II. * * *

B. *Objectives.* * * *

4. Ensure the proper disposal of consumer information in a manner consistent with the disposal of customer information.

III. * * *

C. *Manage and Control Risk.* * * *

4. Develop, implement, and maintain, as part of your information security program, appropriate measures to properly dispose of consumer information in a manner consistent with the disposal of customer information, in accordance with each of the requirements in this paragraph III.

* * * * *

G. *Implement the Standards.* * * *

3. *Effective date for measures relating to the disposal of consumer information.* You must satisfy these Guidelines with respect to the proper disposal of consumer information by [This date will be 90 days after the date of publication in the **Federal Register** of a final rule].

4. *Exception for existing agreements with service providers relating to the disposal of consumer information.* Notwithstanding the requirement in paragraph III.G.3., your existing contracts with your service providers with regard to any service involving the disposal of consumer information must comply with these Guidelines by [This date will be one year after the date of publication in the **Federal Register** of a final rule].

PART 571—FAIR CREDIT REPORTING

7. The authority citation for part 571 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1467a, 1828, 1831p–1, 1881–1884; 15 U.S.C. 1681s and 1681w; 15 U.S.C. 6801 and 6805(b)(1).

8. Add a new subpart I to read as follows:

Subpart I—Duties of Users of Consumer Reports Regarding Identity Theft

Sec.
571.80–571.82 [Reserved]
571.83 Disposal of consumer information.

Subpart I—Duties of Users of Consumer Reports Regarding Identity Theft

§ 571.80–571.82 [Reserved]

§ 571.83 Disposal of consumer information.

(a) *In general.* You must properly dispose of any consumer information that you maintain or otherwise possess in accordance with the Interagency Guidelines Establishing Standards for Safeguarding Customer Information, as set forth in appendix B to part 570 of this chapter.

(b) *Rule of construction.* Nothing in this section shall be construed to:

(i) Require you to maintain or destroy any record pertaining to a consumer that is not imposed under any other law; or

(ii) Alter or affect any requirement imposed under any other provision of law to maintain or destroy such a record.

Dated: April 27, 2004.

By the Office of Thrift Supervision.

James E. Gilleran,

Director.

[FR Doc. 04–12317 Filed 6–7–04; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P; 6720–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064–AC84

Deposit Insurance Assessments—Certified Statements

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking with request for comment.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) proposes to modernize and simplify its deposit insurance assessment regulations governing certified statements, to provide regulatory burden relief to insured depository institutions. Under the proposal, insured institutions would be required to obtain their certified statements on the Internet via the FDIC's transaction-based e-business website, FDIC*connect.* Correct certified statements would no longer be signed or returned to the FDIC. The semiannual certified statement process would be synchronized with the present quarterly invoice process. Two quarterly certified statement invoices would comprise the semiannual certified statement and reflect the semiannual assessment amount. If an insured institution agrees with its quarterly certified statement invoice, it would simply pay the assessed amount and retain the invoice in its own files. If it disagrees with the quarterly certified statement invoice, it would either amend its report of condition or similar report (to correct data errors) or amend its quarterly certified statement invoice (to correct calculation errors). The FDIC would automatically treat either as the insured institution's request for revision of its assessment computation, eliminating the requirement of a separate filing. These proposed changes, which would reduce the time and effort required to comply with the certified statement process, result from the FDIC's ongoing program under the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) to provide regulatory burden relief to insured depository institutions.

DATES: Comments must be submitted on or before August 9, 2004.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Agency Web site: *http://www.fdic.gov/regulations/laws/federal/propose.html.* Follow the instructions for submitting comments on the FDIC Web site.
- E-mail: *comments@FDIC.gov.* Include "Part 327—Certified Statements" in the subject line of the message.
- Mail: Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- Hand Delivery/Courier: Comments may be hand-delivered to the guard station located at the rear of the FDIC's 17th Street building (accessible from F Street) on business days between 7 a.m. and 5 p.m.

Instructions: All submissions received must include the agency name and use the title "Part 327—Certified Statements." The FDIC may post comments on its Internet site at: *http://www.fdic.gov/regulations/laws/federal/propose.html.* Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC, between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Steve Wagoner, Senior Assessment Specialist, Division of Finance, (202) 416–7152; Linda A. Abood, Supervisory IT Specialist, Division of Information Resources Management, (703) 516–1202; or Christopher Bellotto, Counsel, (202) 898–3801, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

The FDIC is proposing to amend 12 CFR 327.2 to modernize and simplify the certified statement process and to reduce the regulatory burden on insured depository institutions under its ongoing EGRPRA program. At present, the FDIC issues to each insured depository institution two deposit insurance invoices each semiannual period. The second invoice received during the semiannual period is the certified statement. An insured institution must certify the accuracy of the information on the certified statement—by signing it—and return it to the FDIC. If the information is incorrect, the institution must amend the certified statement, return it to the FDIC, and file a separate request for revision of assessment computation in order to change the amount of an assessment payment.

Under the proposal, the two quarterly invoices—each to be called a quarterly certified statement invoice—would together comprise the semiannual certified statement. Insured institutions would download their quarterly certified statement invoices directly from the FDIC's e-business Web site, FDIC*connect.* If, after reviewing the data, the institution believes its quarterly certified statement invoice is correct, it would no longer be required to sign or return the invoice to the FDIC. Instead, an insured institution would pay the amount specified on the invoice and retain it in the institution's files.

Disagreements with quarterly certified statement invoices would be handled with greater ease. If an institution believes the report of condition or similar report (Call Report or Thrift Financial Report (TFR)) data used on a quarterly certified statement invoice is not correct, the institution would amend its Call Report/TFR (as it does now); if an institution believes the Call Report/TFR data on the invoice is correct, but the calculation of the assessment amount is incorrect, the institution would amend the invoice to show the desired change, sign it, and return it to the FDIC within the specified timeframe. Either way, the FDIC would automatically treat the institution's action as a request for revision of assessment computation under section 327.3(h), and the present need for the institution to file a separate request for revision under the FDIC's regulations would be eliminated. With these changes, the regulatory burden in the assessment process would be reduced for the benefit of insured depository institutions. The FDIC would benefit as well, by significantly reducing staff time required for administering the risk-based assessment system and assessment billing and collection process.

I. Background

Under section 7(c) of the Federal Deposit Insurance Act (FDI Act or Act) (12 U.S.C. 1817(c)) insured depository institutions are required to file a certified statement with the FDIC for each semiannual deposit insurance assessment period, containing such information as the FDIC ''may require for determining the institution's semiannual assessment.'' 12 U.S.C. 1817(c)(1)(A). The FDI Act also provides that the certified statement ''shall * * * be in such form and set forth such supporting information as the Board of Directors shall prescribe * * *'' 12 U.S.C. 1817(c)(1)(B)(i). In this way, the Act vests in the FDIC discretion to prescribe the information contained in, as well as the form of, semiannual certified statements. As a result of the FDIC's exercise of this discretion over a period of years, the certified statement process has evolved in response to advances in collection procedures and data processing technology.

Prior to 1995, the FDIC mailed a blank certified statement form to each insured depository institution each semiannual period. Each institution was required to transcribe manually on this form the deposit data culled from its two prior Call Reports/TFRs and to calculate its assessment payment. The assessment was paid for the entire semiannual period one month after the beginning of the semiannual period (*i.e.*, January 31 and July 31). An officer of the institution was required to certify the accuracy of that information by signing the form, which was then returned to the FDIC along with the institution's check for the assessment amount. Under this system almost all of the certified statements were returned to the FDIC each semiannual period, but about 10 percent of the certified statements received contained mistakes, due in part to simple transpositions of figures and mathematical errors that required correction and revision.

The FDIC revised the process for collecting deposit insurance assessments—adopting the present system of quarterly payments in 1994 and implementing it in March of 1995. 59 FR 67153 (Dec. 29, 1994). As part of this changeover to the current automated invoicing and collection system, the FDIC assumed responsibility for ''filling out'' the certified statement and calculating each institution's deposit insurance assessment. The information used by the FDIC in completing certified statements is derived from institutions' Call Reports/TFRs, and is stored by the FDIC electronically. Because the June and December Call Report/TFR data was not available electronically until after the next semiannual payment date,[1] the FDIC instituted the practice of collecting semiannual assessments in two quarterly installments to facilitate FDIC preparation of assessment forms for insured institutions.

Accordingly, since 1995, the semiannual assessment has been collected in two quarterly installments; the sum of these installments equals an institution's semiannual assessment. Each quarterly installment is based on deposit data contained in one of the two quarterly Call Reports/TFRs submitted by the institution during the previous semiannual period. Under section 7(a)(3) of the FDI Act (12 U.S.C. 1817(a)(3)), reports of condition must contain a declaration by an officer of the institution, and a signed attestation by two other institution officers, that the information set forth is true and correct.

The FDIC computes the amount of each quarterly installment by retrieving the relevant electronic data from the Call Report/TFR for each institution. Once computed, the FDIC sends each insured institution an invoice for the first semiannual installment, and, three months later, a certified statement for the second installment. The invoice and the certified statement [2] are each mailed about two weeks prior to the actual collection of each respective installment; collection is accomplished via Automated Clearing House (ACH) direct debit of the account designated by the institution for that purpose.[3]

The invoice and the certified statement differ in two essential respects. The invoice contains the data, assessment computation, and amount due for the first installment of the semiannual period only. The certified statement, however, contains more than just the data, assessment computation, and amount due for the second installment of the semiannual period. It also restates the first installment information and combines the two sets of information into a semiannual presentation. In addition, the second installment invoice—the certified statement—contains a signature block and must be signed and returned to the FDIC, while the first installment invoice is subject to neither requirement. Under the current process, if the institution

[1] The June 30 Call Report/TFR data was not available electronically until after the July 31 payment date; similarly, the December 31 Call Report/TFR data was not available electronically until after the January 31 payment date.

[2] The term ''invoice'' will be used to refer to the invoice for the first quarterly installment; the term ''certified statement'' will be used to refer to the invoice for the second quarterly installment.

[3] The mailing date is about two weeks prior to the ACH payment/settlement date. The FDIC also collects Financing Corporation (FICO) assessments pursuant to the same statutory requirements that govern FDIC deposit insurance assessments. The FICO rate is established based on the deposit data reflected on the invoice and certified statements. To ensure timely collection of adequate funds for FICO, institutions pay the original amount due, and any appropriate adjustments, plus interest, are part of a subsequent quarterly assessment collection.

agrees with the information on the first installment invoice, the institution takes no action other than to fund the designated assessment account sufficiently to allow the direct debit of the account. At most institutions, an officer will review the first installment invoice before authorizing payment by comparing the deposit data on the invoice to the amounts reported by the institution on its corresponding Call Report/TFR, reconciling any adjustments from prior assessment periods as may be noted on the back of the invoice, verifying the rate multiplier used and the ACH account information, and spot checking mathematical calculations. If the institution disagrees with the information on the first installment invoice, the institution must, by regulation (12 CFR 327.3(h)), file a request for revision of its assessment computation if it wishes to change its assessment payment, which in practice is usually done to obtain a refund.

If an institution agrees with the second installment invoice (the certified statement), in addition to ensuring that the designated account is adequately funded and payment is authorized, an officer of the institution must certify the accuracy of the statement and return it to the FDIC. Generally, this process will involve checking the restated first invoice data again, as well as checking the data for the second half of the semiannual period. The institution must return its certified statement (usually by mail) signed by an officer, not later than the second quarterly payment date of the semiannual period (*i.e.*, certified statements must be returned by March 30 for the January–June semiannual period and by September 30 for the July–December semiannual period).[4] If the institution disagrees with the certified statement, the institution must annotate the changes, certify by signing, and return the form to the FDIC. As with the first installment, the institution is required under section 327.3(h) to file a request for revision of its assessment computation if it wishes to change its assessment payment, which in practice is usually done to obtain a refund.

Under the existing automated system, the certified statement has evolved from a semiannual form used by insured institutions to report their deposit data and calculate their assessment payments, into a form designed to confirm the accuracy of information previously provided by the institution (via Call Reports/TFRs) and the accuracy of the FDIC's assessment calculations based on that information.

The present certified statement process imposes significant and unnecessary burdens on insured institutions and the FDIC. The FDIC must mail out over 9,000 first installment invoices and an equal number of certified statements each semiannual period. Institution officials have to review and accept the first installment assessment calculation twice: once in reviewing the first installment invoice and then a second time, when reviewing the certified statement. Institutions must also return their certified statements to the FDIC, even if no discrepancies are found, a process prone to recurrent errors. For example, some institutions return the wrong form (the first installment invoice rather than the certified statement), or the certified statement may be lost in transit. Approximately 1,000 institutions fail to file their certified statements on time each semiannual period, necessitating significant follow-up efforts by FDIC staff through letters and telephone calls.

In addition, institutions filing corrected certified statements or invoices are required under section 327.3(h) to file a separate request for revision of that payment with the FDIC within 60 days from the date of the quarterly assessment invoice. The request for revision sets in motion the process of FDIC review of the validity of the certified statement amendment, the accuracy of the corresponding assessment payment, and the potential for a refund or additional charges based on the FDIC's determination. Finally, the return of certified statements to the FDIC was important when institutions themselves filled out the certified statement and computed the assessment owed to the FDIC. Today, however, the information used to complete the certified statement is drawn from Call Reports/TFRs previously attested to by officers of the insured depository institutions and stored electronically by the FDIC. In effect, the information on the certified statements has already been certified and transmitted to the FDIC. Moreover, unlike the certified statement, the completed Call Report/TFR signature and attestation page is not returned to the appropriate Federal banking agency. Instead, the page is signed and attached to the hard-copy record of the completed Call Report/TFR, which the institution retains in its own files.

For these reasons, return of certified statements to the FDIC has been identified under the FDIC's ongoing EGRPRA program as an outdated, redundant, and burdensome process, both for the industry and the FDIC.

II. Proposed Amendments to § 327.2

Under the proposed revisions to section 327.2, the two quarterly assessment invoices issued during a semiannual period would each become a component of the required semiannual certified statement. The two quarterly certified statement invoices combined would—as the invoice and certified statement do now—reflect an institution's total assessment payment for each semiannual period.

The FDIC would, under the proposal, no longer mail out paper copies of certified statement invoices to insured institutions. Instead, insured institutions would access their quarterly certified statement invoices each quarter via the FDIC's transaction-based e-business Web site, FDIC*connect,* which would require that all institutions obtain Internet access. In addition, Notices of Assessment Risk Classification, presently mailed with the first quarterly invoice each semiannual period (see 12 CFR 327.4(a)), would be provided with the first quarterly certified statement invoice each semiannual period on FDIC*connect.*

Each institution would register an employee as its FDIC*connect* Designated Coordinator, who would access the quarterly certified statement invoice or grant access for that purpose to another individual. Accessing quarterly certified statement invoices via FDIC*connect* would comply with the provisions of the Government Paperwork Elimination Act, which requires agencies to offer on-line alternatives to paper-based processes. Recognizing, however, that Internet access might be unavailable or pose a hardship to some insured institutions, the FDIC seeks comment from interested parties on the need for and scope of an exemption to allow for delivery of quarterly certified statement invoices by an alternate method.

The FDIC is also considering, as a courtesy, notifying all insured depository institutions via e-mail of the availability of the quarterly certified statement invoice. Comment is requested on whether the proposed e-mail notification process is necessary or

[4] An institution's assessment for the first semiannual period of each year (January 1 through June 30) is calculated on the deposits reported on the previous September and December Call Report/TFR. The first installment (due January 2) is based on the September deposits and the second installment (due March 30) is based on the December deposits. The assessment for the second semiannual period (July 1 through December 31) is calculated on the deposits reported on the previous March and June Call Report/TFR. The first installment (due June 30) is based on the March deposits, and the second installment (due September 30) is based on the June deposits. *See* 12 CFR 327.3.

desirable. Having obtained their quarterly certified statement invoices via FDIC*connect,* return of those statements to the FDIC—if the institution believes the invoice is correct—would no longer be required. If an institution agrees with its quarterly certified statement invoice, an officer of the institution would simply retain it in the institution's files for the five-year record retention period established in the FDI Act. *See* 12 U.S.C. 1817(b)(5). Because the data used to complete the quarterly certified statement invoice has been previously attested to on the institution's Call Report/TFR, the data would be deemed certified by the institution, and signing the quarterly certified statement invoice would not be required. The institution need only pay the assessment indicated on the quarterly certified statement invoice—by funding its designated account and permitting the FDIC's direct debit—to be in conformity with both the proposed rule and the FDI Act.

If an institution disagrees with the Call Report/TFR data used to compute the assessment amount listed on a quarterly certified statement invoice, the institution would amend its Call Report/TFR data (as it does now), and the FDIC would automatically treat the amendment as a request for revision of assessment computation under 12 CFR 327.3(h). Similarly, if an institution disagrees with the calculation of the assessment amount (with no change required to Call Report/TFR data), the institution would annotate the quarterly certified statement invoice with the correct information, certify its accuracy by signing, return it to the FDIC within the specified timeframe, and the FDIC would automatically treat the amended invoice as a request for revision of assessment computation under § 327.3(h). In either case, no separate request for revision would be needed.[5] In the event of an assessment dispute, the FDIC would also be able to request from an insured institution the quarterly certified statement invoice retained in the institution's files.

Under the proposal, quarterly certified statement invoices from prior semiannual periods would still be subject to change should an institution discover errors and seek to amend its Call Report/TFR. The FDIC would consider such requests for assessment changes for the full five-year statute of limitations period for assessments. Institutions would also continue to be obligated to ensure that the debit to the institution's designated ACH account is adequately funded and authorized.

The proposal would provide several benefits to the industry. By accessing FDIC*connect* institutions would obtain their assessment invoice data more quickly and more reliably, and at less cost to the FDIC. The official delegated with the responsibility for an institution's FDIC assessments could retrieve quarterly certified statement invoices at his or her convenience twenty-four hours a day (allowing limited downtime for maintenance during off hours) without mail or internal routing delays. Signing and returning correct quarterly certified statement invoices would be eliminated. Making each invoice a component of the semiannual certified statement would synchronize the payment and certification processes, and also clear up confusion caused by the requirement that institutions return every other invoice. In addition, insured institutions' officers would be able to eliminate some steps in their review. Under the current system, the institutions must review their first invoice data twice—once on the first invoice and again when it is reiterated on the certified statement. The proposal would eliminate this needless repetition, thereby reducing the regulatory burden imposed by the certified statement process. Finally, the proposal would simplify and streamline the FDIC's review process for assessment payment changes; when an amended quarterly certified statement invoice is returned to the FDIC, a separately filed request for revision of assessment computation would no longer be required.

The FDIC believes that the present certified statement process has not kept up with the evolution and modernization of assessment collections. Several proposed revisions have been identified under the FDIC's ongoing EGRPRA program. Under the proposed revisions, the assessment process would be simplified by synchronizing assessment certification with the quarterly payment process in a format that would better meet the needs of insured institutions and the FDIC. Internet access would assure timely and reliable receipt by insured institutions of their quarterly certified statement invoices and would be the first step toward providing future business processes between insured institutions and the FDIC electronically. Institutions would be relieved of the administrative chore of ensuring that correct certified statements are signed and mailed back to the FDIC, and reviews would be simplified. The FDIC would realize cost savings by eliminating the need to process and mail over 9,000 paper invoices each calendar quarter, track receipt of, file and store returned certified statements, and take follow-up actions for statements that are not returned to the FDIC. The proposed revisions would also obviate the need for insured institutions to file requests for revision of assessment computation to effect payment changes associated with certified statement amendments.

III. Request for Comment

The Board invites comments on all aspects of the proposed rule, including any other revisions to simplify, clarify, or improve the process of filing certified statements. Interested persons are invited to submit written comments during the 60-day comment period.

IV. Paperwork Reduction Act

The proposed rule contains a revision to an existing collection of information. The revision has been submitted to the Office of Management and Budget (OMB) for review and approval pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The FDIC has previously obtained OMB approval of this collection of information under control number 3064–0057. Comments specifically regarding the accuracy of the burden estimate and suggestions for reducing the burden should be sent to: Gary Kuiper, Legal Division (Consumer and Compliance Unit), Room PA–1730–3038, 550 17th Street, NW., Washington, DC 20429. All comments should refer to the title of the proposal. Comments may be hand delivered to the guard station at the rear of the 17th St Building (located on F Street), on business days between 7 a.m. and 5 p.m., Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Copies of comments should also be sent to: Mark Menchak, FDIC Desk Officer: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Washington, DC 20503.

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the agency's functions, including whether the information has practical utility;

(b) The accuracy of the estimates of the burden of the revised information collection, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

[5] The requirements for filing a request for review of an institution's assessment risk classification under 12 CFR 327.4(d) would be unaffected by this change.

(d) Ways to minimize the burden of the revised information collection on respondents, including the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the revised information collections should be modified. All comments will become a matter of public record.

Title of the Collection: Certified statement for semiannual deposit insurance assessment.

Summary of proposed changes to the information collection: As discussed more fully in the preamble, the proposed revisions to 12 CFR 327.2 would change the manner in which the FDIC provides—and FDIC-insured institutions receive—quarterly assessment invoices and certified statements. At present the FDIC mails certified statements and invoices to approximately 9,700 insured institutions each semiannual period. Each invoice and certified statement must be reviewed by the institution. The data on the invoice is reiterated on the certified statement and must be reviewed again. Institutions must sign and return the certified statements to the FDIC whether the certified statements are correct or incorrect. If the institution believes the certified statement is incorrect, a separate request for review must also be filed if the institution wishes to obtain a refund.

Under the proposed rule, institutions will access their quarterly certified statement invoices via the FDIC's e-business Web site, FDIC*connect*. Return of correct invoices will be eliminated. An insured institution will review each quarterly certified statement invoice just once. Only quarterly certified statement invoices that the institution believes are not correct will be returned to the FDIC, amended to show corrections. The FDIC will treat an amended certified statement invoice as a request for review, eliminating the need for the institution to file a separate request under 12 CFR 327.3(h). The proposed amendment will require insured depository institutions to obtain their quarterly certified statement invoices on the Internet, comply with a registration process for FDIC*connect*, and retain a copy of the quarterly certified statement invoice for their records. Access to quarterly certified statement invoices via FDIC*connect* will be more secure than the mail, will eliminate much internal routing of statements within institutions, will permit 24-hour access to quarterly certified statement invoices (with minimal maintenance downtime), and will eliminate significant FDIC tracking and processing.

Estimated Paperwork Burden Under the Proposal:

Number of respondents: 9,700.

Annual number of responses per respondent: 2.

Total annual responses: 19,400.

Estimated average time per response: 20 minutes.

Total estimated annual burden hours: 6,467.

V. Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b) the FDIC certifies that the proposed rule would not have a significant economic impact on a substantial number of small businesses within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*). The proposed rule, if finalized, will affect all insured depository institutions (there are approximately 9,700 at present). Of the total number of insured institutions, approximately 60% are small business entities (assets of $150 million or less). The proposed rule will slightly reduce the regulatory burden (from an estimated 30 minutes per response to an estimated 20 minutes per response) imposed by the certified statement process, and therefore will not have a significant economic impact on any insured depository institution.

The proposed rule will change the manner in which the FDIC provides and insured institutions receive certified statements, as set out in the Preamble. Under the proposed rule, institutions will access their quarterly certified statement invoices via the FDIC's e-business Web site, FDIC*connect*, rather than by mail. No significant burden is anticipated in this requirement because the FDIC believes that very few institutions do not already have Internet access or cannot readily obtain it (in the Preamble the FDIC seeks comment on the need for a hardship exemption). Return of correct invoices will be eliminated. An insured institution will review each quarterly certified statement invoice only once, unlike the present system. Only quarterly certified statement invoices that the institution believes are not correct will be returned to the FDIC, amended to show corrections. The FDIC will treat amended certified statement invoices as requests for review, eliminating the need for institutions to make a separate filing under 12 CFR 327.3(h). The proposed rule will clarify that institutions should retain a copy of the quarterly certified statement invoice for their records, but no significant burden is anticipated in this requirement because the FDIC believes that insured institutions already retain copies of their certified statements and invoices. Access to quarterly certified statement invoices via FDIC*connect* will be more secure than the mail, will eliminate much internal routing of statements within institutions, will permit 24-hour access to quarterly certified statement invoices (with minimal maintenance downtime), and will eliminate significant FDIC tracking and processing. In short, the proposal will reduce the regulatory burden on insured institutions.

VI. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The FDIC has determined that the proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

VII. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires banking agencies to use plain language in all proposed and final rules published after January 1, 2000. Comments are invited on how to make the proposed rule easier to understand. For example, you may wish to address the rule's organization, clarity, technical language, or formatting. Have we organized the material to suit your needs? If not, how could this material be better organized? Are the requirements in the rule clearly stated? If not, how could the rule be more clearly stated? Do the regulations contain technical language or jargon that is not clear? If so, which language requires clarification? Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes to the format would make the regulation easier to understand? Would more, but shorter, sections be better? If so, which sections should be changed? What else could we do to make the regulation easier to understand?

List of Subjects in 12 CFR Part 327

Assessments, Bank deposit insurance, Banks, Banking, Financing Corporation, Freedom of information, Hearing and appeal procedures, Record retention, Reporting and recordkeeping requirements, Savings associations.

For the reasons stated in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation proposes to amend part 327 of Title 12 of the Code of Federal Regulations as follows:

PART 327—ASSESSMENTS

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

Authority: 12 U.S.C. 1441, 1441b, 1813, 1815, 1817–1819; Pub. L. 104–208, 110 Stat. 3009–479 (12 U.S.C. 1821).

2. Section 327.2 of subpart A is revised to read as follows:

§ 327.2 Certified statements.

(a) *Required.* (1) Each insured depository institution shall certify its semiannual certified statement in the manner and form set forth in this section.

(2) The semiannual certified statement shall be comprised of the two quarterly assessment invoices issued during each semiannual period as prescribed in § 327.3(c) and (d). The two quarterly certified statement invoices combined shall reflect the amount and computation of the institution's semiannual assessment. Any rule applicable to the certified statement shall apply to each quarterly certified statement invoice.

(b) *Availability and access.* (1) The Corporation shall make available to each insured depository institution via the FDIC's e-business Web site FDIC*connect* two quarterly certified statement invoices during each semiannual period.

(2) Insured depository institutions shall access their quarterly certified statement invoices via FDIC*connect*, unless the FDIC provides notice to insured depository institutions of a successor system. In the event of a contingency, the FDIC may employ an alternative means of delivering the quarterly certified statement invoices.

(c) *Review by institution.* The president of each insured depository institution, or such other officer as the institution's president or board of directors or trustees may designate, shall review the information shown on each quarterly certified statement invoice.

(d) *Retention by institution.* If the appropriate officer of the insured depository institution agrees that to the best of his or her knowledge and belief the information shown on the quarterly certified statement invoice is true, correct and complete and in accordance with the Federal Deposit Insurance Act and the regulations issued under it, the institution shall pay the amount specified on the invoice and shall retain the quarterly certified statement invoice in the institution's files for five years as specified in section 7(b)(5) of the Federal Deposit Insurance Act.

(e) *Amendment by institution.* If the appropriate officer of the insured depository institution determines that to the best of his or her knowledge and belief the information shown on the quarterly certified statement invoice is not true, correct and complete and in accordance with the Federal Deposit Insurance Act and the regulations issued under it, the institution shall pay the amount specified on the invoice, and may

(1) Amend its Report of Condition, or other similar report, to correct any data believed to be inaccurate on the quarterly certified statement invoice; amendments to such reports timely filed under section 7(g) of the Federal Deposit Insurance Act but not permitted to be made by an institution's primary Federal regulator may be filed with the FDIC for consideration in determining deposit insurance assessments; or

(2) Amend and sign its quarterly certified statement invoice to correct a calculation believed to be inaccurate and return it to the FDIC by the quarterly payment date for that semiannual period as specified in § 327.3(c) and (d).

(f) *Certification.* Data used by the Corporation to complete the quarterly certified statement invoice has been previously attested to by the institution in its Reports of Condition, or other similar reports, filed with the institution's primary Federal regulator. When an insured institution pays the amount shown on the quarterly certified statement invoice and does not correct that invoice as provided in paragraph (e) of this section, the information on that invoice shall be deemed certified for purposes of paragraph (a) of this section and section 7(c) of the Federal Deposit Insurance Act.

(g) *Requests for revision of assessment computation.* The timely filing of an amended Report of Condition or other similar report, or an amended quarterly certified statement invoice, that will result in a change to deposit insurance assessments owed or paid by an insured depository institution shall be treated as a timely filed request for revision of computation of quarterly assessment payment under § 327.3(h).

Dated at Washington, DC, this 21st day of May, 2004.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–225A]

RIN 1218–AC03

Notice of Availability of the Regulatory Flexibility Act Review of Presence Sensing Device Initiation for Mechanical Power Presses

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Notice of availability.

SUMMARY: The Occupational Safety and Health Administration (OSHA) has conducted a review of the Presence Sensing Device Initiation (PSDI) requirements of the Mechanical Power Presses Standard pursuant to section 610 of the Regulatory Flexibility Act, and section 5 of Executive Order 12866 on Regulatory Planning and Review. In 1988, in order to assist small and large businesses in improving productivity while also improving worker protection, OSHA adopted provisions to permit PSDI. However, the PSDI provisions have not been utilized because no independent organization has been willing to validate PSDI installations.

Based on this review and public comments, OSHA has decided to update its mechanical power press standard to ANSI B.11.1–2001 or something similar. The new ANSI standard permits PSDI without independent validation but includes other provisions to maintain PSDI safety. Also, it improves safety and productivity of mechanical power presses in other ways, as well.

ADDRESSES: Copies of the entire report may be obtained from the OSHA Publication Office, Rm. N–3101, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–1888, Fax (202) 693–2498. The full report, comments, and referenced documents are available for review at the OSHA Docket Office, Docket No. S–225A, Rm. 2625, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–2119. The main text of the report will become available on the OSHA Web page at *www.OSHA.gov.*