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has been terminated is permitted by the Corporation to continue or resume its status as an insured depository institution before the insurance of its deposits has ceased, the institution will be deemed, for assessment purposes, to continue as an insured depository institution and must thereafter file and certify its quarterly certified statement invoices and pay assessments as though its insured status had not been terminated. The procedure for applying for the continuance or resumption of insured status is set forth in § 303.248 of this chapter.

[76 FR 10706, Feb. 25, 2011]

§ 327.7 Payment of interest on assessment underpayments and overpayments.

(a) *Payment of interest*—(1) *Payment by institutions.* Each insured depository institution shall pay interest to the Corporation on any underpayment of the institution's assessment.

(2) *Payment by Corporation.* The Corporation will pay interest on any overpayment by the institution of its assessment.

(3) *Accrual of interest.* (i) Interest on an amount owed to or by the Corporation for the underpayment or overpayment of an assessment shall accrue interest at the relevant interest rate.

(ii) Interest on an amount specified in paragraph (a)(3)(i) of this section shall begin to accrue on the day following the regular payment date, as provided for in § 327.3(b)(2), for the amount so overpaid or underpaid, provided, however, that interest shall not begin to accrue on any overpayment until the day following the date such overpayment was received by the Corporation. Interest shall continue to accrue through the date on which the overpayment or underpayment (together with any interest thereon) is discharged.

(iii) The relevant interest rate shall be redetermined for each quarterly assessment interval. A quarterly assessment interval begins on the day following a regular payment date, as specified in § 327.3(b)(2), and ends on the immediately following regular payment date.

(b) *Interest rates.* (1) The relevant interest rate for a quarterly assessment

interval that includes the month of January, April, July, and October, respectively, is the coupon equivalent yield of the average discount rate set on the 3-month Treasury bill at the last auction held by the United States Treasury Department during the preceding December, March, June, and September, respectively.

(2) The relevant interest rate for a quarterly assessment interval will apply to any amounts overpaid or underpaid on the payment date immediately prior to the beginning of the quarterly assessment interval. The relevant interest rate will also apply to any amounts owed for previous overpayments or underpayments (including any interest thereon) that remain outstanding, after any adjustments to such overpayments or underpayments have been made thereon, at the end of the regular payment date immediately prior to the beginning of the quarterly assessment interval. Interest will be compounded daily.

§ 327.8 Definitions.

For the purpose of this part 327:

(a) *Deposits.* The term *deposit* has the meaning specified in section 3(l) of the Federal Deposit Insurance Act.

(b) *Quarterly report of condition.* The term *quarterly report of condition* means a report required to be filed pursuant to section 7(a)(3) of the Federal Deposit Insurance Act.

(c) *Assessment period*—*In general.* The term *assessment period* means a period beginning on January 1 of any calendar year and ending on March 31 of the same year, or a period beginning on April 1 of any calendar year and ending on June 30 of the same year; or a period beginning on July 1 of any calendar year and ending on September 30 of the same year; or a period beginning on October 1 of any calendar year and ending on December 31 of the same year.

(d) *Acquiring institution.* The term *acquiring institution* means an insured depository institution that assumes some or all of the deposits of another insured depository institution in a terminating transfer.

(e) *Small institution.* (1) An insured depository institution with assets of less than \$10 billion, excluding assets as described in § 327.17(e), as of December 31,

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2006, and an insured branch of a foreign institution shall be classified as a small institution.

(2) Except as provided in paragraph (e)(3) of this section and § 327.17(e), if, after December 31, 2006, an institution classified as large under paragraph (f) of this section (other than an institution classified as large for purposes of § 327.16(f)) reports assets of less than \$10 billion in its quarterly reports of condition for four consecutive quarters, excluding assets as described in § 327.17(e), the FDIC will reclassify the institution as small beginning the following quarter.

(3) An insured depository institution that elects to use the community bank leverage ratio framework under 12 CFR 3.12(a)(3), 12 CFR 217.12(a)(3), or 12 CFR 324.12(a)(3), shall be classified as a small institution, even if that institution otherwise would be classified as a large institution under paragraph (f) of this section.

(f) *Large institution.* An institution classified as large for purposes of § 327.16(f) or an insured depository institution with assets of \$10 billion or more, excluding assets as described in § 327.17(e), as of December 31, 2006 (other than an insured branch of a foreign bank or a highly complex institution) shall be classified as a large institution. If, after December 31, 2006, an institution classified as small under paragraph (e) of this section reports assets of \$10 billion or more in its quarterly reports of condition for four consecutive quarters, excluding assets as described in § 327.17(e), the FDIC will reclassify the institution as large beginning the following quarter.

(g) *Highly complex institution.* (1) A highly complex institution is:

(i) An insured depository institution (excluding a credit card bank) that has had \$50 billion or more in total assets for at least four consecutive quarters, excluding assets as described in § 327.17(e), that is controlled by a U.S. parent holding company that has had \$500 billion or more in total assets for four consecutive quarters, or controlled by one or more intermediate U.S. parent holding companies that are controlled by a U.S. holding company that has had \$500 billion or more in assets for four consecutive quarters; or

(ii) A processing bank or trust company.

(2) Control has the same meaning as in section 3(w)(5) of the FDI Act. A U.S. parent holding company is a parent holding company incorporated or organized under the laws of the United States or any State, as the term “State” is defined in section 3(a)(3) of the FDI Act. If, after December 31, 2010, an institution classified as highly complex under paragraph (g)(1)(i) of this section falls below \$50 billion in total assets in its quarterly reports of condition for four consecutive quarters, or its parent holding company or companies fall below \$500 billion in total assets for four consecutive quarters, the FDIC will reclassify the institution beginning the following quarter. If, after December 31, 2010, an institution classified as highly complex under paragraph (a)(1)(ii) of this section falls below \$10 billion in total assets for four consecutive quarters, the FDIC will reclassify the institution beginning the following quarter.

(h) *CAMELS composite and CAMELS component ratings.* The terms *CAMELS composite ratings* and *CAMELS component ratings* shall have the same meaning as in the Uniform Financial Institutions Rating System as published by the Federal Financial Institutions Examination Council.

(i) *ROCA supervisory ratings.* ROCA supervisory ratings rate risk management, operational controls, compliance, and asset quality.

(j) *New depository institution.* A new insured depository institution is a bank or savings association that has been federally insured for less than five years as of the last day of any quarter for which it is being assessed.

(k) *Established depository institution.* An established insured depository institution is a bank or savings association that has been federally insured for at least five years as of the last day of any quarter for which it is being assessed.

(1) *Merger or consolidation involving new and established institution(s).* Subject to paragraphs (k)(2) through (5) of this section and § 327.16(g)(3) and (4), when an established institution merges

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into or consolidates with a new institution, the resulting institution is a new institution unless:

(i) The assets of the established institution, as reported in its report of condition for the quarter ending immediately before the merger, exceeded the assets of the new institution, as reported in its report of condition for the quarter ending immediately before the merger; and

(ii) Substantially all of the management of the established institution continued as management of the resulting or surviving institution.

(2) *Consolidation involving established institutions.* When established institutions consolidate, the resulting institution is an established institution.

(3) *Grandfather exception.* If a new institution merges into an established institution, and the merger agreement was entered into on or before July 11, 2006, the resulting institution shall be deemed to be an established institution for purposes of this part.

(4) *Subsidiary exception.* Subject to paragraph (k)(5) of this section, a new institution will be considered established if it is a wholly owned subsidiary of:

(i) A company that is a bank holding company under the Bank Holding Company Act of 1956 or a savings and loan holding company under the Home Owners' Loan Act, and:

(A) At least one eligible depository institution (as defined in 12 CFR 303.2(r)) that is owned by the holding company has been chartered as a bank or savings association for at least five years as of the date that the otherwise new institution was established; and

(B) The holding company has a composite rating of at least "2" for bank holding companies or an above average or "A" rating for savings and loan holding companies and at least 75 percent of its insured depository institution assets are assets of eligible depository institutions, as defined in 12 CFR 303.2(r); or

(ii) An eligible depository institution, as defined in 12 CFR 303.2(r), that has been chartered as a bank or savings association for at least five years as of the date that the otherwise new institution was established.

(5) *Effect of credit union conversion.* In determining whether an insured depository institution is new or established, the FDIC will include any period of time that the institution was a federally insured credit union.

(1) *Risk assignment.* Under § 327.16, for all new small institutions and insured branches of foreign banks, risk assignment includes assignment to Risk Category I, II, III, or IV, and for insured branches of foreign banks within Risk Category I, assignment to an assessment rate or rates. For all established small institutions, and all large institutions and all highly complex institutions, risk assignment includes assignment to an assessment rate.

(m) *Unsecured debt.* For purposes of the unsecured debt adjustment as set forth in § 327.16(e)(1) and the depository institution debt adjustment as set forth in § 327.16(e)(2), unsecured debt shall include senior unsecured liabilities and subordinated debt.

(n) *Senior unsecured liability.* For purposes of the unsecured debt adjustment as set forth in § 327.16(e)(1) and the depository institution debt adjustment as set forth in § 327.16(e)(2), senior unsecured liabilities shall be the unsecured portion of other borrowed money as defined in the quarterly report of condition for the reporting period as defined in paragraph (b) of this section.

(o) *Subordinated debt.* For purposes of the unsecured debt adjustment as set forth in § 327.16(e)(1) and the depository institution debt adjustment as set forth in § 327.16(e)(2), subordinated debt shall be as defined in the quarterly report of condition for the reporting period; however, subordinated debt shall also include limited-life preferred stock as defined in the quarterly report of condition for the reporting period.

(p) *Long-term unsecured debt.* For purposes of the unsecured debt adjustment as set forth in § 327.16(e)(1) and the depository institution debt adjustment as set forth in § 327.16(e)(2), long-term unsecured debt shall be unsecured debt with at least one year remaining until maturity; however, any such debt where the holder of the debt has a redemption option that is exercisable within one year of the reporting date shall not be deemed long-term unsecured debt.

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(q) *Brokered reciprocal deposits.* Reciprocal deposits as defined in § 337.6(e)(2)(v) that are not excepted from the institution's brokered deposits pursuant to § 337.6(e).

(r) *Parent holding company.*—A parent holding company has the same meaning as “depository institution holding company,” as defined in § 3(w) of the FDI Act.

(s) *Processing bank or trust company.* A processing bank or trust company is an institution whose last three years' non-lending interest income, fiduciary revenues, and investment banking fees, combined, exceed 50 percent of total revenues (and its last three years fiduciary revenues are non-zero), and whose total fiduciary assets total \$500 billion or more, and whose total assets for at least four consecutive quarters have been \$10 billion or more.

(t) *Credit card bank.* A credit card bank is a bank for which credit card receivables plus securitized receivables exceed 50 percent of assets plus securitized receivables.

(u) *Control.* Control has the same meaning as in section 2 of the Bank Holding Company Act of 1956, 12 U.S.C. 1841(a)(2).

(v) *Established small institution.* An established small institution is a “small institution” as defined under paragraph (e) of this section that meets the definition of “established depository institution” under paragraph (k) of this section.

(w) *New small institution.* A new small institution is a “small institution” as defined under paragraph (e) of this section that meets the definition of “new depository institution” under paragraph (j) of this section.

(x) *Deposit Insurance Fund and DIF.* The Deposit Insurance Fund as defined in 12 U.S.C. 1813(y)(1).

(y) *Reserve ratio of the DIF.* The reserve ratio as defined in 12 U.S.C. 1813(y)(3).

(z) *Well capitalized, adequately capitalized, and undercapitalized.* For any insured depository institution other than an insured branch of a foreign bank, Well Capitalized, Adequately Capitalized, and Undercapitalized have the same meaning as in: 12 CFR 6.4 (for national banks and Federal savings asso-

ciations), as either may be amended from time to time, except that 12 CFR 6.4(b)(1)(i)(E) and (e), as they may be amended from time to time, shall not apply; 12 CFR 208.43 (for state member institutions), as either may be amended from time to time, except that 12 CFR 208.43(b)(1)(i)(E) and (c), as they may be amended from time to time, shall not apply; and 12 CFR 324.403 (for state nonmember institutions and state savings associations), as either may be amended from time to time, except that 12 CFR 324.403(b)(1)(i)(E) and (d), as they may be amended from time to time, shall not apply.

[54 FR 51374, Dec. 15, 1989, as amended at 74 FR 9551, Mar. 4, 2009; 76 FR 10707, Feb. 25, 2011; 81 FR 32201, May 20, 2016; 83 FR 14568, Apr. 5, 2018; 84 FR 1353, Feb. 4, 2019; 84 FR 66838, Dec. 6, 2019; 85 FR 38292, June 26, 2020; 87 FR 64334, Oct. 24, 2022]

§ 327.9 [Reserved]

§ 327.10 Assessment rate schedules.

(a) Assessment rate schedules for established small institutions and large and highly complex institutions applicable in the first assessment period after June 30, 2016, where the reserve ratio of the DIF as of the end of the prior assessment period has reached or exceeded 1.15 percent, and in all subsequent assessment periods through the assessment period ending December 31, 2022, where the reserve ratio of the DIF as of the end of the prior assessment period is less than 2 percent.

(1) *Initial base assessment rate schedule for established small institutions and large and highly complex institutions.* In the first assessment period after June 30, 2016, where the reserve ratio of the DIF as of the end of the prior assessment period has reached or exceeded 1.15 percent, and for all subsequent assessment periods through the assessment period ending December 31, 2022, where the reserve ratio as of the end of the prior assessment period is less than 2 percent, the initial base assessment rate for established small institutions and large and highly complex institutions, except as provided in paragraph (f) of this section, shall be the rate prescribed in the schedule in the following table: