section. All new small institutions in any Risk Category shall be subject to the depository institution debt adjustment as determined under paragraph (e)(2) of this section. All new small institutions in Risk Categories II, III, and IV shall be subject to the brokered deposit adjustment as determined under paragraph (e)(3) of this section.

(2) *New large institutions and new highly complex institutions.* All new large institutions and all new highly complex institutions shall be assessed under the appropriate method provided at paragraph (b)(1) or (2) of this section and subject to the adjustments provided at paragraphs (b)(3) and (e)(2) and (3) of this section. No new highly complex or large institutions are entitled to adjustment under paragraph (e)(1) of this section. If a large or highly complex institution has not yet received CAMELS ratings, it will be given a weighted CAMELS rating of 2 for assessment purposes until actual CAMELS ratings are assigned.

(3) *CAMELS ratings for the surviving institution in a merger or consolidation.* When an established institution merges with or consolidates into a new institution, if the FDIC determines the resulting institution to be an established institution under § 327.8(k)(1), its CAMELS ratings for assessment purposes will be based upon the established institution's ratings prior to the merger or consolidation until new ratings become available.

(4) *Rate applicable to institutions subject to subsidiary or credit union exception*—(i) *Established small institutions.* A small institution that is established under § 327.8(k)(4) or (5) shall be assessed as follows:

(A) If the institution does not have a CAMELS composite rating, its initial base assessment rate shall be 2 basis points above the minimum initial base assessment rate applicable to established small institutions until it receives a CAMELS composite rating.

(B) If the institution has a CAMELS composite rating but no CAMELS component ratings, its initial assessment rate shall be determined using the financial ratios method, as set forth in paragraph (a)(1) of this section, but its CAMELS composite rating will be substituted for its weighted average CAMELS component rating and, if the institution has not filed four quarterly reports of condition, then the assessment rate will be determined by annualizing, where appropriate, financial ratios from all quarterly reports of condition that have been filed.

(ii) *Large or highly complex institutions.* If a large or highly complex institution is considered established under § 327.8(k)(4) or (5), but does not have CAMELS component ratings, it will be given a weighted CAMELS rating of 2 for assessment purposes until actual CAMELS ratings are assigned.

(5) *Request for review.* An institution that disagrees with the FDIC's determination that it is a new institution may request review of that determination pursuant to § 327.4(c).

(h) *Assessment rates for bridge depository institutions and conservatorships.* Institutions that are bridge depository institutions under 12 U.S.C. 1821(n) and institutions for which the Corporation has been appointed or serves as conservator shall, in all cases, be assessed at the minimum initial base assessment rate applicable to established small institutions, which shall not be subject to adjustment under paragraph (b)(3) or (e)(1), (2), or (3) of this section.

[81 FR 32207, May 20, 2016, as amended at 83 FR 14568, Apr. 5, 2018; 84 FR 1353, Feb. 4, 2019; 84 FR 4249, Feb. 14, 2019; 85 FR 38292, June 26, 2020; 85 FR 71228, Nov. 9, 2020; 87 FR 64339, Oct. 24, 2022]

§ 327.17 Mitigating the Deposit Insurance Assessment Effect of Participation in the Money Market Mutual Fund Liquidity Facility, the Paycheck Protection Program Liquidity Facility, and the Paycheck Protection Program.

(a) *Mitigating the assessment effects of loans provided under the Paycheck Protection Program for established small institutions.* Applicable beginning April 1, 2020, the FDIC will take the following actions when calculating the assessment rate for established small institutions under § 327.16:

(1) *Exclusion of loans provided under the Paycheck Protection Program from net income before taxes ratio, nonperforming loans and leases ratio, other real estate owned ratio, brokered deposit ratio, and one-year asset growth measure.* As described in appendix E to this subpart,

the FDIC will exclude the outstanding balance of loans provided under the Paycheck Protection Program, as reported on the Consolidated Report of Condition and Income, from the total assets in the calculation of the following risk measures: Net income before taxes ratio, the nonperforming loans and leases ratio, the other real estate owned ratio, the brokered deposit ratio, and the one-year asset growth measure, which are described in § 327.16(a)(1)(ii)(A).

(2) *Exclusion of loans provided under the Paycheck Protection Program from Loan Mix Index*. As described in appendix E to this subpart A, when calculating the loan mix index described in § 327.16(a)(1)(ii)(B), the FDIC will exclude:

(i) The outstanding balance of loans provided under the Paycheck Protection Program, as reported on the Consolidated Report of Condition and Income, from the total assets; and

(ii) The outstanding balance loans provided under the Paycheck Protection Program, as reported on the Consolidated Report of Condition and Income, from an established small institution's balance of commercial and industrial loans. To the extent that the outstanding balance of loans provided under the Paycheck Protection Program exceeds an established small institution's balance of commercial and industrial loans, as reported on the Consolidated Report of Condition and Income, the FDIC will exclude any remaining balance of these loans from the balance of agricultural loans, up to the amount of agricultural loans, in the calculation of the loan mix index.

(b) *Mitigating the assessment effects of loans provided under the Paycheck Protection Program for large or highly complex institutions*. Applicable beginning April 1, 2020, the FDIC will take the following actions when calculating the assessment rate for large institutions and highly complex institutions under § 327.16:

(1) *Exclusion of Paycheck Protection Program loans from average short-term funding ratio, core earnings ratio, growth-adjusted portfolio concentration measure, and trading asset ratio*. As described in appendix E of this subpart, the FDIC will exclude the outstanding balance of loans provided under the Paycheck Protection Program, as reported on the Consolidated Report of Condition and Income, from the calculation of the average short-term funding ratio, the core earnings ratio, the growth-adjusted portfolio concentration measure, and the trading asset ratio.

(2) *Exclusion of Paycheck Protection Program Liquidity Facility borrowings from core deposit ratio*. As described in appendix E of this subpart, the FDIC will exclude the total outstanding balance of borrowings from the Federal Reserve Banks under the Paycheck Protection Program Liquidity Facility, as reported on the Consolidated Report of Condition and Income, from the calculation of the core deposit ratio.

(3) *Exclusion of Paycheck Protection Program Liquidity Facility borrowings from balance sheet liquidity ratio*. As described in appendix E to this subpart, when calculating the balance sheet liquidity measure described under appendix A to this subpart, the FDIC will:

(i) Include the outstanding balance of loans provided under the Paycheck Protection Program that exceed total borrowings from the Federal Reserve Banks under the Paycheck Protection Program Liquidity Facility, as reported on the Consolidated Report of Condition and Income, in the amount of highly liquid assets until September 30, 2020, or, if the Board of Governors of the Federal Reserve System and the Secretary of the Treasury determine to extend the Paycheck Protection Program Liquidity Facility, until such date of extension; and

(ii) Exclude the outstanding balance of borrowings from the Federal Reserve Banks under the Paycheck Protection Program Liquidity Facility with a remaining maturity of one year or less from other borrowings with a remaining maturity of one year or less, both as reported on the Consolidated Report of Condition and Income.

(4) *Exclusion of loans provided under the Paycheck Protection Program and Paycheck Protection Program Liquidity Facility borrowings from loss severity measure*. As described in appendix E to this subpart, when calculating the loss

severity measure described under appendix A to this subpart, the FDIC will exclude:

(i) The total outstanding balance of borrowings from the Federal Reserve Banks under the Paycheck Protection Program Liquidity Facility, as reported on the Consolidated Report of Condition and Income, from short- and long-term secured borrowings, as appropriate; and

(ii) The outstanding balance of loans provided under the Paycheck Protection Program, as reported on the Consolidated Report of Condition and Income, from an institution's balance of commercial and industrial loans. To the extent that the outstanding balance of loans provided under the Paycheck Protection Program exceeds an institution's balance of commercial and industrial loans, the FDIC will exclude any remaining balance from all other loans, up to the total amount of all other loans, followed by agricultural loans, up to the total amount of agricultural loans, as reported on the Consolidated Report of Condition and Income. To the extent that an institution's outstanding balance of loans provided under the Paycheck Protection Program exceeds its borrowings from the Federal Reserve Banks under the Paycheck Protection Program Liquidity Facility, the FDIC will add the amount of outstanding loans provided under the Paycheck Protection Program in excess of borrowings under the Paycheck Protection Program Liquidity Facility to cash.

(c) *Mitigating the effects of loans provided under the Paycheck Protection Program and assets purchased under the Money Market Mutual Fund Liquidity Facility on the unsecured adjustment, depository institution debt adjustment, and the brokered deposit adjustment to an insured depository institution's assessment rate*. As described in appendix E to this subpart, when calculating an insured depository institution's unsecured debt adjustment, depository institution debt adjustment, or the brokered deposit adjustment described in § 327.16(e), as applicable, the FDIC will exclude the outstanding balance of loans provided under the Paycheck Protection Program and the quarterly average amount of assets purchased under the Money Market Mutual Fund Liquidity Facility, both as reported on the Consolidated Report of Condition and Income.

(d) *Mitigating the effects on the assessment base attributable to loans provided under the Paycheck Protection Program and participation in the Money Market Mutual Fund Liquidity Facility*. As described in appendix E to this subpart, when calculating an insured depository institution's quarterly deposit insurance assessment payment due under this part, the FDIC will provide an offset to an institution's assessment for the increase to its assessment base attributable to participation in the Money Market Mutual Fund Liquidity Facility and loans provided under the Paycheck Protection Program.

(1) *Calculation of offset amount*. (i) To determine the offset amount, the FDIC will take the sum of the outstanding balance of loans provided under the Paycheck Protection Program and the quarterly average amount of assets purchased under the Money Market Mutual Fund Liquidity Facility, both as reported on the Consolidated Report of Condition and Income, and multiply the sum by an institution's total base assessment rate, as calculated under § 327.16, including any adjustments under § 327.16(e).

(ii) To the extent that an institution does not report the outstanding balance of loans provided under the Paycheck Protection Program, such as in an insured branch's Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks, the FDIC will take the sum of either the quarterly average amount of loans pledged to the Paycheck Protection Program Liquidity Facility as reported in the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks, or the outstanding balance of loans provided under the Paycheck Protection Program, as such certified data is provided to the FDIC, and the quarterly average amount of assets purchased under the Money Market Mutual Fund Liquidity Facility, as reported in the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks, and multiply the sum by an institution's total base assessment rate, as calculated under § 327.16.

(2) *Calculation of assessment amount due*. The FDIC will subtract the offset amount described in § 327.17(d)(1) from an insured depository institution's total assessment amount, consistent with § 327.3(b)(1).

(e) *Mitigating the effects of loans provided under the Paycheck Protection Program and assets purchased under the Money Market Mutual Fund Liquidity Facility on the classification of insured depository institutions as small, large, or highly complex for deposit insurance purposes*. When classifying an insured depository institution as small, large, or complex for assessment purposes under § 327.8, the FDIC will exclude from an institution's total assets the outstanding balance of loans provided under the Paycheck Protection Program and the balance of assets purchased under the Money Market Mutual Fund Liquidity Facility outstanding, both as reported on the Consolidated Report of Condition and Income. Any institution with assets of between $5 billion and $10 billion, excluding the outstanding balance of loans provided under the Paycheck Protection Program and the balance of assets purchased under the MMLF, both as reported on the Consolidated Report of Condition and Income, may request that the FDIC determine its assessment rate as a large institution under § 327.16(f).

(f) *Definitions*. For the purposes of this section:

(1) *Paycheck Protection Program*. The term "Paycheck Protection Program" means the program of that name that was created in section 1102 of the Coronavirus Aid, Relief, and Economic Security Act.

(2) *Paycheck Protection Program Liquidity Facility*. The term "Paycheck Protection Program Liquidity Facility" means the program of that name that was announced by the Board of Governors of the Federal Reserve System on April 9, 2020, and renamed as such on April 30, 2020.

(3) *Money Market Mutual Fund Liquidity Facility*. The term "Money Market Mutual Fund Liquidity Facility" means the program of that name announced by the Board of Governors of the Federal Reserve System on March 18, 2020.

[85 FR 38293, June 26, 2020]

APPENDIX A TO SUBPART A OF PART 327—METHOD TO DERIVE PRICING MULTIPLIERS AND UNIFORM AMOUNT

I. INTRODUCTION

The uniform amount and pricing multipliers are derived from:

- A model (the Statistical Model) that estimates the probability of failure of an institution over a three-year horizon;
- The minimum initial base assessment rate;
- The maximum initial base assessment rate;
- Thresholds marking the points at which the maximum and minimum assessment rates become effective.

II. THE STATISTICAL MODEL

The Statistical Model estimates the probability of an insured depository institution failing within three years using a logistic regression and pooled time-series cross-sectional data;[1] that is, the dependent variable in the estimation is whether an insured depository institution failed during the following three-year period. Actual model parameters for the Statistical Model are an average of each of three regression estimates for each parameter. Each of the three regressions uses end-of-year data from insured depository institutions' quarterly reports of condition and income (Call Reports and Thrift Financial Reports or TFRs[2]) for every third year to estimate probability of failure within the ensuing three years. One regression (Regression 1) uses insured depository institutions' Call Report and TFR data for the end of 1985 and failures from 1986 through 1988; Call Report and TFR data for the end of 1988 and failures from 1989 through 1991; and so on, ending with Call Report data for the end of 2009 and failures from 2010 through 2012. The second regression (Regression 2) uses insured depository institutions' Call Report and TFR data for the end of 1986 and failures from 1987 through 1989, and so on, ending with Call Report data for the end of 2010 and failures from 2011 through 2013. The third regression (Regression 3) uses insured

[1] Tests for the statistical significance of parameters use adjustments discussed by Tyler Shumway (2001) "Forecasting Bankruptcy More Accurately: A Simple Hazard Model," Journal of Business 74:1, 101–124.

[2] Beginning in 2012, all insured depository institutions began filing quarterly Call Reports and the TFR was no longer filed.