SUPPORTING STATEMENT
ASSESSMENT RATE ADJUSTMENT GUIDELINES FOR LARGE AND HIGHLY COMPLEX INSTITUTIONS – REQUESTS FOR ADJUSTMENT

INTRODUCTION

The FDIC is requesting OMB approval for a collection of information related to Proposed Assessment Rate Adjustment Guidelines for Large and Highly Complex Institutions that would allow a large and highly complex insured depository institution to request that the FDIC make an adjustment to its total score determined under the large institution assessment scorecard or the highly complex institution assessment scorecard. The notice of proposed guidelines and request for comment appears at 76 Fed. Reg. 21,256 (April 15, 2011).

Under the proposal, institutions could submit a written request for an adjustment to the FDIC's Director of the Division of Insurance and Research in Washington, D.C. Similar to FDIC-initiated adjustments, an institution's request for an adjustment would be considered only if it is supported by evidence of a material risk or risk-mitigating factor that is not adequately accounted for in the scorecard. The FDIC would consider these requests as part of its ongoing effort to identify and adjust scores that require adjustment. An institution-initiated request would not preclude a subsequent request for review (under 12 CFR § 327.4(c)) or appeal pursuant to the assessment appeals process.

A. JUSTIFICATION

1. Circumstances and Need

The FDIC's assessment authority is set forth in Section 7 of the Federal Deposit Insurance Act, 12 U.S.C. § 1817(b) and (c). Pursuant to this statutory authority, the FDIC recently promulgated regulations that revamped the assessment system for large and highly complex insured depository institutions. (76 Fed. Reg. 10,672 (Feb. 25, 2011)). These regulations also set out the process for making adjustments to the total score of these institutions. (76 Fed. Reg. at 10,714, to be codified at 12 C.F.R. § 327.9(b)(3)). Further, the regulations set out the parameters of the adjustment process, including the scorecard point range for adjustments (up or down a maximum of 15 points), the requirement that the FDIC provide the institution and its primary federal regulator with notice and an opportunity to respond when proposing an upward adjustment or removal of a previously implemented downward adjustment, the requirement that the FDIC consider the response of the institution and its primary federal regulator, and the ability of the FDIC to make adjustments without notice under limited circumstances. In the preamble to the recent rulemaking, the FDIC stated that it would not adjust assessment rates for large and highly complex institutions until updated guidelines were published for comment and approved by the FDIC Board of Directors. 76 Fed. Reg. at 10,699.

The proposed guidelines would supersede the large bank pricing adjustment guidelines published by the FDIC on May 15, 2007 (the 2007 Guidelines) (72 Fed. Reg. 27,122 (May 14, 2007)). The 2007 Guidelines set out the adjustment process for the large bank assessment system then in effect and contain analytics that do not apply to the revised large bank pricing system (the new regulatory scorecards capture risks previously caught through the adjustment process). Consequently, new analytical guidelines are being proposed. The procedural aspects of the 2007 Guidelines would remain largely unchanged, except for the inclusion of a new process through which large and highly complex institutions could - for the first time - request an assessment adjustment from the FDIC. As of December 31, 2010, 104 insured depository institutions would qualify as large or highly complex.

Under the proposed guidelines, the FDIC would – proactively – focus on identifying institutions for which a combination of risk measures and other information suggests either a materially higher or lower risk than their total scores indicate. The FDIC would primarily focus on two types of information in determining whether to make a large bank adjustment: a scorecard ratio or measure that exceeds the maximum cutoff value for a ratio or measure or is less than the minimum cutoff value for a ratio or measure along with the degree to which the ratio or measure differs from the cutoff value (scorecard measure outliers); and information not directly captured in the scorecard, including complementary quantitative risk measures and qualitative risk considerations. Adjustments would be made only if the comprehensive analysis of an institution's risk, generally based on these two types of information, and the institution's relative risk ranking, warrant a meaningful adjustment of the institution's total score (generally, an adjustment of five points or more on the scorecard).

The FDIC would consult with an institution's primary federal regulator and appropriate state banking supervisor before making any decision to adjust an institution's total score (and before removing a previously implemented adjustment).

The FDIC would give institutions advance notice of any decision to make an upward adjustment to a total score, or to remove a previously implemented downward adjustment. The notice would include the reasons for the proposed adjustment or removal, the size of the proposed adjustment or removal, specify when the adjustment or removal would take effect, and provide institutions with up to 60 days to respond.

The FDIC would re-evaluate the need for total score adjustments on a quarterly basis.

The FDIC proposal would allow institutions to make a written request to the FDIC for an adjustment. In making such a request, the institution would provide support by including evidence of a material risk or risk-mitigating factor that is not adequately accounted for in the scorecard. In this way, the FDIC will further ensure that the adjustment process is accessible, fair and transparent, and that any decision to adjust is well-supported.

As in the 2007 Guidelines, an institution would be able to request review of or appeal an upward adjustment, the magnitude of an upward adjustment, removal of a previously implemented downward adjustment or an increase in a previously implemented upward adjustment through the FDIC's internal review process set forth at 12 C.F.R. § 327.4(c). An institution could similarly request review of or appeal a decision not to apply an adjustment following a request by the institution for an adjustment.

An institution would request that the FDIC make an adjustment to its score by submitting a written request to the FDIC's Director of the Division of Insurance and Research in Washington, D.C.

2. Use of Information Collected

The FDIC would use the information collected with a request for adjustment to ensure that the adjustment process is fair and transparent and that any decision to adjust is well-supported. The information obtained would supplement any information used when the FDIC on its own initiative reviewed the requesting institution's condition for purposes of determining whether to adjust an institution's assessment rate under the large and highly complex institution adjustment process.

3. Use of Technology to Reduce Burden

Because the FDIC on its own initiative will review the condition of all large and highly complex insured institutions as part of the adjustment process, adjustment requests would likely involve supplemental information that the FDIC would be receiving for the first time. The FDIC may, in the normal course of business, receive supervisory material from large and highly complex institutions as part of the assessment process. No special efforts have been undertaken by the FDIC to use improved information technology to reduce the burden associated with preparing and filing the request for adjustment.

4. Efforts to Identify Duplication

Because the FDIC on its own initiative will review the condition of all large and highly complex institutions and initiate adjustments where warranted, adjustment requests would likely involve supplemental information that the FDIC would be receiving for the first time.

5. Minimizing the Burden on Small Banks

Because only large and highly complex institutions (i.e., those with over $10 billion in total assets) are subject to the assessment adjustment process, no burden will be imposed on small banks.

6. Consequences of Less Frequent Collection

Large and highly complex institutions may request an adjustment to their total score when they believe such an adjustment is merited. Because the FDIC will on its own initiative review every large and highly complex institution for potential adjustments every quarter, it is anticipated that the number of requests will be limited. Institutions may make such requests at their own discretion.

7. Special Circumstances

   There are no special circumstances.

8. Summary of Public Comments

   Public comment is currently being solicited on the Paperwork Reduction Act implications of this proposal. 76 Fed. Reg. 21,256 (April 15, 2011)

9. Payment of Gift to Respondents

   No payment or gift will be provided to respondents.

10. Confidentiality

   The adjustment request would relate to the supervisory condition of an institution and would likely contain confidential supervisory information.

11. Information of a Sensitive Nature

   The adjustment request would relate to the supervisory condition of an institution and would likely contain confidential supervisory information.

12. Estimate of Annual Burden

Respondents:	Large and highly complex depository institutions
Number of annual respondents (Adjustment Requests):	0 - 11
Frequency of response: 1	On occasion
Hours required to prepare Adjustment Request:	8
Total burden in hours:	0 - 88

13. Estimate of Total Annual Cost Burden

   Not applicable.

14. Estimate of Total Annual Cost to the Federal Government

   Not applicable

15. Reason for Program Changes or Adjustments

This is a new collection; no program changes or adjustments are being made to an existing collection.

16. Publication

The information collected in adjustment requests would be confidential supervisory information and would not be published or publicly disclosed.

17. Display of Expiration Date

Not applicable.