FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is hereby publishing items for the spring 2013 Unified Agenda of Federal Regulatory and Deregulatory Actions. The Agenda contains information about FDIC's current and projected rulemakings, existing regulations under review, and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Robert E. Feldman, Executive Secretary**,** Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda is in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

Proposed Rules:

Restrictions on Post-Employment Activities of Senior Examiners (3064-AD98)

The FDIC proposes to rescind and remove 12 CFR part 390, subpart A, entitled "Restrictions on Post- Employment Activities of Senior Examiners."

Final Rule:

Margin and Capital Requirements for Covered Swap Entities (3064-AD79)

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Farm Credit Administration, and the Federal Housing Finance Agency (collectively, the Agencies) reopened the comment period on the proposed rule published in the **Federal Register** on May 11, 2011 (76 FR 27564), to establish minimum margin and capital requirements for uncleared swaps and security-based swaps entered into by swap dealers, major swap participants, security-based swap dealers, and major security-based swap participants for which one of the Agencies is the prudential regulator (Proposed Margin Rule). Reopening the comment period that expired on July 11, 2011, allowed interested persons additional time to analyze and comment on the Proposed Margin Rule in light of the consultative document on margin requirements for non-centrally-cleared derivatives recently published for comment by the Basel Committee on Banking Supervision and the International Organization of Securities Commissions.

Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds (3064-AD85)

On November 7, 2011, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and U.S. Securities and Exchange Commission (collectively, the Agencies) published in the **Federal Register** a joint notice of proposed rulemaking for public comment to implement section 619 of the Dodd-Frank

Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which contains certain prohibitions and restrictions on the ability of a banking entity and nonbank financial company supervised by the Board to engage in proprietary trading and have certain interests in, or relationships with, a hedge fund or private equity fund. Due to the complexity of the issues involved and to facilitate coordination of the rulemaking among the responsible agencies as provided in section 619 of the Dodd-Frank Act, the Agencies have determined that an extension of the comment period was appropriate. This action allowed interested persons additional time to analyze the proposed rules and prepare their comments.

Incentive-Based Compensation Arrangements (3064-AD86)

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the U.S. Securities Exchange Commission, and the Fair Housing Finance Agency proposed a rule to implement section 956 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The rule would require the reporting of incentive-based compensation arrangements by a covered financial institution and prohibit incentive-based compensation arrangements at a covered financial institution that provide excessive compensation or that could expose the institution to inappropriate risks that could lead to material financial loss.

Regulatory Capital Rules (Part I): Regulatory Capital, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions (3064-AD95)

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively, the Agencies) sought comment on three notices of proposed rulemaking (NPRM) that would revise and replace the Agencies' current capital rules. In this NPRM, the Agencies are proposing to revise their risk-based and leverage capital requirements consistent with agreements reached by the Basel

Committee on Banking Supervision in Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems. The proposed revisions would include implementation of a new common equity tier 1 minimum capital requirement, a higher minimum tier 1 capital requirement, and, for banking organizations subject to the advanced approaches capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the denominator measure. Additionally, consistent with Basel III, the Agencies proposed to apply limits on a banking organization's capital distributions and certain discretionary bonus payments if the banking organization does not hold a specified amount of common equity tier 1 capital in addition to the amount necessary to meet its minimum risk-based requirements. This NPRM also would establish more conservative standards for including an instrument in regulatory capital. As discussed in the proposal, the revisions set forth in this NPRM are consistent with section 171 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which requires the Agencies to establish minimum risk-based and leverage capital requirements.

Regulatory Capital Rules (Part II): Standardized Approach for Risk-Weighted Assets; Market Discipline and Disclosure Requirements (3064-AD96)

On August 30, 2012, the FDIC, together with the Board of Governors of the Federal Reserve System and Office of the Comptroller of the Currency (together, the Agencies), published in the **Federal Register** a joint notice of proposed rulemaking, titled "Regulatory Capital Rules: Standardized Approach for Risk-Weighted Assets; Market Discipline and Disclosure Requirements" (Standardized Approach NPRM or Proposed Rule). The proposed rule would revise and harmonize the Agencies' rules for calculating risk weighted assets to enhance risk sensitivity and address weaknesses identified over recent years, including by incorporating certain international capital standards of the Basel Committee on Banking Supervision (BCBS) set forth in the standardized approach of the international accord, titled "International Convergency of Capital Measurement and Capital Standards: A Revised Framework," as revised by the BCBS in 2006 and 2009, as well as other proposals set forth in consultative papers of the

BCBS. Section 3(a) of the Regulatory Flexibility Act (RFA) directs all Federal agencies to publish an initial regulatory flexibility analysis (IRFA), or a summary thereof, describing the impact of a proposed rule on small entities anytime an agency is required to publish a notice of proposed rulemaking in the **Federal Register**. As provided in the Standardized Approach NPRM, the Agencies are separately publishing initial regulatory flexibility analyses for the Proposed Rule. Accordingly, the FDIC sought comment on the IRFA provided in this Federal Register document, which describes the economic impact of the Standardized Approach NPR, in accordance with the requirements of the RFA.

Regulatory Capital Rules (Part III): Advanced Approaches Risk-Based Capital Rules; Market Risk Capital Rule (3064-AD97)

The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the FDIC (collectively, the Agencies) are seeking comment on three notices of proposed rulemaking (NPRMs) that would revise and replace the Agencies' current capital rules. In this NPRM (Advanced Approaches and Market Risk NPRM) the Agencies are proposing to revise the advanced approaches risk-based capital rule to incorporate certain aspects of "Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems" that the agencies would apply only to advanced approach banking organizations. This NPRM also proposes other changes to the advanced approaches rule that the agencies believe are consistent with changes by the Basel Committee on Banking Supervision (BCBS) to its "International Convergence of Capital Measurement and Capital Standards: A Revised Framework" (Basel II), as revised by the BCBS between 2006 and 2009, and recent consultative papers published by the BCBS. The Agencies also propose to revise the advanced approaches risk-based capital rule to be consistent with Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the Dodd-Frank Act). These revisions include replacing reference to credit ratings with alternative standards of creditworthiness consistent with section 939A of the Dodd-Frank Act. Additionally, the OCC and FDIC are proposing that the market risk capital rule be applicable to Federal and State savings associations, and the Board is proposing that the advanced approaches and market risk capital rules apply to top-tier savings and loan holding companies domiciled in the United States that meet the applicable thresholds.

Records of Failed Insured Depository Institutions (3064-AD99)

The FDIC proposed a rule, with request for comments, that would implement section 11(d)(15)(D) of the Federal Deposit Insurance Act (12 U.S.Cc section 1821(d)(15)(D)). This statutory provision provides timeframes for the retention of records of a failed insured depository institution. The proposed rule incorporates the statutory timeframes and defines the term "records."

Deposit Insurance Regulations; Deposits in Foreign Branches (3064-AE00)

The FDIC is proposing to amend its deposit insurance regulations, with respect to deposits payable in branches of United States insured depository institutions (United States bank or bank) outside of the United States. The proposed rule clarified that deposits in these foreign branches of United States banks are not FDIC-insured deposits. This would be the case whether or not they are dually payable both at the branch outside the United States and at an office within the United States. As discussed further below, a recent proposal by the United Kingdom's Financial Services Authority (U.K. FSA) makes it very likely that large United States banks will be changing their United Kingdom foreign branch deposit agreements to make them payable both in the United Kingdom and the United States. This action has the potential to increase significantly the exposure of the Deposit Insurance Fund (DIF) and operational complexities were such deposits to be treated as insured. The purpose of the proposed rule is to preserve confidence in the FDIC deposit insurance system, ensure that the FDIC can effectively carry out its critical deposit insurance functions, and protect the DIF against the uncertain liability that it would otherwise face as a global deposit insurer.

Long Term Actions:

Credit Risk Retention (3064-AD74)

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the U.S. Securities and Exchange Commission, the Federal Housing Finance Agency, and the Department of Housing and Urban Development (collectively, the Agencies) are proposing rules to implement the credit risk retention requirements of section 15G of the Securities Exchange Act of 1934 (15 U.S.C. 78o-11), as added by section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Section 15G generally requires the securitizer of asset-backed securities to retain not less than 5 percent of the credit risk of the assets collateralizing the asset-backed securities. Section 15G includes a variety of exemptions from these requirements, including an exemption for asset-backed securities that are collateralized exclusively by residential mortgages that qualify as "qualified residential mortgages," as such term is defined by the Agencies by rule.

Recordkeeping Rules for Institutions Operating Under the Exceptions or Exemptions for Banks From the Definitions of "Broker" or "Dealer" in the Securities Exchange Act of 1934 (3064-AD80)

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation requested comment on recordkeeping rules for banks, savings associations, Federal and State-licensed branches and agencies of foreign banks, and Edge and agreement corporations that engage in securities-related activities under the statutory exceptions or regulatory exemptions for "banks" from the definitions of "broker" or "dealer" in section 3(a)(4)(B) or section 3(a)(5) of the Securities Exchange Act of 1934. The rule is designed to facilitate and promote compliance with these exceptions and exemptions.

Completed Actions:

Assessments, Large Bank Pricing (3064-AD92)

The FDIC has adopted this final rule to amend the assessment system for large and highly complex institutions by: (1) Revising the definitions of certain higher-risk assets, specifically leveraged loans, which are renamed "higher-risk C&I loans and securities," and subprime consumer loans, which are renamed "higher-risk consumer loans"; (2) clarifying when an asset must be classified as higher risk; (3) clarifying the way securitizations are identified as higher risk; and (4) further defining terms that are used in the large bank pricing portions of 12 CFR 327.9. The names of the categories of assets included in the higher-risk assets to tier 1 capital and reserves ratio have been changed to avoid confusion between the definitions used in the deposit insurance assessment regulations and those used within the industry and in other regulatory guidance. The FDIC has not amended the definition of C&D loans and the final rule retains the definitions used in the February 2011 rule. The FDIC also retains the definition of nontraditional mortgage loans; however, the final rule clarifies how securitizations of nontraditional mortgage loans are identified as higher risk. The final rule aggregates all securitizations that contain higher-risk assets into a newly defined category of higher-risk assets, "higher-risk securitizations." While the nomenclature is new, the notice of proposed rulemaking proposed including all assets that meet this newly defined category as higher-risk assets. The FDIC believes that the final rule will result in more consistent reporting, better reflect risk to the Deposit Insurance Fund, significantly reduce reporting burden, and satisfy many of the concerns voiced by the industry after adoption of the February 2011 rule. The final rule was effective on April 1, 2013.

NAME: Valerie Best,

Assistant Executive Secretary.