5 within one year. An alternative was proposed that would use financial ratios alone to determine a small Risk Category I institution's assessment rate.

The FDIC also proposed to assess all new (established within seven years of a particular assessment period) well-capitalized, well-managed institutions, regardless of size, at the maximum rate applicable to well-managed, well-capitalized institutions. The proposal included a base schedule of rates, setting a minimum of 2 and a maximum of 4 basis points in Risk Category I, and 7, 25, and 40 basis points respectively in Risk Categories II, III, and IV. Finally, the proposal included retention of the FDIC Board's ability to adjust rates uniformly up to a maximum of five basis points higher or lower than the base rates without the necessity of further notice and comment rulemaking.

As of December 31, 2005, of the 8,832 insured depository institutions, there were 5,362 small insured depository institutions as that term is defined for purposes of the RFA (i.e., those with $165 million or less in assets).

For purposes of this analysis, whether the FDIC were to collect needed assessments under the existing rule or under the proposed rule, the total amount of assessments collected would be the same. The FDIC's total assessment needs are driven by its aggregate insurance losses, expenses, investment income, and insured deposit growth, among other factors. The proposed rule (or the alternative, if employed) would merely alter the distribution of assessments among banks. Using the data as of December 31, 2005, the FDIC calculated the total assessments that would be collected under the base rate schedule in the proposed rule.

The economic impact of the proposal on each small institution for RFA purposes (i.e., institutions with assets of $165 million or less) was then calculated as the difference in annual assessments under the proposed rule compared to the existing rule as a percentage of the institution's annual revenue[8] and annual profits,[9] assuming the same total assessments collected by the FDIC from the banking industry.

Based on the December 2005 data, under the proposal, for more than 99 percent of small institutions (as defined by the RFA), the change in the assessment system would result in assessment changes (up or down) totaling one percent or less of annual revenue.[10] Table 1 below sets forth the results of the analysis in more detail.

TABLE 1.—CHANGE IN ASSESSMENTS UNDER THE PROPOSAL AS A PERCENTAGE OF TOTAL REVENUE

Change in assessments as a percentage of total revenue	Number of institutions	Percent of institutions
0.5 percent or less	5,236	97.7
0.5 to 1.0 percent	94	1.8
1.0 to 1.5 percent	15	0.3
1.5 to 2.0 percent	7	0.1
2.0 to 2.5 percent	4	0.1
2.5 to 3.0 percent	2	0.0
3.0 to 3.5 percent	0	0.0
3.5 to 4.0 percent	2	0.0
4.0 to 4.5 percent	0	0.0
4.5 to 5.0 percent	0	0.0
Greater than 5.0 percent	2	0.0
Total	5,362	100.0

Note: Three institutions with no reported revenue were excluded. The change in assessment under the alternative was less than $2,500 for all three institutions.

As indicated, of the total of 5,362 small institutions for RFA purposes, just 10 would have experienced an increase or decrease equal to 2 percent or greater of their total revenue. These figures do not reflect a significant economic impact on revenues for a substantial number of small insured institutions from the proposed small bank pricing method.

The FDIC performed a similar analysis to determine the impact on profits for small (again, as defined by the RFA) institutions. Based on December 2005 data, under the proposal, 85 percent of the small institutions (as defined by RFA) with reported profits would have experienced an increase or decrease in their annual profits of one percent or less.[11] Table 2 sets forth the results of the analysis in more detail.

[6] Both methods share a common feature, namely, the use of CAMELS component ratings. However, each method combines these measures with additional, different information.

[7] For large institutions within Risk Category I, the FDIC proposed to combine CAMELS component ratings with long-term debt issuer ratings, and, for some large institutions, financial ratios to assign institutions to initial assessment rate subcategories.

[8] An institution's total revenue is defined as the sum of its annual net interest income and non-interest income.

[9] An institution's profit is defined as income before taxes and extraordinary items, gross of loan loss provisions.

[10] For about half of the small institutions analyzed, the change reflected an assessment decrease and a revenue increase.

[11] For about half of the small institutions analyzed, the change reflected an assessment decrease and a profit increase.

TABLE 2.—CHANGE IN ASSESSMENTS UNDER THE PROPOSAL AS A PERCENTAGE OF PROFIT

Change in assessments as a percentage of profit	Number of institutions	Percent of institutions
0.5 percent or less	3,470	69.9
0.5 to 1.0 percent	728	14.7
1.0 to 1.5 percent	324	6.5
1.5 to 2.0 percent	132	2.7
2.0 to 2.5 percent	84	1.7
2.5 to 3.0 percent	43	0.9
3.0 to 3.5 percent	37	0.7
3.5 to 4.0 percent	19	0.4
4.0 to 4.5 percent	13	0.3
4.5 to 5.0 percent	12	0.2
Greater than 5.0 percent	104	2.1
Total	4,966	100.0

Note: Institutions with negative or no profit were excluded. These institutions are shown separately in Table 3.

The data indicate that, out of those small institutions, as defined by the RFA, with reported profits, just 4 percent would have experienced an increase or decrease in their total profits of 3 percent or greater. Again, these figures do not reflect a significant economic impact on profits for a substantial number of small (as defined by the RFA) insured institutions from the proposed small bank pricing method.

Table 2 excludes small institutions (as defined by the RFA) that either show no profit or show a loss, because a percentage cannot be calculated. The FDIC analyzed the effect of the proposal on these institutions by determining the annual assessment change (either an increase or a decrease) that would result. Table 3 below shows that 56 percent (224) of the 399 small insured institutions in this category would have experienced a change (increase or decrease) in annual assessments of $5,000 or less. Of the remainder, 3 percent (12) would have experienced assessment changes (increases or decreases) of $20,000 or more.

TABLE 3.—CHANGE IN ASSESSMENTS UNDER THE PROPOSAL FOR INSTITUTIONS WITH NEGATIVE OR NO REPORTED PROFIT

Change in assessments	Number of institutions	Percent of institutions
$2,500 or Less	136	34.1
$2,500–$5,000	88	22.1
$5,000–$7,500	57	14.3
$7,500–$10,000	37	9.3
$10,000–$20,000	69	17.3
Greater than $20,000	12	3.0
Total	399	100.0

By way of comparison, the FDIC performed the same analyses on the alternative to the small banking method set forth in the proposed rule. As set forth in Tables 4, 5, and 6 below, the results are similar to the results obtained analyzing the proposed method. For example, based on December 2005 data, under the alternative method, more than 99 percent of small institutions (as defined by RFA) would have experienced an increase or decrease in their annual assessments amounting to one percent or less of annual revenue, as shown in Table 4.[12]

TABLE 4.—CHANGE IN THE ASSESSMENTS UNDER THE ALTERNATIVE AS A PERCENTAGE OF TOTAL REVENUE

Change in assessments as a percentage of total revenue	Number of institutions	Percent of institutions
0.5 percent or less	5,236	97.7
0.5 to 1.0 percent	93	1.7
1.0 to 1.5 percent	16	0.3
1.5 to 2.0 percent	7	0.1
2.0 to 2.5 percent	4	0.1
2.5 to 3.0 percent	2	0.0
3.0 to 3.5 percent	0	0.0
3.5 to 4.0 percent	2	0.0
4.0 to 4.5 percent	0	0.0

[12] For about half of the small institutions analyzed, the change reflected an assessment decrease and a revenue increase.

TABLE 4.—CHANGE IN THE ASSESSMENTS UNDER THE ALTERNATIVE AS A PERCENTAGE OF TOTAL REVENUE—Continued

Change in assessments as a percentage of total revenue	Number of institutions	Percent of institutions
4.5 to 5.0 percent	0	0.0
Greater than 5.0 percent	2	0.0
Total	5,362	100.0

Note: Three institutions with no reported revenue were excluded. The change in assessments under the alternative was less than $2,500 for all three institutions.

Similarly, based on December 2005 data, under the alternative, 85 percent of the small institutions (as defined by RFA) with reported profits would have experienced an increase or decrease of one percent or less of annual profits as shown in Table 5.[13]

TABLE 5.—CHANGE IN ASSESSMENTS UNDER THE ALTERNATIVE AS A PERCENTAGE OF PROFIT

Change in assessments as a percentage of profit	Number of institutions	Percent of institutions
0.5 percent or less	3,489	70.3
0.5 to 1.0 percent	728	14.7
1.0 to 1.5 percent	307	6.2
1.5 to 2.0 percent	138	2.8
2.0 to 2.5 percent	79	1.6
2.5 to 3.0 percent	43	0.9
3.0 to 3.5 percent	34	0.7
3.5 to 4.0 percent	18	0.4
4.0 to 4.5 percent	16	0.3
4.5 to 5.0 percent	12	0.2
Greater than 5.0 percent	102	2.1
Total	4,966	100.0

Note: Institutions with negative or no profit were excluded. These institutions are shown separately in Table 6.

Table 6 below shows that 56 percent of the 399 small insured institutions that showed no profit or a negative profit category would have experienced a change (increase or decrease) in annual assessments of $5,000 or less. Of the remainder, three percent (12) would have experienced assessment changes (increases or decreases) of $20,000 or more.

TABLE 6.—CHANGE IN ASSESSMENTS UNDER THE ALTERNATIVE FOR INSTITUTIONS WITH NEGATIVE OR NO REPORTED PROFIT

Change in assessment	Number of institutions	Percent of institutions
$2,500 or Less	138	34.6
$2,500–$5,000	87	21.8
$5,000–$7,500	57	14.3
$7,500–$10,000	36	9.0
$10,000–$20,000	69	17.3
Greater than $20,000	12	3.0
Total	399	100.0

The proposed rule does not directly impose any ''reporting'' or ''recordkeeping'' requirements within the meaning of the Paperwork Reduction Act. The compliance requirements for the proposed rule would not exceed existing compliance requirements for the present system of FDIC deposit insurance assessments, which, in any event, are governed by separate regulations.

The FDIC is unaware of any duplicative, overlapping or conflicting Federal rules.

The initial regulatory flexibility analysis set forth above demonstrates that, if adopted in final form, the proposed rule would not have a significant economic impact on a substantial number of small institutions within the meaning of those terms as used in the RFA (5 U.S.C. 605).

Commenters are invited to provide the FDIC with any information they may have about the likely quantitative effects of the proposal on small insured ($165

[13] For about half of the small institutions analyzed, the change reflected an assessment decrease and a profit increase.

million or less in assets) depository institutions.

By order of the Board of Directors.

Dated at Washington, DC, this 11th day of October, 2006.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 06–8728 Filed 10–13–06; 8:45 am]

BILLING CODE 6714–01–P

FARM CREDIT ADMINISTRATION

12 CFR Part 613

RIN 3052–AC33

Eligibility and Scope of Financing; Processing and Marketing

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA or Agency) proposes to amend its regulation governing financing of processing and marketing operations by Farm Credit System (Farm Credit, FCS, or System) institutions under titles I and II of the Farm Credit Act of 1971, as amended (Act). Specifically, this proposal would revise the criteria used to determine eligibility of legal entities for financing as processing and marketing operations. FCA further proposes a non-substantive technical correction to its regulation defining the term ''person.''

DATES: Comments should be received on or before December 15, 2006.

ADDRESSES: We offer a variety of methods to receive your comments. For accuracy and efficiency reasons, commenters are encouraged to submit comments by e-mail or through the Agency's Web site or the Federal eRulemaking Portal. As faxes are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, please consider another means to submit your comment if possible. Regardless of the method you use, please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- E-mail: Send us an e-mail at *reg-comm@fca.gov.* Agency Web site: *http://www.fca.gov.* Select ''Legal Info,'' then ''Pending Regulations and Notices.''
- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Gary K. Van Meter, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.
- Fax: (703) 883–4477. Posting and processing of faxes may be delayed. Please consider another means to comment, if possible.

You may review copies of comments we received at our office in McLean, Virginia, or from our Web site at *http://www.fca.gov.* Once you are in the Web site, select ''Legal Info,'' and then select ''Public Comments.'' We will show your comments as submitted, but for technical reasons we may omit items such as logos and special characters. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove e-mail addresses to help reduce Internet spam.

FOR FURTHER INFORMATION CONTACT:

Barry Mardock, Associate Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA, (703) 883–4456, TTY (703) 883–4434;

or

Michael A. Anderson, Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, Denver, CO, (303) 696–9737, TTY (303) 696–9259;

or

Howard I. Rubin, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4029, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 1.11(a)(1) and 2.4(a)(1) of the Act authorize Farm Credit Banks and associations to finance the processing and marketing operations of bona fide farmers, ranchers, and aquatic producers or harvesters that are ''directly related'' to the operations of the borrower, provided that the operations of the borrower supply some portion of the raw materials used in the processing or marketing operation (throughput).[1] Current § 613.3010(a)(1) provides that a borrower is eligible for financing for a processing or marketing operation only if the borrower is eligible to borrow from the System or is a legal entity in which eligible borrowers own more than 50 percent of the voting stock or equity.

We believe that our current rule, focusing solely on the percentage of eligible borrower ownership in a legal entity, is unnecessarily narrow. Therefore, FCA proposes to add additional specific criteria for determining what legal entities are eligible for financing for processing and marketing operations in accordance with the provisions in §§ 1.11(a) and 2.4(a) of the Act. While potentially expanding the pool of eligible legal entities, we believe that the additional criteria properly ensure that there is a sufficiently strong economic link—or identity of interests—between eligible borrowers and the processing or marketing entity so that the financing can be considered made and ''directly related'' to eligible borrowers and their operations.

II. Need for Proposed Rule

FCA believes its amendment to § 613.3010 will permit System associations to more effectively meet the credit needs of eligible borrowers in the face of changing agricultural and economic conditions while remaining consistent with the Act. We recognize the increasing importance of value-added agriculture and aquaculture and the changing ownership structures in processing and marketing operations. As part of these changing agricultural and economic conditions, FCA seeks to ensure that affordable and dependable credit for businesses that add value to farm and aquatic products and commodities remains available for the benefit of agricultural and aquacultural producers (and the rural communities in which they operate).

As farmers, ranchers, and producers or harvesters of aquatic products look for opportunities to increase farm and aquaculture income and diversify income sources, the importance of value-added agriculture and aquaculture has emerged, benefiting both producers and rural communities. Producers are pursuing value-added activities to gain more direct access to markets and a greater share of the consumers' food dollar. As such, farmers are increasingly relying on vertical integration and coordination of production, processing, and marketing to deliver products that meet consumer needs. These opportunities have stemmed from increased consumer demands regarding health, nutrition, and convenience; efforts by food processors to improve their productivity; and technological advances that enable producers to produce what consumers and processors desire. With the continuous shifting to a global economy, the international market for value-added products is growing.

Ownership structures within processing and marketing operations are changing as substantial capital investments cannot be fully raised

[1] 12 U.S.C. 2019(a)(1), 2075(a)(1). Each Farm Credit Bank has transferred its title I authority to make long-term real estate mortgage loans to Federal land bank associations pursuant to section 7.6 of the Act (12 U.S.C. 2279b).