FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R–0858]

Truth in Lending; Mortgage Disclosures; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Technical Correction to final regulation.

SUMMARY: This document contains a correction to the final rule (Docket No. R–0858) which was published Friday, March 24, 1995 (60 FR 15463). The amendments to Regulation Z concerned new disclosure requirements on reverse mortgage transactions (as well as on certain home loans bearing rates or fees above a certain percentage or amount).

EFFECTIVE DATE: September 25, 1995.

FOR FURTHER INFORMATION CONTACT: Sheilah Goodman or Kurt Schumacher, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or 452–2412; for the hearing impaired *only*, Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

Background

The regulation that is the subject of this correction is Regulation Z (12 CFR part 226), which implements the Truth in Lending Act (15 U.S.C. 1601–1666j). The act (TILA) requires creditors to disclose credit terms for consumer transactions. The Home Ownership and Equity Protection Act of 1994 (HOEPA), contained in the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103–325, 108 Stat. 2160) amended the TILA. Section 154 of the HOEPA added a new section 138 to the TILA dealing with disclosures required for reverse mortgage transactions. The final rule implementing these provisions in Regulation Z was published on March 24, 1995 (60 FR 15463).

Need for Correction

As published, the final rule implementing new TILA section 138 contains an error in the unit period used in the first example of the total annual loan cost rate computation in appendix K to part 226, which also results in an erroneous total annual loan cost rate being shown for that example. The error resulted from the use of a monthly unit period in the transaction, whereas, under the definition of a unit period for single-advance single-payment transactions (paragraph (b)(4)(ii) of appendix K), the proper unit period is 1 year. This error has been corrected. For consistency and ease of understanding, the Baln figure has also been revised to reflect the use of an annual unit period.

Correction of Publication

Accordingly, the publication on March 24, 1995, of the final regulation (Docket No. R–0858), which was the subject of FR Doc. 95–7231, is corrected as follows:

Appendix K to Part 226—[Corrected]

On page 15475, in the example in paragraph (c)(1) of appendix K to Part 226, the formula (which follows the phrase ''Assumed annual dwelling appreciation rate: 4%'') is corrected to read as follows:

* * * * *

(c) * * *

(1) * * *

P_{10} = Min (103,385.84, 137,662.72)

$$30{,}000(1+i)^{10-0} + \sum_{j=0}^{9}(1+i)^{10-j} = 103{,}385.84$$

i = .1317069438

Total annual loan cost rate

(100(.1317069438 × 1)) = 13.17%

(2) * * *

Board of Governors of the Federal Reserve System, September 25, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–24240 Filed 9–28–95; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064–AB65

Assessments

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is amending its regulation on assessments in several ways.

First, the FDIC is delaying the regular payment date for the first quarterly assessment payment that insured institutions must make for the first semiannual period of each year (first payment). The first payment has been due on December 30 of the prior year. The FDIC is changing the regular payment date to the January 2 (or the first business day thereafter). But at the same time, the FDIC is giving insured institutions the option of making the first payment on December 30 (or the prior business day). The FDIC's purpose in making this pair of changes is to relieve certain institutions of the regulatory burden of having to make an extra assessment payment in 1995, while at the same time affording flexibility to other institutions to make such a payment if they should so desire.

Second, the FDIC is giving insured institutions the option of paying double the amount of any quarterly payment, when the payment is made on a payment date (regular or alternate, as the case may be) that comes before the start of the quarter to which the payment pertains—i.e., on the March, June, September, and December payment dates. The FDIC is adopting this change in response to a suggestion made by a commenter. The FDIC believes the change will promote greater flexibility in the assessment procedures.

Third, the FDIC is replacing the interest rate to be applied to underpayments and overpayments of assessments with a new, more sensitive rate derived from the 3-month Treasury bill discount rate. Rates set under the prior standard have rapidly become obsolete in volatile interest-rate markets; the new standard is more sensitive to current market conditions.

Finally, the FDIC is shortening the timetable for announcing a change in the assessment rate from 45 days to 15 days prior to the invoice date. This change enables the FDIC to use the most up-to-date information available for computing assessments, thereby benefiting both the FDIC and the depository institutions.

EFFECTIVE DATE: This rule is effective September 29, 1995, except the amendments to § 327.7 are effective October 30, 1995.

FOR FURTHER INFORMATION CONTACT: Allan Long, Assistant Director, Treasury Branch, Division of Finance (703) 516–5559; Claude A. Rollin, Senior Counsel,

Legal Division (202) 898–3985; or Jules Bernard, Counsel, Legal Division, (202) 898–3731; Federal Deposit Insurance Corporation, Washington, D. C. 20429.

SUPPLEMENTARY INFORMATION:

A. Background

1. The payment schedule

On December 20, 1994, the FDIC adopted a new quarterly-collection procedure for collecting deposit insurance assessments. See 59 FR 67153 (December 29, 1994). The quarterly-collection procedure became effective April 1, 1995: it applies to the second semiannual assessment period of 1995 (beginning July 1, 1995) and thereafter.

The quarterly-collection procedure calls for the FDIC to collect assessment payments four times a year, by means of FDIC-originated direct debits through the Automated Clearing House network. Prior to the final rule adopted here, each payment to be made for a calendar quarter was due just prior to the start of that quarter.[1] The payment for the first calendar quarter of a year (first payment)—the initial payment for the first semiannual period of the year—was due on the prior December 30. The other regular payment dates followed suit. The second-quarter payment was due on March 30. The payment for the third quarter—the initial payment for the second semiannual period of the year—was due on June 30. And the payment for the fourth quarter was due on September 30. (In every case, if the scheduled payment date fell on a holiday or a weekend, the payment was to be made by the previous business day.)

The FDIC published the quarterly-collection procedure as a proposed rule before adopting it. See 59 FR 29965 (June 10, 1994). The FDIC received 51 comment letters on the proposal.

Two commenters pointed out that the quarterly-collection procedure would produce the so-called ''5 in 95'' anomaly. That is, institutions would pay their full semiannual assessment for the first semiannual period in 1995 in January, in accordance with the assessment regulations then in effect. Institutions would also pay both quarterly payments for the second semiannual period in 1995 (one at the end of June; the other at the end of September). Then institutions would make one more payment in 1995: the first payment for 1996. In effect, in 1995 they would pay assessments for 5 quarters.

The two commenters asked the FDIC to move the payment date for the first payment for 1996 from December 30, 1995, to January, 1996. In response, the FDIC looked into the issue further.

The FDIC concluded, as a result of its inquiry, that the ''5 in 95'' anomaly would have an adverse effect on relatively few institutions. The FDIC therefore decided to retain the December payment date. The FDIC recognized that the December 1995 payment date could present a one-time problem for some institutions. But the FDIC concluded that this situation was simply a by-product of the shift from a semiannual to a quarterly collection procedure, and would not involve an ''extra'' assessment payment. The FDIC further observed that this timing issue would adversely affect only institutions that use cash-basis accounting. Finally, the FDIC pointed out that the commenters' recommended solution—moving the December payment date to January—would not cure the problem if adopted only for a single year: the problem would recur in 1996. Curing the problem would require a permanent change in the December payment date. When the FDIC adopted the regulation in final form, the FDIC retained the December 30 payment date. See 59 FR 67153, 67157 (December 29, 1994).

Shortly after adopting the quarterly-collection procedure, however, the FDIC began to receive information suggesting that more institutions would be adversely affected by the December payment date than was initially thought. Moreover, the Independent Bankers Association of America (IBAA) issued a letter to the FDIC requesting the FDIC to reconsider the issue in light of the December payment date's effect on cash-basis institutions. The FDIC's Board of Directors viewed the IBAA's request as a ''petition for the amendment of a regulation'' within the meaning of the FDIC's policy statement ''Development and Review of FDIC Rules and Regulations,'' 2 FED. DEPOSIT INS. CORP. LAWS, REGULATIONS, RELATED ACTS 5057 (1984). The FDIC therefore proposed the rule that is here adopted in final form. 60 FR 40776 (August 10, 1995).

The final rule moves the regular payment date for the first payment from December 30 of the prior year (or the preceding business day) to January 2 (or the next business day) of the current year. The final rule does not change the other regular payment dates.

2. Doubled Payments

Prior to the final rule adopted here, the FDIC's regulations did not provide a standard method for institutions to pay amounts other than the regular quarterly payments.

The final rule gives each institution the option of paying double the amount of a quarterly payment, if the payment is made on a payment date (regular or alternate, as the case may be) that comes prior to the start of the calendar quarter for which it is due. The final rule specifies the methodology for making doubled payments.

3. Interest on Underpaid and Overpaid Assessments

The FDIC pays interest on amounts that insured institutions overpay on their assessments, and charges interest on amounts by which insured institutions underpay their assessments. The interest rate has been the same in either case: namely, the United States Treasury Department's current value of funds rate which is issued under the Treasury Fiscal Requirements Manual (TFRM rate) and published in the Federal Register. See 12 CFR 327.7(b).[2]

The TFRM rate is based on aged data, however, and quickly becomes obsolete in volatile interest-rate markets. For example, the rate set for January through June, 1995, was based on the average rate data from October, 1993, through September, 1994. The practical consequence is that the TFRM rate for the January-to-June period in 1995 was 3% per annum, when the actual market rate at that time was over 5% per annum.

The FDIC is replacing the TFRM rate with a rate keyed to the 3-month Treasury bill discount rate. The new rate takes effect on January 1, 1996.

4. The Assessment-Schedule Notice

Under the FDIC's regulations, the semiannual assessment rate schedule is announced in advance, along with the amount and basis for any adjustment to the rate schedule. Prior to the final rule adopted here, the announcement was to be made 45 days prior to the invoice date—that is, the date on which the FDIC issues assessment invoice notices to institutions—for the first quarter of the semiannual period to which the adjusted assessment schedule applies. 12 CFR 327.9(b)(3)(ii).

The final rule reduces the advance-notice period to 15 days.

[1] Thirty days before each regular payment date, the FDIC provides to each institution an invoice showing the amount that the institution must pay. The FDIC prepares the invoice from data that the institution has reported in its report of condition for the previous quarter. See 12 CFR 327.3(c) & (d).

[2] The Treasury Fiscal Requirements Manual is now called the Treasury Financial Manual.

B. The Final Rule

1. Payment Dates for First Payments

a. The Regular Payment Date

The final rule delays the first payment's regular payment date from December 30 of the prior year to January 2 of the current year (or, if January 2 is a holiday or weekend, the first business day thereafter). Every institution will ordinarily make its first payment on that date. In this regard, the final rule adopts the rule as proposed.

The final rule is designed to protect cash-basis institutions against the adverse consequences of having to make an extra assessment payment during 1995. The remedy is necessarily a continuing one. Accordingly, the FDIC has changed the payment date permanently.

The FDIC believes that the delay in the payment date confers a financial benefit to institutions, because they may earn additional interest on the funds they retain for the additional time. The FDIC does not consider that it is appropriate to give a benefit of this kind to some institutions but not others, however. Accordingly, the FDIC is changing the payment date for all institutions, not just for cash-basis institutions.

The FDIC further believes that most institutions have already prepared to comply with the direct-debit procedures, and will suffer no procedural disadvantage from the delayed payment date. The FDIC will therefore follow the same procedures as before in collecting the first payment.

b. The Alternate Payment Date

The FDIC recognizes, however, that some institutions may prefer the existing payment schedule, notwithstanding the fact that they will be making five payments during 1995. The final rule accommodates these institutions. The final rule provides that an institution may elect to pay its first payment for any year on an alternate payment date during the prior December. The final rule adopts the rule as proposed in this regard.

The alternate payment date is December 30 of the prior year (or, if December 30 is a holiday or a weekend, the preceding business day). The FDIC will collect payments made on that date by electronically debiting institutions' accounts, just as the FDIC collects other quarterly assessment payments.

In order to elect the December date, an institution must file a certification to that effect by the preceding November 1. The election is effective with respect to the first payment for the upcoming year, and remains in effect until terminated.

The institution must complete a pre-printed form supplied by the FDIC to make the certification. The form will be available from the FDIC's Division of Finance. The institution's chief financial officer, or an officer designated by the institution's board of directors, must sign the form. An electing institution must certify that it will pay its first assessment on the alternate payment date.

An institution may terminate its election of the December date in the same way as it makes the election: By certifying that it is terminating the election for an upcoming year. As in the case of the original election, the institution must use a pre-printed form supplied by the FDIC to make the certification, and must file the form by November 1 of the prior year. The institution will then revert to the regular payment schedule for the upcoming year and for all future years.

An institution that terminates an election may make a new election at any time.

The rule as proposed called for institutions to follow these procedures. The final rule adopts the rule as proposed in this regard.

The FDIC will not pay interest on payments made prior to the regular payment date. If an institution elects the alternate payment date, or otherwise pays an assessment before the regular payment date for that payment, the FDIC will not pay interest on the amount that is ordinarily to be paid on the regular payment date.

Of course, it is possible for an institution that makes its payment on the alternate payment date to pay an excess amount. The FDIC will pay interest on the excess amount, but not on the amount due for the quarterly payment. Furthermore, the FDIC will only pay such interest to the same extent as if the institution had made the excess payment on the regular payment date: That is, interest will not begin to run until the day after the regular payment date. Conversely, if an institution elects the alternate payment date, and underpays the amount due, the FDIC will only charge interest on the amount of the underpayment beginning on the day after the regular payment date.

The proposed rule said that the FDIC would charge and pay interest in the manner described here. The final rule adopts the proposed rule in the regard.

The FDIC believes that it is appropriate to allow the alternate payment option for two reasons. The FDIC recognizes that institutions that keep their books on an accrual basis are not materially harmed by having to pay five quarters' worth of assessments in 1995. (By the same token, these institutions are not materially harmed by delaying the payment date from December to January.) Some of these institutions may prefer to pay some or all of their first semiannual assessments on the alternate payment date for their own business reasons. The FDIC further recognizes that institutions may have arranged their affairs in the expectation that the first payment for 1996 will be due in 1995. The FDIC is providing the option of paying on the alternate payment date in order to enable these institutions to avoid unnecessary disruption and financial disadvantage.

2. Doubled Payments

The proposed rule said that, when an institution elects the alternate payment date for the first payment, the institution may further elect to pay either the amount of the first payment or twice that amount. The final rule retains this point.

One commenter suggested, however, that some institutions may want to make a doubled payment at the start of the second semiannual assessment period as well as at the start of the first one. The final rule accommodates this suggestion.

The final rule says that, whenever an institution makes a payment on a payment date (regular or alternate, as the case may be) that comes before the start of the quarter for which the payment is due, the institution may make a doubled payment. In other words, institutions may make doubled payments on March 30, June 30, September 30, and December 30.

The doubled-payment election would remain in effect from year to year until terminated, but only for the selected payment date. If an institution wished to make doubled payments for a second payment date, the institution would file another election with respect to the second date.

The procedure enables institutions to make doubled payments at the start of either or both semiannual periods, as they choose. The procedure further gives an institution with a fiscal year that starts at the beginning of the second or fourth calendar quarter the option of making a doubled payment prior to that calendar quarter.

The FDIC recognizes that cash-basis institutions may have fiscal years that do not coincide with the calendar year. The FDIC is adopting this option to give such institutions (and others) the flexibility to schedule their payments as they see fit for their own financial purposes.

A doubled payment represents an approximation of the amount due for two quarterly payments. The approximation is not intended to be exact. Growing institutions will ordinarily owe an additional amount on the next quarterly payment date; shrinking institutions will ordinarily receive a credit.

Doubled payments are not regarded as ''overpayments.'' The FDIC will not pay interest on the extra amount so paid.

The final rule differs from the proposed rule in that the procedure for electing the doubled-payment option is split off from the procedure for electing the alternate payment date. But the two procedures are substantially alike.

An institution that wishes to pay a doubled amount must file a certification to that effect prior to the relevant regular payment date. For the first payment, the certification must be filed by the preceding November 1 (the same date as that for filing the certification for the alternate payment date). For the other quarterly payments, the certification must be filed by the first day of the month prior to the relevant regular payment date: i.e., February 1, May 1, August 1, and November 1, respectively. The doubled-payment election is effective with respect to the payment made on the relevant payment date and to all payment dates thereafter, until terminated.

The institution must complete a pre-printed form supplied by the FDIC to make the certification. The form will be available from the FDIC's Division of Finance. The institution's chief financial officer, or an officer designated by the institution's board of directors, must sign the form. An electing institution must certify that it will pay the doubled amount on the relevant payment date.

An institution may terminate its election of the doubled-payment option by certifying that it is terminating the election as of a particular payment date. The institution must use a pre-printed form supplied by the FDIC to make the certification, and must file the form by the prior February 1, May 1, August 1, or November 1, as appropriate. The institution will then pay the regular amount on the relevant payment date and thereafter.

An institution that terminates the doubled-payment election may make a new election at any time. The new election is subject to the same deadline.

3. Interest on Underpaid and Overpaid Assessments

The FDIC is replacing the interest rate that is applied to underpaid assessments and overpaid assessments. The previous rate was the TFRM rate (which is now 5.00% per annum), which is compounded annually. The FDIC is replacing this rate with a more market-sensitive rate: the coupon equivalent rate set on the 3-month Treasury bill at the last auction held by the U.S. Treasury Department before the start of each quarter. Interest will be compounded as of the first day of each subsequent quarter. Currently, this rate is 5.51% per annum (see below). The final rule adopts the rule as proposed in this regard.

Interest begins to run on the day after the regular payment date and continues to run through the day on which the debt is paid. 12 CFR 327.7(a)(3). The final rule changes the regular payment date for the first payment for 1996 to January 2. Accordingly, interest on any overpayments or underpayments due on that date will begin to run on January 3 (even if an institution has elected the alternate payment date).

The next payment date is March 29 (March 30 being a Saturday). The FDIC will ordinarily collect or repay the full amount of the January overpayment or underpayment (plus interest) on that date by adjusting the payment then due. Accordingly, interest on the January overpayment or underpayment will run through March 29.

The initial interest rate is the rate for the quarter for which (but not generally in which) the payment will be made. The payment date for the first quarter of 1996 is January 2, which falls within that quarter. But the payment dates for the second, third, and fourth calendar quarters are March 30, June 30, and September 30, respectively (and if the regular payment date falls on a weekend or holiday, the payment date is the preceding business day). Each of these payment dates falls in the quarter preceding the quarter for which the payment is due. Nevertheless, the initial interest rates on any underpayments or overpayments of payments due on these dates are the rates for the second, third, and fourth quarters, respectively.

The final rule differs slightly from the proposed rule in setting the interval during which the appropriate interest rate will be applied. The proposed rule reset the rate at the end of each calendar quarter, thereby introducing needless complexity, especially when the payment date came after the end of the calendar quarter. The final rule uses the quarterly-collection cycle to set the structure for resetting the rate. The FDIC is making this change in order to simplify and clarify the interest-rate procedure.

Under the final rule, the initial interest rate on an overpayment or underpayment applies to the amount in question beginning on the day after the regular payment date (but not the alternate payment date) and ending on the next regular payment date (but not the alternate payment date). The FDIC resets the rate on the day following that next regular payment date. If any portion of the overpayment or underpayment (including interest) remains outstanding at that time, the FDIC applies the new rate to the outstanding amount through the following regular payment date (or until the overpayment or underpayment is discharged, whichever comes first).

If the rate had been in effect for the third quarter in 1995, the FDIC would have computed interest on an overpayment or underpayment of an amount due for that quarter as follows:

The FDIC would have based the rate on the average rate for the 3-month Treasury bill set at the June 26, 1995, auction (settling on June 29, 1995). On a bank discount rate basis (360-day year with no compounding), the auction resulted in a 5.35% average rate. This converts to a coupon equivalent rate of 5.51% according to the United States Treasury Department.

June 30 is the payment date. On the following day (July 1) the FDIC would have begun to apply the 5.51% rate to overpayments or underpayments collected on June 30. The outstanding amount would ordinarily be repaid on the next collection day, which falls on September 29 (September 30 being a Saturday).

A $1 million overpayment collected on June 30 and refunded on September 29 would have generated 91 days of interest: (91/366) X .0551 X $1,000,000 = $13,699.73.[3]

The FDIC is adopting the three-month Treasury rate because it is a published rate that more closely (but not necessarily exactly) approximates the market value of funds both for the institution and for the FDIC. If an institution overpays its assessment, the FDIC will return to the institution the benefit that the institution would have been able to obtain by investing the excess amount. Conversely, if an institution underpays its assessment, the institution will have to restore to its fund—the Bank Insurance Fund (BIF) or the Savings Association Insurance Fund (SAIF)—the economic value of the interest that the fund would otherwise have earned.

The FDIC will apply the new rate (and the quarterly compounding) prospectively, not retroactively. The FDIC will apply the new rate to quarterly payments due for the first quarter of 1996 and thereafter, and to

[3] The third calendar quarter in 1995 falls within the leap-year cycle that begins on March 1, 1995, and ends on February 29, 1996.

any outstanding amounts owed to or by the FDIC on and after January 1, 1996. For amounts owed to or by the FDIC during intervals prior to January 1, 1996, the FDIC will continue to apply the then-current TFRM rate (and the annual compounding) for those intervals.

4. The Assessment-Schedule Notice

The FDIC's assessment regulation specifies that the FDIC must announce in advance the semiannual assessment rate schedule for BIF members, together with the amount and basis for any adjustment to the rate schedule. The FDIC must make the announcement 45 days before the invoice date for the first payment of the semiannual period. 12 CFR 327.9(b)(3)(ii).

The FDIC is amending this provision by reducing the advance-notice period to 15 days. The amendment was not proposed for comment, and is unrelated to the other amendments made by the final rule. The primary reason for this technical amendment is to enable the FDIC to use more current financial information to determine the assessment rate schedule for the upcoming semiannual period.

Under the final rule, the announcement date for the first semiannual period moves from October 16 to November 15. The announcement date for the second semiannual period moves from April 15 to May 15.

When the FDIC adopted the 45-day advance notice period, the FDIC's primary concern was to assure that there would be ample time after the time the Board established an assessment rate schedule for the staff to provide and issue assessment invoices to insured institutions. When the Board issued the proposed and final rules on the BIF assessment regulation it assumed the invoice preparation process would take up to 45 days.

The FDIC's operating systems have improved, however. The FDIC now believes that the invoice preparation process can be completed within a 15-day period. Reducing the advance-notice period from 45 days to 15 days would create an opportunity for the FDIC to utilize additional information as it becomes available during the intervening 30 days. This information would include, but would not be limited to, the following:

- Updated fund balance information, which is calculated monthly.
- Updated market information, including financial-market data and economic conditions.
- Call Report data that reflect current revisions and corrections and, therefore, are more complete.

A shortening of the timetable for announcing a change in assessment rates from 45 days to 15 days would provide the FDIC with additional information that could be used to determine the appropriate assessment rates for the upcoming semiannual assessment period. The FDIC could utilize the relevant information to arrive at a more informed judgment of the assessment rates necessary to maintain the BIF reserve ratio at the statutorily mandated Designated Reserve Ratio, and to set the ''adjustment factor'' for changes in the assessment rate schedule.

It must be recognized that the institutions themselves will still have 45 days' notice from the time the FDIC notifies them of the assessment rate schedule to the time the payment is due. 12 CFR 327.3. For example, the announcement notice for the payment due on January 1, will be provided no later than November 15.

C. Summary of Comments

The FDIC's Board of Directors received comments for a period of 30 days. The Board considered that the shorter comment period was necessary in order to implement the proposal within the available time-frame.

The FDIC received 15 comments on the proposed rule: eight from banks; five from bankers' associations; and two from bank holding companies.

1. Payment Dates for First Payments

a. The Regular Payment Date

Seven banks, all five bankers' associations, and one holding company explicitly supported the January payment date.

The remaining bank supported it implicitly. The bank did not address the January payment date. Instead, the bank called for equivalent changes to be made to the other payment dates: it said that the payment dates for the second, third, and fourth calendar quarters should each be moved to the start of those quarters. The FDIC believes that a change of this kind raises questions of its own that would need to be the subject of public comment. Accordingly, the FDIC is not adopting the suggestion at this time, but is taking the issue under advisement.

The other holding company did not expressly comment on this matter. The holding company did not object to the January payment date. The holding company merely noted that it would probably elect the alternate payment date for its subsidiaries.

b. The Alternate Payment Date

Five banks, all five bankers' associations, and one bank holding company explicitly supported the proposal to allow institutions to make their first payments on the alternate payment date.

The bank holding company observed that it would have to file a certification for each of its insured institutions. The holding company did not ask the FDIC to alter the proposal on this point, and the FDIC has not done so. Nevertheless, the FDIC will take under advisement the issue of allowing bank holding companies to file the necessary certifications on behalf of their banking subsidiaries.

One bankers' association remarked that the term ''prepayment''—which was used in the proposed rule—might lead to adverse tax consequences, and suggested labeling the earlier payment as an ''alternate payment.'' The FDIC has adopted this suggestion.

One bank objected to the alternate payment date. The bank said it could not see why any financial institution would avail itself of the option. The bank further declared that banks would be required to choose the option, and the FDIC would be required to keep track of the choices, as well as contend with two payment schedules. The bank declared that the option would thereby create unnecessary work for both regulators and regulated institutions—and could even lead to the alternate payment date eventually becoming required once more. The FDIC does not consider, however, that the alternate payment date creates excessive work either for itself or for insured institutions. The FDIC further believes that many institutions may well take advantage of the alternate payment date, and that the benefits of this option far outweigh its costs.

Two banks and one holding company did not address this issue.

One bank and one bank holding company said the election should remain in effect until revoked. The rule as proposed so provided; the final rule does so as well.

2. Doubled Payments

Four banks, three bankers' associations, and one bank holding company expressly supported the doubled-payment option.

One bankers' association asked the FDIC to make the doubled-payment option available to institutions that make their first quarterly payment on the regular January payment date, and not merely to those that elect the alternate December payment date. The FDIC has considered this matter and has concluded that few or no institutions would want to make a doubled payment after the beginning of a calendar quarter.

Accordingly, the FDIC believes that it is sufficient to offer the doubled-payment option for the December payment date.

The same bankers' association suggested that the FDIC should offer the doubled-payment option for payments due in the second semiannual period too. The FDIC has adopted and expanded upon this suggestion, by making the doubled-payment option available on all payment dates (including the alternate payment date) that occur before the start of the quarter to which the payment applies.

The other commenters did not focus on the doubled-payment issue.

3. Interest on Underpaid and Overpaid Assessments

None of the commenters objected to the FDIC's proposal to cease using the TFRM rate.

Five banks, two bankers' associations, and one bank holding company supported the FDIC's proposal to use the coupon equivalent rate on the 3-month Treasury bill.

Two banks, two bankers' associations, and one bank holding company did not address this point.

One banker's association said that an appropriate interest rate should meet three criteria:

—The rate should have a neutral impact on business decisions;
—The rate should be reasonably stable; and
—The rate should be publicly available.

The FDIC considers that the rate adopted in this final rule—namely, the coupon equivalent rate set on the 3-month Treasury bill at the last auction held by the U.S. Treasury Department before the start of each quarter—meets these criteria.

The bankers' association called upon the FDIC to use the Federal Funds rate averaged over the quarter of the overpayments and underpayments; one bank also called on the FDIC to adopt the Federal Funds rate. The bank said that the Federal Funds rate was the rate it would have received on the funds but for the overcharge. The bankers' association likewise said that the Federal Funds rate represents the true alternative cost of funds to insured institutions. The FDIC considers, however, that it is more appropriate to use the rate set at the Treasury auction because the FDIC invests its funds with the Treasury Department, and not in the Federal Funds market.

The bankers' association pointed out that any mechanism for selecting a rate that is based on a single date can be subject to volatility. The bankers' association suggested that, as an alternative, the FDIC should consider using an average of the rates set in the last four weekly Treasury auctions prior to the start of a quarter. The bankers' association said the one-month average would produce a more stable, yet still current, market rate. The FDIC considers, however, that it is more appropriate to use the rate generated in the most recent Treasury auction because that rate more closely represents the rate in effect at the time the FDIC collects the overpayment or underpayment.

4. The Assessment-Schedule Notice

The FDIC did not ask for comments on this amendment.

D. Effect on the Insurance Funds

1. Payment Dates for First Payments

a. The Regular Payment Date

The shift in the payment date for first payments is not expected to have any substantial adverse impact on the insurance funds.

In the case of the BIF, the maximum amount of the interest foregone as a result of delaying the collection is not expected to exceed $600,000. The actual amount of the foregone interest is likely to be considerably less, as many BIF members can be expected to take advantage of the alternate payment date. Accordingly, the FDIC considers that the BIF will not suffer any material harm by the loss of this revenue.

In the case of the SAIF, the foregone interest is not expected to exceed $108,000. Here again, the actual amount is likely to be considerably less. While this sum is not insubstantial, the FDIC believes that its loss will not materially harm the SAIF under current conditions, and will not impede the SAIF's progress toward recapitalization.

b. The Alternate Payment Date

The alternate payment date would benefit the funds. The funds would receive payments from institutions that elect this option several days before the funds would otherwise do so. The funds would therefore have the use of the money, without being obliged to pay interest.

2. Doubled Payments

The doubled-payment option, like the alternate payment date, would benefit the funds. The funds would receive payments in advance, and would not be required to pay interest on them.

3. Interest on Underpaid and Overpaid Assessments

The change from the TFRM rate to the new rate is not expected to have any material adverse impact on either the BIF or the SAIF. The net yearly amount routinely subject to the interest rate—that is, the net of the amounts that institutions routinely overpay, minus the amounts they routinely underpay—is approximately $2,000,000 per year in the aggregate for both funds.

This amount represents a net overpayment. It is outstanding for 60 days on average; accordingly, at the TFRM rate, the FDIC has ordinarily paid out a net annual amount of approximately $16,000 in interest. Under the new rate, the FDIC will pay out approximately $18,000 yearly—for a net change to the funds of just $2,000.

4. The Assessment-Schedule Notice

The change in the assessment-schedule notice would not affect the funds.

E. Assessment of the Reporting or Record-Keeping Requirements

1. Payment Dates for First Payments

a. The Regular Payment Date

The final rule delays the payment date for the first payment of each year, without changing the procedures that institutions must follow in order to make that payment. The FDIC considers that, in this regard, the final rule's reporting or record-keeping requirements will be minimal.

b. The Alternate Payment Date

The FDIC further believes that the burden of the one-time filing to elect the alternate payment date will be so small as to be immaterial. The final rule does not require the institution to retain the certification form, or to file a new certification each year, or to keep any other new records.

2. Doubled Payments

In the same vein, the FDIC believes that the burden of the one-time filing to elect the doubled-payment option will be so small as to be immaterial. The final rule does not require the institution to retain the certification form, or to file a new certification each year, or to keep any other new records.

3. Interest on Underpaid and Overpaid Assessments

The changes in the interest rate will have no effect on the reporting or record-keeping requirements of insured institutions.

4. The Assessment-Schedule Notice

The change in the assessment-schedule notice would not affect the reporting or record-keeping requirements of insured institutions.

F. Effect on Competition

The regulation is not expected to have any effect on competition among insured depository institutions.

G. Relationship of the Regulation to Other Government Regulations

The regulation is not expected to have any impact on other government regulations.

H. Cost-Benefit Analysis

1. Payment Dates for First Payments

a. The Regular Payment Date

The FDIC believes that the January payment date will not impose any new costs on institutions. On the contrary, it will benefit them by allowing them to retain the use of their funds for an extra interval. The final rule will provide a special benefit to cash-basis institutions by eliminating an expense they will otherwise have sustained in 1995.

b. The Alternate Payment Date

The alternate payment date will provide significant benefits. The FDIC believes that institutions will elect the alternate payment date only if doing so is advantageous to them. On the other hand, the only costs incurred by electing institutions are the costs of signing and submitting the certification. The FDIC considers that those costs are not likely to be material.

2. Doubled Payments

In the same vein, institutions will elect the doubled-payment option only if doing so will provide a significant benefit to them. The only costs incurred by electing institutions are the costs of signing and submitting the certification, which are not likely to be material.

3. Interest on Underpaid and Overpaid Assessments

The change from the TFRM rate to the new rate will likewise impose minimal costs on institutions. The net amount at issue will not be material in the aggregate. For any particular institution, the net effect of the change will be impossible to predict, because the relationship between the TFRM rate and the new rate varies from one interval to another.

Accordingly, the FDIC believes that the benefits of the final rule will likely outweigh any costs it might impose.

4. The Assessment-Schedule Notice

The change in the assessment-schedule notice does not impose any direct costs on insured institutions. Indirectly, the change is expected to provide a benefit to them, by reducing the likelihood of errors in the assessment process.

I. Other Approaches Considered

1. Retaining the Status Quo

a. The Payment Schedule

The FDIC considered retaining the current schedule without change. As noted above, however, the FDIC recognizes that it was responsible for establishing the original December 1995 payment date. The FDIC further recognizes that cash-basis institutions—ones that keep their financial records and make their financial reports on a cash basis—might be adversely affected if they were required to make a payment on that date. The FDIC believes that, if it can mitigate harm of this kind by modifying its regulations, it should make every effort to do so.

b. Interest on Underpaid and Overpaid Assessments

The FDIC also considered retaining the TFRM rate without change. The FDIC believed, however, that the rigidities and delays inherent in the TFRM rate militate against retaining this interest-rate standard.

2. Alternative Proposal

a. The Payment Schedule

The FDIC considered retaining the current payment schedule, while giving cash-basis institutions the option of electing to defer their first payment until January.

This alternative proposal focused narrowly on the one-time disadvantage that cash-basis institutions will suffer in 1995, and aimed at protecting those institutions against that disadvantage. Accordingly, the alternative proposal did not offer the deferred-payment option to non-cash-basis institutions, and did not offer the option to any institutions after 1995.

Under the alternative proposal, institutions that exercised the option by November 1, 1995, would have made their first payment for 1996 on the first business day following January 1, 1996, and would have continued thereafter to make the first payment on the first business day of the year. Institutions that failed to exercise the option by November 1, 1995, would have had to make all their payments according to the regular payment schedule.

After an institution had made the election, the institution could have terminated the election—thereby reverting to the regular payment schedule—by so certifying to the FDIC in writing. For the termination to be effective for a given year, the institution would have had to provide the certification to that effect to the FDIC no later than November 1 of the prior year. The termination would have been permanent. The FDIC would not have charged interest on the delayed payments.

The FDIC has chosen to issue the final rule, rather than the alternative proposal, for two reasons. The approach set forth in the final rule is more evenhanded: all institutions will have the benefit of the later payment date, and all will have an equal opportunity to earn additional interest on their funds. The final rule also provides greater flexibility to all institutions to plan the timing of their expenses.

b. Interest on Underpaid and Overpaid Assessments

The FDIC also considered replacing the single TFRM rate with a pair of rates: namely, the composite yield at market of the BIF and SAIF portfolios, respectively. These rates would have been determined retrospectively, because they are generated by looking at the interest that the portfolios actually earned. For the second quarter of 1995, the rates would have been 5.70% for the BIF and 5.61% for the SAIF.

The FDIC would have adopted the ''composite yield at market'' rate on the theory that such a rate would represent the FDIC's actual benefits (or costs) from the overcollection (or undercollection) of assessments. If an institution overpaid its assessment, the FDIC would have returned to the institution the full benefit that the FDIC had received from the overpayment. Conversely, if an institution underpaid its assessment, the institution would have restored to its fund the economic value of the interest the fund will otherwise have earned, making the fund whole.

The FDIC has adopted the new rate, rather than the ''composite yield at market'' rate, for two reasons. First, the new rate is based on a published rate, not on proprietary information, and is easier for people in the private sector to determine. Second, the new rate is intended to approximate the market value of the funds—that is, the interest that an institution earned or may have earned by investing the funds—rather than the vagaries of the investment portfolios of the BIF and the SAIF.

J. Effective Dates

1. Payment Dates for First Payments

a. The Regular Payment Date

The FDIC is making the change in the payment date for the first payment effective upon publication in the Federal Register. The Board of Directors

has determined that the new payment schedule ''relieves a restriction'' within the meaning of 5 U.S.C. 553(d)(1), because it delays the date on which the FDIC regularly collects the first payments, and thereby allows institutions to retain their funds for an extra interval. The Board of Directors has further determined that there is ''good cause'' to make this aspect of the final rule effective upon adoption because institutions should have as much time as possible to adjust to the new collection schedule and to decide whether to take advantage of the election options provided by the final rule.

The FDIC is making this revision to the payment schedule effective at once, rather than delaying the effective date for 30 days, see 5 U.S.C. 553(d).

b. The Alternate Payment Date

The Board of Directors has likewise determined that there is ''good cause'' to make the final rule effective upon adoption with respect to the availability of the alternate payment date because institutions should have as much time as possible to decide whether to take advantage of this option.

The FDIC is also making this revision to the payment schedule effective at once, rather than delaying the effective date for 30 days, *see* 5 U.S.C. 553(d).

2. Doubled Payments

The Board of Directors has determined that the doubled-payment option ''relieves a restriction'' within the meaning of 5 U.S.C. 553(d)(1), because it gives institutions additional flexibility to arrange their financial affairs. In addition, the Board of Directors has determined that there is ''good cause'' to make the final rule effective upon adoption with respect to the doubled-payment option because institutions should have as much time as possible to decide whether to take advantage of this option.

The FDIC is making this revision to the payment schedule effective at once, rather than delaying the effective date for 30 days, see 5 U.S.C. 553(d).

3. Interest on Underpaid and Overpaid Assessments

The FDIC is making the revision of the interest rate effective 30 days after publication of the final rule in the Federal Register, in accordance with 5 U.S.C. 553(d).

4. The Assessment-Schedule Notice

The FDIC considers that the decision to establish an advance-notice period—and, accordingly, the decision to shorten the period—is a rule of ''agency * * * practice'' within the meaning of the Administrative Procedure Act (5 U.S.C. 553), and that notice and comment are therefore not required. The advance-notice period is not required by statute. The FDIC has adopted the advance-notice period *sua sponte*, reflecting ''the FDIC's intent promptly to make public the basis for any Board decision to adjust the rate schedule.'' See 60 FR 42680, 42740.

The FDIC designed the original advance-notice period with its own internal constraints in mind, and those constraints have changed. Accordingly, the Board of Directors has determined that there is good cause to shorten the advance-notice period without the notice and public participation that are ordinarily required by the Administrative Procedure Act.

Furthermore, the Board of Directors has determined that good cause exists for waiving the customary 30-day delayed effective date. The FDIC has only recently made the determination that the BIF has recapitalized. The Board considers that it is particularly important that the revenue to be generated in the current assessment cycle will accurately reflect the current status of the BIF and the assessment bases of the institutions.

The FDIC is therefore making this revision to the payment schedule effective at once, rather than delaying the effective date for 30 days, see 5 U.S.C. 553(d).

K. Paperwork Reduction Act

The proposed rule would have provided that, if an institution selected the alternate payment date, the institution could then select the doubled-payment option as well. Because the two elections were linked, the FDIC developed a single form for them: the form for electing the alternate payment date also asked institutions to specify the amount they would pay.

The FDIC was concerned that, by asking for this additional piece of information, the FDIC was engaging in the ''collection of information'' within the meaning of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Accordingly, the FDIC asked the Office of Management and Budget (OMB) to review the proposal and submitted the proposed form to OMB for approval. OMB has approved the collection of information and the form.

The final rule does away with the need for OMB's review and approval, however. The final differs from the proposed rule by separating the procedure for selecting the alternate payment date from the procedure for selecting the doubled-payment option. Each procedure has its own form. Each form contains the appropriate certification and specifies the initial payment with respect to which the institution is making the election.

An institution that signs a form does no more than identify itself. Self-identification in this manner does not constitute ''information'' within the meaning of the Paperwork Reduction Act.

L. Regulatory Flexibility Act

The Board hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The final rule mitigates a cost incurred by certain smaller entities—namely, cash-basis depository institutions—that arises from the one-time shift from the semiannual assessment process to the new quarterly assessment schedule. The final rule further confers a benefit on all institutions (including smaller institutions) by allowing them to earn interest on their funds for an additional interval.

To the extent that an institution might incur a cost in connection with preparing and submitting the paperwork necessary to make the election, the FDIC believes that the cost will be minimal, and will be far outweighed by the resulting benefit. In any case, each institution's decision to make the election is purely voluntary: The final rule does not compel an institution to accept any cost of this kind.

List of Subjects in 12 CFR Part 327

Bank deposit insurance, Banks, Banking, Freedom of information, Reporting and recordkeeping requirements, Savings associations.

For the reasons stated in the preamble, the Board of Directors of the FDIC is amending 12 CFR Part 327 as follows:

PART 327—ASSESSMENTS

1. The authority citation for part 327 continues to read as follows:

Authority: 12 U.S.C. 1441, 1441b, 1817–1819.

2. Section 327.3 is amended by revising paragraphs (c)(2), (d)(2), (e), and (f) and by adding paragraphs (c)(3) and (j) to read as follows:

§ 327.3 Payment of semiannual assessments.

* * * * *

(c) * * *

(2) *Payment date and manner.* Except as provided in paragraphs (c)(3) and (j)

of this section, the Corporation will cause the amount stated in the applicable invoice to be directly debited on the appropriate regular payment date from the deposit account designated by the insured depository institution for that purpose, as follows:

(i) In the case of the first quarterly payment for a semiannual period that begins on January 1, the regular payment date is January 2; and

(ii) In the case of the first quarterly payment for a semiannual period that begins on July 1, the regular payment date is the preceding June 30.

(3) *Alternate payment date.*—(i) *Election.* An insured depository institution may elect to pay the first quarterly payment for a semiannual period that begins on January 1 of a current year on the alternate payment date. The alternate payment date is December 30 of the prior year.

(ii) *Certification.* (A) In order to elect the alternate payment date with respect to a current semiannual period, an institution must so certify in writing in advance. In order for the election to be effective with respect to the current semiannual period, the Corporation must receive the certification no later than the prior November 1.

(B) The certification shall be made on a pre-printed form provided by the Corporation. The form shall be signed by the institution's chief financial officer or such other officer as the institution's board of directors may designate for that purpose. The form shall be sent to the attention of the Chief of the Assessment Operations Section of the Corporation's Division of Finance. An institution may obtain the form from the Corporation's Division of Finance.

(C) The election of the alternate payment date shall be effective with respect to the semiannual period specified in the certification and thereafter, until terminated.

(iii) *Termination.* (A) An insured depository institution may terminate its election of the alternate payment date, and thereby revert to the regular payment date, by so certifying in writing to the Corporation in advance. In order for the termination to be effective for a current semiannual period, the Corporation must receive the termination certification no later than the prior November 1.

(B) The termination certification shall be made on a pre-printed form provided by the Corporation. The form shall be signed by the institution's chief financial officer or such other officer as the institution's board of directors may designate for that purpose. The form shall be sent to the attention of the Chief of the Assessment Operations Section of the Corporation's Division of Finance. An institution may obtain the form from the Corporation's Division of Finance.

(C) The termination shall be permanent, except that an institution that has terminated an election may make a new election under paragraph (c)(3)(i) of this section.

(iv) *Manner of payment.* Except as provided in paragraph (j) of this section, if an insured depository institution elects the alternate payment date, the Corporation will cause the amount stated in the applicable invoice to be directly debited on the alternate payment date from the deposit account designated by the insured depository institution for that purpose.

(d) *Second-quarterly payment.* * * *

(2) Except as provided in paragraph (j) of this section, the Corporation will cause the amount stated in the applicable invoice to be directly debited on the appropriate regular payment date from the deposit account designated by the insured depository institution for that purpose, as follows:

(i) In the case of the second quarterly payment for a semiannual period that begins on January 1, the regular payment date is March 30; and

(ii) In the case of the second quarterly payment for a semiannual period that begins on July 1, the regular payment date is September 30.

(e) *Necessary action, sufficient funding by institution.* Each insured depository institution shall take all actions necessary to allow the Corporation to debit assessments from the insured depository institution's designated deposit account. Each insured depository institution shall, prior to each payment date indicated in paragraphs (c)(2), (c)(3)(i), and (d)(2) of this section, ensure that funds in an amount at least equal to the invoiced amount (or twice the invoiced amount if the insured depository institution has elected the doubled-payment option pursuant to paragraph (j) of this section) are available in the designated account for direct debit by the Corporation. Failure to take any such action or to provide such funding of the account shall be deemed to constitute nonpayment of the assessment.

(f) *Business days.* If a payment date specified in paragraph (c)(2)(i) falls on a date that is not a business day, the applicable date shall be the following business day. If a payment date specified in paragraph (c)(1), (c)(2)(ii), (c)(3)(i), or (d)(2) of this section falls on a date that is not a business day, the applicable date shall be the previous business day.

* * * * *

(j) *Doubled-payment option.*—(1) *Election.* In the case of a quarterly payment to be made on March 30, on June 30, on September 30, or on the alternate payment date, an insured depository institution may elect to pay twice the amount of such quarterly payment.

(2) *Certification.* (i) In order to elect the doubled-payment option with respect to a selected payment date, an institution must so certify in writing to the Corporation in advance. In order for the election to be effective, the Corporation must receive the certification by the following dates: in the case of a quarterly payment to be made on March 30, June 30, or September 30, the Corporation must receive the certification no later than the prior February 1, May 1, or August 1, respectively; in the case of a quarterly payment to be made on the alternate payment date, the Corporation must receive the certification by the prior November 1.

(ii) The certification shall be made on a pre-printed form provided by the Corporation. The form shall be signed by the institution's chief financial officer or such other officer as the institution's board of directors may designate for that purpose. The form shall be sent to the attention of the Chief of the Assessment Operations Section of the Corporation's Division of Finance. An institution may obtain the form from the Corporation's Division of Finance.

(iii) The election shall be effective with respect to the selected quarterly payment for the year specified in the certification and with respect to subsequent quarterly payments made on the selected payment date in subsequent years, until the election is terminated.

(3) *Termination.* (i) An insured depository institution may terminate its election of the doubled-payment option for a selected payment date by so certifying in writing to the Corporation in advance. In order for the termination to be effective, the Corporation must receive the termination certification by the following dates: In the case of a quarterly payment to be made on March 30, June 30, or September 30, the Corporation must receive the termination certification no later than the prior February 1, May 1, or August 1, respectively; in the case of a quarterly payment to be made on the alternate payment date, the Corporation must receive the termination certification by the prior November 1.

(ii) The termination certification shall be made on a pre-printed form provided by the Corporation. The form shall be signed by the institution's chief financial officer or such other officer as

the institution's board of directors may designate for that purpose. The form shall be sent to the attention of the Chief of the Assessment Operations Section of the Corporation's Division of Finance. An institution may obtain the form from the Corporation's Division of Finance.

(iii) The termination shall be permanent, except that an institution that has terminated its election of the doubled-payment option for a selected payment date may make a new election.

(4) *Manner of payment.* If an insured depository institution elects the doubled-payment option for a selected payment date, the Corporation will cause an amount equal to twice the amount stated in the applicable invoice to be directly debited on the selected payment date from the deposit account designated by the insured depository institution for that purpose.

3. Section 327.7 is amended by revising paragraphs (a)(2), (a)(3), and (b) and adding paragraph (c) to read as follows:

§ 327.7 Payment of interest on assessment underpayments and overpayments.

(a) * * *

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

(ii) When an institution elects the alternate payment date pursuant to § 327.3(c)(3), or otherwise pays an amount due on a regular payment date before that date, the payment of the invoiced amount prior to the regular payment date shall not be regarded as an overpayment of an assessment.

(iii) When an institution elects the doubled-payment option pursuant to § 327.3(j), the payment of any amount in excess of the invoiced amount shall not be regarded as an overpayment of an 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(c)(2) and (d)(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(c)(2) and (d)(2), and ends on the immediately following regular payment date.

(b) *Rates after the first payment date in 1996.* (1) On and after January 3, 1996, 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 (whether regular or alternate) 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.

(c) *Rates prior to the first payment date in 1996.* Through January 3, 1996—

(1) The interest rate will be the United States Treasury Department's current value of funds rate which is issued under the Treasury Fiscal Requirements Manual (TFRM rate) and published in the Federal Register;

(2) The interest will be calculated based on the rate issued under the TFRM for each applicable period and compounded annually;

(3) For the initial year, the rate will be applied to the gross amount of the underpayment or overpayment; and

(4) For each additional year or portion thereof, the rate will be applied to the net amount of the underpayment or overpayment after that amount has been reduced by the assessment credit, if any, for the year.

4. Section 327.9 is amended by removing the number ''45'' in paragraph (b)(3)(ii) and adding in lieu thereof the number ''15''.

By order of the Board of Directors.

Dated at Washington, D.C. this 26th day of September, 1995.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 95–24245 Filed 9–28–95; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–ACE–07]

Amendment to Class E Airspace; Clay Center, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E airspace area at Clay Center, KS to accommodate a planned Standard Instrument Approach Procedure (SIAP) based on the Global Positioning System (GPS). This action will provide additional controlled airspace for aircraft executing the SIAP to Clay Center Municipal Airport.

EFFECTIVE DATE: 0901 UTC, January 4, 1996.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Air Traffic Operations Branch, ACE–530C, Federal Aviation Administration, 601 E. 15th St., Kansas City, MO 64106; telephone (816) 426–3408.

SUPPLEMENTARY INFORMATION:

History

On July 25, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by modifying the Class E airspace area at Clay Center, KS (60 FR 37972). The proposed action would provide additional controlled airspace to accommodate a GPS SIAP to Runway 17 at the Clay Center Airport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending from 700 feet or more above the surface of the earth are published in FAA Order 7400.9C, par. 6005, dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR