institution's board of directors or that the institution will take corrective action in response to the supervisory observation.

(h) *Other violations.* An actual violation of a banking or banking-related law or regulation for which the OCC does not take an enforcement action or issue a matter requiring attention is an other violation.

(1) The OCC may require an institution to remediate an other violation.

(2) The OCC may take such other actions as are required by law in connection with an other violation.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Chapter III

Authority and Issuance

For the reasons set out in the preamble, title 12 of the Code of Federal Regulations is amended as follows:

■ 3. Add part 305, consisting of § 305.1, to read as follows:

PART 305—ENFORCEMENT AND SUPERVISION STANDARDS

Sec.
305.1 Enforcement and supervisory standards.

Authority: 12 U.S.C. 1818, 1819(a) (Seventh, Eighth, and Tenth), 1831p–1.

§ 305.1 Enforcement and supervisory standards.

(a) *Scope.* This section prescribes the definitions and standards for certain FDIC supervisory activities and enforcement actions against an institution that is an insured State nonmember bank, insured State licensed branch of a foreign bank, or an insured State savings association.

(b) *Unsafe or unsound practices.* For purposes of the FDIC's enforcement actions under 12 U.S.C. 1818 and supervisory activities, an "unsafe or unsound practice" is a practice, act, or failure to act, alone or together with one or more other practices, acts, or failures to act, that:

(1) Is contrary to generally accepted standards of prudent operation; and

(2) (i) If continued, is likely to—

(A) Materially harm the financial condition of the institution; or

(B) Present a material risk of loss to the Deposit Insurance Fund; or

(ii) Materially harmed the financial condition of the institution.

(c) *Matters requiring attention.* The FDIC may only issue a matter requiring attention to an institution for a practice, act, or failure to act, alone or together with one or more other practices, acts, or failures to act, that:

(1) (i) Is contrary to generally accepted standards of prudent operation; and

(ii) (A) If continued, could reasonably be expected to, under current or reasonably foreseeable conditions:

(*1*) Materially harm the financial condition of the institution; or

(*2*) Present a material risk of loss to the Deposit Insurance Fund; or

(B) Materially harmed the financial condition of the institution; or

(2) Is an actual violation of a banking or banking-related law or regulation.

(d) *Harm to financial condition.* Harm to financial condition refers to financial losses or other negative impacts to an institution's capital, asset quality, earnings, liquidity, or sensitivity to market risk.

(e) *Tailored application required.* (1) The FDIC will tailor its supervisory activities and enforcement actions based on unsafe or unsound practices under 12 U.S.C. 1818 and its issuance of matters requiring attention based on the risks associated with the institution's capital structure, complexity, activities, asset size, and any other financial risk-related factor that the FDIC deems appropriate.

(2) Tailoring required by this paragraph (e)(1) of this section includes tailoring with respect to the requirements or expectations set forth in enforcement actions based on unsafe or unsound practices under 12 U.S.C. 1818 and in matters requiring attention, as well as whether, and the extent to which, such actions and matters are taken or issued.

(3) As the risk associated with the factors identified in paragraph (e)(1) of this section increases:

(i) The threshold for materiality of the harm to the financial condition of an institution to take or issue an action or matter decreases;

(ii) The assessment of the harm to the financial condition of institution becomes more granular (*e.g.,* specific business lines, products, or services); and

(iii) The requirements under the action or matter relating to remediation, and the expectations regarding prudent operation, increase.

(f) *Basis for FDIC determinations.* The FDIC will use objective facts and sound reasoning to determine whether, in accordance with paragraphs (b) through (e) of this section, the FDIC may take an enforcement action based on an unsafe or unsound practice under 12 U.S.C. 1818 or issue a matter requiring attention.

(g) *Clarification regarding supervisory observations.* (1) Paragraph (b) of this section does not apply to supervisory observations.

(2) A supervisory observation is an informal observation that does not rise to the level of a matter requiring attention, as described in paragraph (c) of this section, that identifies weaknesses in an institution's policies, practices, condition, or operations.

(3) A supervisory observation does not create a requirement or supervisory expectation that the supervisory observation will be presented to the institution's board of directors or that the institution will take corrective action in response to the supervisory observation.

(h) *Other violations.* An actual violation of a banking or banking-related law or regulation for which the FDIC does not take an enforcement action or issue a matter requiring attention is an other violation.

(1) The FDIC may require an institution to remediate an other violation.

(2) The FDIC may take such other actions as are required by law in connection with an other violation.

Jonathan V. Gould,

Comptroller of the Currency.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on August 27, 2026.

Jennifer M. Jones,

Deputy Executive Secretary.

[FR Doc. 2026–17823 Filed 8–31–26; 8:45 am]

BILLING CODE 4810–33–6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 337

RIN 3064–AG32

Reciprocal Deposits: Implementing the 21st Century ROAD to Housing Act

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Interim final rule and request for comment.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is amending its brokered deposit regulations to conform with recent changes to section 29 of the Federal Deposit Insurance Act made by section 902 of the 21st Century ROAD to Housing Act related to reciprocal deposits, which took effect on July 11, 2026. The FDIC is also providing certain clarifications regarding the reciprocal deposit framework to facilitate and simplify compliance. The FDIC invites public comment on this interim final rule.

DATES: The interim final rule is effective September 1, 2026. Comments must be received no later than October 1, 2026.

ADDRESSES: You may submit comments on the interim final rule, identified by RIN 3064–AG32 using any of the following methods:

• *FDIC Website: https://www.fdic.gov/federal-register-publications.* Follow the instructions for submitting comments on the agency website.

• *Email: Comments@fdic.gov.* Include RIN 3064–AG32 on the subject line of the message.

• *Mail:* Jennifer M. Jones, Deputy Executive Secretary, Attention: Comments—RIN 3064–AG32, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

• *Hand Delivery to FDIC:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW, building (located on F Street NW) on business days between 7 a.m. and 5 p.m.

• *Public Inspection:* Comments received, including any personal information provided, may be posted without change to *https://www.fdic.gov/federal-register-publications.* Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of the rule will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

This interim final rule, all comments received, and a summary of not more than 100 words are available at *https://www.fdic.gov/federal-register-publications* consistent with the Providing Accountability Through Transparency Act of 2023.

FOR FURTHER INFORMATION CONTACT: Legal Division: Ryan McCarthy, Counsel, (202) 898–7301, *rymccarthy@fdic.gov;* Shane Bogusz, Senior Attorney, (571) 366–0212, *sbogusz@fdic.gov.* Risk Management Supervision: Brian Cox, Deputy Director, Capital Markets, Accounting, and Policy, (703) 254–0763, *brcox@fdic.gov;* Justin Hagerty, Senior Examination Specialist, (319) 382–2760, *jhagerty@fdic.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The 21st Century ROAD to Housing Act (the Housing Act) became effective on July 11, 2026. Section 902 of the Housing Act amended the limited exception for reciprocal deposits (the exception) in section 29(i) of the Federal Deposit Insurance Act (FDI Act). The exception was added to section 29 by section 202 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) [1] enacted on May 24, 2018, and allows qualifying institutions to except a capped amount of reciprocal deposits from being considered to be received by or through a deposit broker (*i.e.,* the reciprocal deposits are considered to not be brokered deposits). The FDIC implemented section 202 of EGRRCPA by amending its brokered deposit and assessment regulations through a 2018 rule.[2] The FDIC is now issuing this interim final rule (IFR) to amend its brokered deposit regulations to conform with section 29 as amended by the Housing Act.

A. Section 29 of the FDI Act

Under section 29 of the FDI Act, an insured depository institution (IDI) is restricted from accepting deposits by or through a deposit broker unless the institution is well capitalized for Prompt Corrective Action (PCA) purposes.[3] The FDIC may waive this restriction if the IDI is adequately capitalized; however, the restriction cannot be waived if the institution is undercapitalized.[4]

A ''deposit broker,'' as defined by section 29 of the FDI Act, includes ''any person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties with insured depository institutions or the business of placing deposits with insured depository institutions for the purpose of selling interests in those deposits to third parties. . . .'' [5]

Section 337.6 of the FDIC's Rules and Regulations implements the brokered deposit restrictions of section 29 of the FDI Act. Under the FDIC's regulations, a ''brokered deposit'' is thus defined as ''any deposit that is obtained, directly or indirectly, from or through the mediation or assistance of a deposit broker.'' [6]

Neither section 29 nor the FDIC's brokered deposit regulations prescribe reporting requirements for brokered deposits or reciprocal deposits. Rather, IDIs are required to report deposits in accordance with the instructions to the Consolidated Reports of Condition and Income (Call Report) promulgated by the Federal Financial Institutions Examination Council (FFIEC).[7] The Call Report instructions describe the reporting requirements for brokered deposits, including reciprocal deposits,[8] to in part support the FDIC's calculation of assessments under the risk-based assessment system required by section 7 of the FDI Act. As discussed below, the FFIEC will be issuing supplemental Call Report instructions for the September 30, 2026 reporting period so that institutions may report brokered and reciprocal deposits consistent with the Housing Act.

B. Section 29(i)—Reciprocal Deposit Exception

Consistent with section 29 of the FDI Act, an ''agent institution'' can except reciprocal deposits received through a deposit placement network from being classified as brokered deposits up to its applicable statutory cap.[9] Prior to the Housing Act, section 29 defined an agent institution as an IDI that places a covered deposit at other IDIs through a deposit placement network in amounts that are less than or equal to the standard maximum deposit insurance amount, if the placing institution satisfies at least one of three prongs:

(1) the institution, when most recently examined, was found to have a composite condition of outstanding or good, and is well capitalized;

(2) the institution has obtained a waiver under section 29(c); or

(3) the institution does not receive an amount of reciprocal deposits that causes the total amount of reciprocal deposits held by the agent institution to be greater than the average of the total amount of reciprocal deposits held by the agent institution on the last day of the 4 calendar quarters preceding the calendar quarter in which the agent institution was found not to have a

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[1] Public Law 115–174, 132 Stat. 1296 (May 24, 2018).

[2] 84 FR 1346 (Feb. 4, 2019).

[3] 12 U.S.C. 1831f(a).

[4] 12 U.S.C. 1831f(c).

[5] 12 U.S.C. 1831f(g)(1).

[6] 12 CFR 337.6(a)(2).

[7] 12 CFR 304.3(a).

[8] The FDIC defines reciprocal deposits as ''deposits received by an agent institution through a deposit placement network with the same maturity (if any) and in the same aggregate amount as covered deposits placed by the agent institution in other network member banks.'' 12 CFR 337.6(e)(2)(v).

[9] *See* 12 U.S.C. 1831f. The 2018 rulemaking introduced the terms *special cap* and *general cap* to refer to the statutory caps established by section 202 of EGRRCPA. *See* 84 FR 1346 (Feb. 4, 2019).

composite condition of outstanding or good or was determined to be not well capitalized.

The FDIC has interpreted ''a composite condition of outstanding or good'' to constitute an institution that has been assigned a CAMELS [10] composite rating of ''1'' or ''2.'' [11]

The amount of the four-quarter average described in the third prong is referred to as the *special cap.* The maximum amount of reciprocal deposits that can be treated as not being brokered under the exception is referred to as the *general cap.* Prior to the Housing Act, the *general cap* was the lesser of $5 billion or 20 percent of the total liabilities of the agent institution.

C. Section 902 of the 21st Century ROAD to Housing Act

The Housing Act became effective on July 11, 2026, and made two amendments to the reciprocal deposit exception provisions in section 29. First, the Act changed the amount and calculation method of the *general cap.* Second, the Act amended the first prong of the agent institution definition to replace the requirement that an institution be found to have a composite condition rating of ''outstanding or good'' with the requirement that an institution was assigned a CAMELS rating of ''1,'' ''2,'' or ''3'' under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system).

As discussed below, this IFR amends the FDIC's brokered deposit regulations in section 337.6 to implement the statutory text of section 29 as amended by the Housing Act. The IFR also makes corresponding changes to the regulations to facilitate and simplify compliance.

II. Changes To Conform FDIC Brokered Deposit Regulations to Section 902 of the Housing Act

A. General Cap

An agent institution can except reciprocal deposits from being considered brokered deposits up to either its *general cap* or *special cap,* as applicable.[12] The Housing Act increased the maximum potential amount of the *general cap* and uses a tiered calculation based on the total liabilities of the agent institution. Consistent with the Housing Act, the IFR amends the *general cap* in section 337.6(e)(1) to be the sum of:

(1) 50 percent of the portion of the total liabilities of the agent institution that is less than or equal to $1,000,000,000;

(2) 40 percent of the portion, if any, of the total liabilities of the agent institution that is greater than $1,000,000,000, but less than or equal to $10,000,000,000; and

(3) 30 percent of the portion, if any, of the total liabilities of the agent institution that is greater than $10,000,000,000, but less than or equal to $96,333,333,333.

Under the *general cap,* as amended by the Housing Act, the maximum amount of reciprocal deposits allowed under the exception for any institution totals $30 billion, which would be the *general cap* for an institution with $96.33 billion or more in total liabilities (assuming the institution is not limited to the *special cap*). An institution with less than $96.33 billion in total liabilities must calculate its *general cap* using the new tiered methodology. As an example for how the FDIC would calculate the amount of reciprocal deposits eligible for the exception, an agent institution with $25 billion in total liabilities would have a *general cap* equal to (0.5 * $1 billion) + (0.4 * $9 billion) + (0.3 * $15 billion) = $8.6 billion.

The FDIC will continue to calculate an institution's *general cap* based on data reported in its Call Report.

B. Qualifying as an Agent Institution

Consistent with the Housing Act, the IFR amends the first prong of the agent institution definition [13] to require that, when most recently examined under section 10(d) of the FDI Act, an institution was assigned a CAMELS composite rating of ''1,'' ''2,'' or ''3'' under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system).[14] The second element of the definition is that the institution be well capitalized; this element was not amended by the Housing Act. Thus, under the first prong as amended, an institution must have a CAMELS composite rating of ''1,'' ''2,'' or ''3'' and be well capitalized.

The FDIC recognizes that, although the Housing Act amends the first prong of the agent institution definition to replace the ''outstanding or good'' rating language, it did not amend the mirroring ''outstanding or good'' rating language used in the *special cap* prong. Thus, read together, the two provisions indicate that an institution that becomes subject to the *special cap* because it no longer satisfies the first prong of the agent institution definition may not have its four-quarter average (*i.e.,* its *special cap*) calculated based on the preceding four quarters. Instead, this calculation may rely on quarters that are earlier than the preceding four quarters.[15]

Although this could have the effect of an institution's *special cap* being smaller or larger than the average of the most recent four quarters prior to the institution ceasing to meet the first prong of the agent institution definition, an agent institution that becomes subject to the *special cap* may continue to hold reciprocal deposits previously received in an amount that is greater than the *special cap;* [16] therefore, institutions will not be disqualified from being considered an agent institution as a result of the timing disparity between the *special cap* calculation and its application.

III. Clarifications Regarding Reciprocal Deposits Framework and Reporting

The FDIC recognizes that section 902 of the Housing Act may result in increased holdings of reciprocal deposits by IDIs, including by institutions that previously did not utilize reciprocal deposits. To facilitate compliance with the FDIC's regulations concerning reciprocal deposits, and to assist institutions that may be reviewing and relying upon those regulations for the first time, the FDIC is clarifying certain aspects of the reciprocal deposits framework.

A. Receipt of Nonmaturity Reciprocal Deposits

An agent institution that becomes subject to the *special cap* can continue to hold the reciprocal deposits that it received prior to becoming subject to the *special cap;* however, if an institution ''receives'' reciprocal deposits in excess of its *special cap,* it is no longer an agent institution, and all of its reciprocal deposits must be reported as brokered deposits.[17]

[10] CAMELS refers to Capital adequacy, Asset quality, Management, Earnings, Liquidity, and Sensitivity to market risk.

[11] 84 FR 1346, 1347–48 (Feb. 4, 2019).

[12] The application of the caps is detailed in the 2018 final rule. *See* 84 FR 1346 (Feb. 4, 2019).

[13] The second and third prongs of the agent institution definition remain unchanged.

[14] The effective date of a CAMELS composite rating is the ''date of written notification to the institution by its primary federal regulator or state authority of its supervisory rating.'' 12 CFR 327.4(f).

[15] For example, if an institution is downgraded from a ''2'' to a ''3'' in 2026, then downgraded to a ''4'' in 2030, the *special cap* will be based on its reciprocal deposit holdings in 2025 to 2026 (when it was no longer considered ''outstanding or good''), not the four quarters preceding the downgrade to a ''4.'' Thus, with respect to an institution that loses agent institution status due to a ratings downgrade, the *special cap* no longer approximates the status quo that exists immediately prior to an institution no longer meeting the first prong of the agent institution definition.

[16] *See* 84 FR 1346, 1349 (Feb. 4, 2019).

[17] *See id.* at 1348–49 (explaining the FDIC's view that the *special cap* limits an agent institution's receipt of reciprocal deposits, not the maintenance, retention, or holding of reciprocal deposits).

Over the past several years, institutions have sought clarity regarding the ''receipt'' of nonmaturity reciprocal deposits through a deposit placement network. More specifically, there has been uncertainty as to whether changes in the composition of the reciprocal deposits received through a deposit placement network resulting from actions of the network operator, as opposed to the agent institution placing covered deposits, constitutes ''receiving'' reciprocal deposits. For example, the identities of the individual depositors for whom the agent institution holds reciprocal deposits may change day by day. Likewise, the amounts of reciprocal deposits attributable to individual depositors may change without an increase in the aggregate amount of reciprocal deposits the agent institution receives from the network.

Section 902 of the Housing Act and this IFR are likely to increase the range of institutions that participate in reciprocal deposit networks and that are subject to the FDIC's regulations, which only underscores the need to provide clarity in this area. Per section 29 of the FDI Act, an institution satisfies the third prong of the agent institution definition if it places a covered deposit through a deposit placement network at other institutions as long as the agent institution does not receive an amount of reciprocal deposits that causes the total amount of reciprocal deposits held by the agent institution to be greater than its *special cap.* Section 29 defines a ''covered deposit'' as one submitted for placement through a deposit placement network by an agent institution, and it defines ''reciprocal deposits'' as deposits received by an agent institution through a deposit placement network with the same maturity (if any) and in the same aggregate amount as covered deposits placed by the agent institution in other network member banks.

The plain meaning of these statutory definitions is that to ''receive'' reciprocal deposits, an agent institution must also place a covered deposit through a deposit placement network. Only by placing a covered deposit can an agent institution then ''receive'' an amount of reciprocal deposits that causes the total amount of its reciprocal deposits held by the agent institution to be greater than its *special cap.*[18] Thus, an institution cannot receive nonmaturity reciprocal deposits if it does not first place additional covered deposits through a deposit placement network.

The statute provides that an institution meets the definition of an agent institution as long as it does not receive an amount of reciprocal deposits above its *special cap.* Thus, to the extent a deposit placement network alters the individual underlying depositors or rebalances the amount on deposit at an institution that holds an amount of reciprocals in excess of its *special cap* at the time it becomes subject to the *special cap* without increasing the aggregate amount of reciprocals, the institution continues to meet the definition of an agent institution. If, however, the agent institution places any covered deposits into the network while holding an amount of reciprocal deposits above its *special cap,* it will have received an amount of reciprocal deposits in excess of its *special cap* and will no longer satisfy the agent institution definition.[19]

B. Requalifying as an Agent Institution

As discussed above, the Housing Act amended the definition of agent institution to include institutions that have been assigned a CAMELS rating of ''1,'' ''2,'' or ''3.'' This amendment expands the scope of institutions that can qualify as an agent institution, and certain institutions that did not qualify prior to the Housing Act now meet the definition of agent institution. Qualifying as an agent institution has important implications, such as whether an institution may receive reciprocal deposits (if the institution is not well capitalized and does not have a waiver) and the extent to which reciprocal deposits are reported as brokered deposits. The FDIC is therefore clarifying when an institution qualifies as an agent institution. In general, and as discussed below, an institution should determine whether it qualifies as an agent institution as of the quarter-end without regard for whether the institution was, or was not, an agent institution at any point throughout the quarter.

1. Supervisory Ratings Change

A well capitalized institution qualifies as an agent institution as of the date it receives a CAMELS composite rating of ''1,'' ''2,'' or ''3'' from its primary federal regulator (PFR) because it meets the statutory definition of an agent institution at that time. The FDIC's brokered deposit regulations neither control nor determine the effective date of a ratings upgrade. The effective date of a CAMELS composite rating is the date of written notification to the institution by its PFR or state authority of its supervisory rating.[20] If an institution has a CAMELS composite rating of ''4,'' upon an effective composite rating upgrade to a CAMELS ''1,'' ''2,'' or ''3'' from its PFR, the institution immediately becomes an agent institution under the first prong of the definition, if it is well capitalized.

2. Capital Category Change

Similarly, an institution that has a CAMELS composite rating of ''1,'' ''2,'' or ''3'' qualifies as an agent institution on the date it is deemed to be within the well capitalized category. Like rating changes, the FDIC's brokered deposit regulations do not control or determine the effective date of a capital category change. Rather, the brokered deposit regulations incorporate the implementing regulations for section 38 of the FDI Act promulgated by the Federal banking agencies for determining the date of a capital category change because section 29 also incorporates the section 38 capital standards.[21] Thus, when determining whether it qualifies as an agent institution, an institution should determine the effective date of its capital category change according to the PCA laws and regulations.

3. Obtaining a Brokered Deposit Waiver

An institution qualifies as an agent institution under the second prong of the agent institution definition on the date it receives written notice from the FDIC that its application for a brokered deposit waiver under section 29(c) has been approved. Likewise, an institution that obtains a waiver while qualifying as an agent institution under the *special cap* prong will no longer be subject to the *special cap* on the date it receives written notice from the FDIC that its application for a brokered deposit waiver has been approved.[22]

[18] As explained in the 2018 final rule, renewing or rolling over maturity reciprocal deposits would be considered placement and receipt of reciprocal deposits. *See* 84 FR 1348–49 (Feb. 4, 2019). Nothing in this IFR is intended to alter the FDIC's approach to the receipt of reciprocal time deposits.

[19] This can have disruptive and costly effects for an institution because all reciprocal deposits must then be reported as brokered, unless and until the institution again qualifies as an agent institution.

[20] The FDIC uses the date of written notification by an institution's PFR for purposes of the brokered deposit regulations, consistent with the FDIC's assessment regulations at 12 CFR 327.4(f).

[21] 12 CFR 337.6(a)(3); FDIC—12 CFR part 324, subpart H; Board of Governors of the Federal Reserve System—12 CFR part 208; and Office of the Comptroller of the Currency—12 CFR part 6.

[22] As a condition of approving a brokered deposit waiver, the FDIC may limit the amount of reciprocal and brokered deposits an institution may accept, hold, renew, etc., and therefore, such an institution may not necessarily be able to rely on the *general cap.*

4. Special Cap

An institution that is not well capitalized and does not have a brokered deposit waiver can only receive reciprocal deposits if it qualifies as an agent institution under the *special cap* prong of the definition. Otherwise, section 29 prohibits these institutions from accepting brokered deposits because they are not well capitalized. Thus, the date these institutions qualify as an agent institution also determines what deposit taking activities are permissible. The FDIC is therefore clarifying when an institution requalifies under the *special cap.*

As discussed above, section 29 provides that an institution meets the definition of an agent institution as long as it does not receive an amount of reciprocal deposits above its *special cap.* An institution that places an amount of covered deposits such that the amount received in return causes the amount held to exceed its *special cap* does not qualify as an agent institution. Such an institution will requalify as an agent institution under the *special cap* prong on the date it reduces its reciprocal deposits to an amount that is less than its *special cap.*

C. Call Report Changes

The Housing Act became effective in the third quarter of 2026 and the FFIEC will issue Supplemental Instructions as part of the September 30, 2026 Call Report Instructions for information on reporting brokered and reciprocal deposits under the new law. The FFIEC indicated that it anticipates updating the Call Report instructions to conform to the new law for purposes of reporting in the Call Report by December 31, 2026. No new line items will need to be added to the Call Report, although the FDIC anticipates working through the FFIEC so that RC–O Line 9 for brokered reciprocal deposits will be reported confidentially as part of the instruction updates.

In conjunction with conforming assessment regulation changes made in 2018, the FFIEC updated the Call Report to add Memorandum item 1.g, ''Total reciprocal deposits,'' to Schedule RC–E.[23] However, this line, if viewed alongside Schedule RC–O, item 9 (''Brokered reciprocal deposits''),[24] may reveal non-public supervisory information. The issue arises because an agent institution that no longer qualifies for the reciprocal deposit exception must report all of its reciprocal deposits as brokered reciprocal deposits on Schedule RC–O, item 9. These deposits previously would have been excepted and not reported as brokered, up to the applicable *general* or *special cap* amount for that institution. This reporting reclassification can cause the amount of brokered reciprocal deposits an institution must report on Schedule RC–O, item 9 to increase significantly over the period of a single quarter while Schedule RC–E, Memorandum item 1.g, the line for total reciprocal deposits, typically does not change to the same degree.

The interplay of these two lines together may indicate that an institution no longer qualifies as an agent institution. Because an institution that is well capitalized will only be disqualified from excepting reciprocal deposits if it does not have a CAMELS composite rating of ''1,'' ''2,'' or ''3,'' an observer may be able to infer an institution's confidential supervisory rating through changes in the amount of brokered reciprocal deposits reported on Schedule RC–O, item 9. To counter this unintended consequence while still collecting the necessary data for assessment purposes, the FDIC intends to work through the FFIEC to make Schedule RC–O, item 9 confidential when the Call Report instructions are updated to conform to the Housing Act.

IV. Expected Effects

The rule implements section 902 of the Housing Act by making conforming changes to the FDIC's regulations. Relevant regulations as of June 30, 2026, and financial data as of March 31, 2026, are generally used to estimate outcomes under the IFR and the baseline.[25] This section summarizes the analysis performed by the FDIC to estimate those economic impacts. The FDIC notes at the outset that the IFR is implementing Section 902 of the Housing Act, which was effective upon enactment. Therefore, relative to a post-statutory baseline these amendments will have no substantive effect.

As of March 31, 2026, there were 4,278 FDIC-insured institutions. Of these, 1,971 institutions reported having brokered deposits, which totaled $1.204 trillion. Additionally, a total of 2,089 institutions reported having reciprocal deposits totaling $462.8 billion. Of these, 331 institutions reported brokered reciprocal deposits totaling $91.9 billion.

The principal effect of section 902 of the Housing Act, and of this implementing regulation, will be that a smaller share of reciprocal deposits are classified as brokered deposits. As previously discussed, the IFR would increase the *general cap* applicable to reciprocal deposits for certain institutions. The IFR would increase the *general cap* from the lesser of $5 billion or 20 percent of total liabilities to a tiered calculation based on total liabilities. Further, the IFR implements the Housing Act's definition of ''outstanding or good'' with respect to the *general cap,* thereby expanding the agent institution definition to include institutions assigned a CAMELS composite rating of ''3.'' These amendments would increase the number of IDIs who can exclude certain volumes of reciprocal deposits from being considered brokered deposits. In turn, these aspects of the IFR may result in an increase in the volume of reciprocal deposits held by IDIs, as well as an increase in the number of institutions holding reciprocal deposits. The FDIC does not have the information necessary to accurately estimate the number of IDIs affected or any such changes in volumes of reciprocal deposits, reported or held, in future periods.

The IFR could indirectly affect deposit insurance assessments for a small number of institutions. The following assessments impact is based on data as of March 31, 2026, with the current assessment regulations.[26]

For established small institutions, the IFR may decrease their brokered deposit ratio, potentially resulting in a change in the bank's assessment. The brokered deposit ratio is one of the financial measures used to determine assessment rates for established small institutions.[27] The ratio is the difference between brokered deposits and 10 percent of total assets to total assets. Additionally, for institutions that are well capitalized and have a CAMELS composite rating of ''1'' or ''2,'' brokered reciprocal deposits are deducted from brokered deposits.[28] Established small institutions that are well capitalized and have a CAMELS composite rating of ''1'' or ''2'' can already deduct brokered reciprocal deposits from brokered deposits and generally would not be affected by the

[23] *See* Fed. Fin. Inst. Examination Council, FFIEC 051 Call Report Instruction Book Update (Sept. 2018).

[24] The FDIC uses Schedule RC–O, item 9 for assessment purposes because brokered reciprocal deposits are excluded from the brokered deposit ratio for small institutions that are well capitalized and well rated.

[25] The FDIC is analyzing expected effects based on March 31, 2026 Call Report data, which is the last available Call Report data prior to the enactment of section 902 of the Housing Act on July 11, 2026.

[26] On June 25, 2026, the FDIC Board approved a notice of proposed rulemaking that would amend the FDIC's assessment regulations. *See* 91 FR 39794 (Jun. 30, 2026).

[27] *See* 12 CFR 327.16(a)(1).

[28] *See* 12 CFR 327.16(a)(1)(ii)(A).

IFR, for assessment purposes.[29] Furthermore, the IFR would not affect the assessment rates of small institutions that do not have reciprocal deposits or whose brokered deposits comprise less than 10 percent of total assets. The FDIC estimates that 16 small FDIC-insured institutions could have a lower assessment due to the effect of the IFR on their brokered deposit ratio, if their reciprocal deposits are excepted from treatment as brokered.

For large and highly complex institutions, the IFR may increase the core deposit ratio, potentially resulting in a reduction in the bank's assessment. The core deposit ratio applies to large and highly complex institutions and is measured as domestic deposits, excluding brokered deposits and uninsured non-brokered time deposits, divided by total liabilities.[30] The FDIC estimates that 14 large or highly complex institutions could have a lower assessment due to the effect of the IFR on their core deposit ratio, if their reciprocal deposits are excepted or further excepted from treatment as brokered.

For certain large and highly complex institutions and new small institutions that meet the revised definition of agent institution, the IFR may alter their brokered deposit adjustment, resulting in a change in the bank's assessment. The brokered deposit adjustment applies to all new small institutions in Risk Categories II, III, and IV, and all large and all highly complex institutions, except large and highly complex institutions (including new large and new highly complex institutions) that are well capitalized and have a CAMELS composite rating of 1 or 2.[31] The brokered deposit adjustment can increase assessments for institutions that have brokered deposits in excess of 10 percent of domestic deposits.[32] The FDIC estimates that three FDIC-insured institutions could have a lower assessment due to the effect of the IFR on the brokered deposit adjustment, if their reciprocal deposits are excepted from treatment as brokered.

Based on data as of March 31, 2026, the FDIC estimates that aggregate assessment revenue would be reduced by an estimated $45.8 million annually. However, as previously discussed, the IFR is implementing section 902 of the Housing Act, which was effective upon enactment, and thus, relative to a post-statutory baseline, the IFR will have no substantive effect on assessment revenue.

Through the IFR, the FDIC further clarifies certain provisions within and related to section 29 of the FDI Act, such as what constitutes "receipt" of nonmaturity reciprocal deposits, requalifying as an agent institution, effective date of a supervisory ratings or capital category change, effective date for written notice of a brokered deposit waiver, or when an institution requalifies under the *special cap.* These aspects of the IFR should benefit IDIs by enabling them to comply with section 29 of the FDI Act more efficiently.

Institutions may incur small costs to make changes to their systems and procedures for maintaining compliance with section 29 of the FDI Act. However, these changes are likely to be *de minimis.*

V. Administrative Law Matters

The FDIC is issuing the IFR without prior notice and the opportunity for public comment and the delayed effective date ordinarily prescribed by the Administrative Procedure Act (APA).[33] Pursuant to section 553(b)(B) of the APA, general notice and the opportunity for public comment are not required with respect to a rulemaking when an "agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." [34]

Notice and comment are unnecessary for this rule. The substantive changes made by the interim final rule implement section 902 of the Housing Act, which became effective upon enactment. Notice and comment are unnecessary as the FDIC is required to conform its regulations to avoid legal conflicts.[35] Delaying the issuance of amended regulations—or delaying the effective date of those regulations—would prolong the time in which the FDIC's regulations were inconsistent with the FDI Act, as amended by the Housing Act, causing uncertainty for industry participants. The FDIC has therefore determined that the public notice and participation ordinarily required by the APA before a regulation may take effect would, in this case, be unnecessary and contrary to the public interest and that good cause exists to waive the customary 30-day delayed effective date.

Nevertheless, the FDIC desires to have the benefit of public comment before adopting a permanent final rule and thus invites interested parties to submit comments during a 30-day comment period. In adopting a final regulation, the FDIC will revise the IFR if appropriate in light of the comments received.

A. Paperwork Reduction Act

This IFR has been reviewed for compliance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). In accordance with the PRA, the FDIC may not conduct or sponsor, and an organization is not required to respond to, an information collection unless the information collection displays a currently valid Office of Management and Budget (OMB) control number. The FDIC has reviewed this IFR and determined that it does not create any information collection or revise any existing collection of information. Accordingly, no PRA submissions to OMB will be made with respect to this rule.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). As discussed previously, consistent with section 553(b)(B) of the APA, the FDIC has determined for good cause that notice and opportunity for public comment prior to the rule's effective date is contrary to the public interest and therefore is not issuing a notice of proposed rulemaking. Accordingly, the FDIC has concluded that the RFA's requirements relating to initial and final regulatory flexibility analyses do not apply. Nevertheless, the FDIC is interested in receiving feedback on ways that it could reduce any potential burden of the IFR on small entities.

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[29] The core deposit ratio is measured as domestic deposits, excluding brokered deposits and uninsured non-brokered time deposits, divided by total liabilities. Reciprocal deposits that are brokered reciprocal deposits will continue to be excluded from the ratio. *See* 12 CFR 327.16(b) and 12 CFR part 327, Appendix B to Subpart A.

[30] *See* 12 CFR 327.16(b) and Appendix B to Subpart A.

[31] *See* 12 CFR 327.16(e)(3).

[32] *Id.*

[33] 5 U.S.C. 553.

[34] 5 U.S.C. 553(b)(B).

[35] *See Gray Panthers Advoc. Comm.* v. *Sullivan,* 936 F.2d 1284, 1291–92 (D.C. Cir. 1991) (citations omitted) (public comment is unnecessary if the regulation "merely reiterates the statutory language"); *Metzenbaum* v. *FERC,* 675 F.2d 1282, 1291 (D.C. Cir. 1982) (notice and comment was unnecessary for nondiscretionary act); *accord Lake Carriers' Ass'n* v. *EPA,* 652 F.3d 1, 10 n.10 (D.C. Cir. 2011) (collecting cases).

C. Riegle Community Development and Regulatory Improvement Act

The Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA),[36] generally provides that new regulations or amendments to regulations prescribed by a Federal banking agency that impose additional reporting, disclosure, or other new requirements on insured depository institutions shall take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form, unless the agency determines, for good cause published with the rule, that the rule should become effective before such time.[37] Pursuant to section 553(d)(1) of the APA, a rule may become effective without waiting for the delayed effective date to elapse where the rule grants an exemption or relieves a restriction.[38] For the reasons discussed above, and because the IFR relaxes certain aspects of the FDIC's restrictions on reciprocal deposits, the FDIC has determined that good cause exists for the IFR to become effective immediately upon publication in the **Federal Register**.

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act [39] requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the **Federal Register** after January 1, 2000. The FDIC invites your comments on how to make this rule easier to understand, including the following:

- Has the FDIC organized the material to suit your needs? If not, how could the rule be more clearly stated?
- Are the requirements in the rule clearly stated? If not, how could the rule be more clearly stated?
- Does the rule contain 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 rule easier to understand? If so, what changes to the format would make the rule easier to understand?
- What else could the FDIC do to make the rule easier to understand?

E. Executive Orders 12866, 13563, and 14192

Executive Order 12866 directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule was drafted and reviewed in accordance with Executive Order 12866. Within OMB, the Office of Information and Regulatory Affairs (OIRA) has determined that this rulemaking is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, the draft rule was submitted to OIRA for review. As noted in other sections of the SUPPLEMENTARY INFORMATION of this document, the FDIC has assessed the costs and benefits of this rulemaking and has made a reasoned determination that the benefits of this rulemaking justify its costs. Executive Order 14192, titled ''Unleashing Prosperity Through Deregulation,'' was issued on January 31, 2025. Section 3(a) of Executive Order 14192 requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation. In furtherance of this standard, section 3(c) of Executive Order 14192 requires that the new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations. This rule is not expected to be a regulatory action under Executive Order 14192.

VI. Request for Comment

The FDIC invites comments on all aspects of the interim final rule. In particular, the FDIC requests comment on the following:

Question 1: Do the amendments to the FDIC's regulations made by this interim final rule fully and properly implement section 902 of the Housing Act? If not, how could the amendments be improved?

Question 2: Is the FDIC's interpretation of the third prong of the agent institution definition in Section 29 of the FDI Act, as amended by the Housing Act, regarding the timing of the four-quarter average, appropriate? If not, what interpretation should the FDIC adopt and why?

Question 3: Are the clarifications contained in this interim final rule regarding the reciprocal deposit regulations sufficiently clear? If not, how could they be improved?

Question 4: Is the FDIC's interpretation of when a reciprocal deposit is ''received'' by an agent institution appropriate? If not, what interpretation should the FDIC adopt and why? Would additional clarity be helpful?

Question 5: Are there other aspects of the FDIC's reciprocal deposit regulations that are ambiguous or unclear? If so, what changes, including adopting amended regulations, should the FDIC consider to address such ambiguity?

List of Subjects in 12 CFR Part 337

Banks, Banking, Reporting and recordkeeping requirements, Savings associations, Securities.

Authority and Issuance

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation amends 12 CFR part 337 as follows:

PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

■ 1. The authority citation for part 337 continues to read as follows:

Authority: 12 U.S.C. 375a(4), 375b, 1463, 1464, 1468, 1816, 1818(a), 1818(b), 1819, 1820(d), 1821(f), 1828(j)(2), 1831, 1831f, 1831g, 5412.

■ 2. Amend § 337.6 by:
■ a. Revising paragraphs (a)(3)(ii) and (iii), (e)(1) and (2); and
■ b. Adding paragraphs (e)(3) and (4).

The revisions and additions read as follows:

§ 337.6 Brokered deposits.

(a) * * *

(3) * * *

(ii) If the appropriate Federal banking agency reclassifies a well capitalized insured depository institution as adequately capitalized pursuant to section 38 of the Federal Deposit Insurance Act, the institution so reclassified shall be subject to the provisions applicable to such lower capital category under this section and § 337.7, including paragraph (e)(2)(i)(A)(*2*) of this section.

(iii) An insured depository institution shall be deemed to be within a given capital category for purposes of this section and § 337.7, including paragraph (e)(2)(i)(A)(*2*) of this section, as of the date the institution is notified of, or is deemed to have notice of, its capital category, under regulations implementing section 38 of the Federal Deposit Insurance Act issued by the appropriate Federal banking agency for that institution.

* * * * *

(e) *Limited exception for reciprocal deposits*—(1) *Limited exception.* The sum of the following amounts of reciprocal deposits of an agent institution shall not be considered to be funds obtained, directly or indirectly, by or through a deposit broker:

[36] 12 U.S.C. 4802.

[37] 12 U.S.C. 4802(b).

[38] 5 U.S.C. 553(d)(1).

[39] Public Law 106–102, section 722, 113 Stat. 1338, 1471 (Nov. 12, 1999); 12 U.S.C. 4809.

(i) An amount equal to 50 percent of the portion of the total liabilities of the agent institution that is less than or equal to $1,000,000,000;

(ii) An amount equal to 40 percent of the portion, if any, of the total liabilities of the agent institution that is greater than $1,000,000,000, but less than or equal to $10,000,000,000; and

(iii) An amount equal to 30 percent of the portion, if any, of the total liabilities of the agent institution that is greater than $10,000,000,000, but less than or equal to $96,333,333,333.

(2) *Additional definitions that apply to the limited exception for reciprocal deposits*—(i) *Agent institution* means an insured depository institution that places a covered deposit through a deposit placement network at other insured depository institutions in amounts that are less than or equal to the standard maximum deposit insurance amount, specifying the interest rate to be paid for such amounts, if the insured depository institution:

(A)(*1*) When most recently examined under section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) was assigned a CAMELS rating of 1, 2, or 3 under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system); and

(*2*) Is well capitalized;

(B) Has obtained a waiver pursuant to paragraph (c) of this section; or

(C) Does not receive an amount of reciprocal deposits that causes the total amount of reciprocal deposits held by the agent institution to be greater than the average of the total amount of reciprocal deposits held by the agent institution on the last day of each of the four calendar quarters preceding the calendar quarter in which the agent institution was found not to have a composite condition of outstanding or good or was determined to be not well capitalized.

(ii) *Covered deposit* means a deposit that:

(A) Is submitted for placement through a deposit placement network by an agent institution; and

(B) Does not consist of funds that were obtained for the agent institution, directly or indirectly, by or through a deposit broker before submission for placement through a deposit placement network.

(iii) *Deposit placement network* means a network in which an insured depository institution participates, together with other insured depository institutions, for the processing and receipt of reciprocal deposits.

(iv) *Network member bank* means an insured depository institution that is a member of a deposit placement network.

(v) *Reciprocal deposits* means deposits received by an agent institution through a deposit placement network with the same maturity (if any) and in the same aggregate amount as covered deposits placed by the agent institution in other network member banks.

(3) *Requalifying as an Agent Institution due to a Rating Change or Receipt of Reciprocal Deposits in Excess of 4-Quarter Average*—(i) *Rating change.* The effective date of a CAMELS rating change for purposes of satisfying the agent institution definition under paragraph (e)(2) of this section is the date of written notification to the insured depository institution by its appropriate Federal banking agency of its supervisory rating.

(ii) *Receipt of Reciprocal Deposits in Excess of 4-Quarter Average.* An insured depository institution that does not satisfy the agent institution definition under paragraph (e)(2) of this section because it receives an amount of reciprocal deposits that causes the total amount of reciprocal deposits held to be greater than the amount specified in paragraph (e)(2)(i)(C) of this section is considered to satisfy the definition as of the date the amount of reciprocal deposits held by the insured depository institution is less than the amount specified in paragraph (e)(2)(i)(C) of this section.

(4) *Receipt of nonmaturity reciprocal deposits.* For purposes of this section, an agent institution receives nonmaturity reciprocal deposits through a deposit placement network if the deposit is received from a deposit placement network as a result of the agent institution submitting a new covered deposit for placement through the deposit placement network.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on August 28, 2026.

Jennifer M. Jones,

Deputy Executive Secretary.

[FR Doc. 2026–17865 Filed 8–31–26; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 771

Federal Railroad Administration

49 CFR Part 264

Federal Transit Administration

49 CFR Part 622

[Docket No. FHWA–2025–0007]

RIN 2125–AF80; 2130–AD05; 2132–AB51

National Environmental Policy Act Regulations

ACTION: Final rule.

AGENCY: Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), Federal Transit Administration (FTA), U.S. Department of Transportation (DOT).

SUMMARY: FHWA, FRA, and FTA (collectively referred to as the ''Agencies'') are finalizing the interim final rule (IFR) published on July 3, 2025, which revised the Agencies' National Environmental Policy Act (NEPA) of 1969 implementing regulations in light of the removal of the Council on Environmental Quality (CEQ) regulations, the amendments to NEPA included in the section of the Fiscal Responsibility Act (FR Act) of 2023, known as the Building United States Infrastructure through Limited Delays and Efficient Reviews (BUILDER) Act of 2023, amendments regarding efficient environmental reviews included in the Infrastructure Investment and Jobs Act (IIJA) of 2021, and the Supreme Court decision in *Seven County Infrastructure Coalition.* The Agencies provided a 30-day comment period for the public to review and comment on the IFR. This final rule addresses public comments received and finalizes the IFR with minor technical changes.

DATES: Effective on September 1, 2026.

FOR FURTHER INFORMATION CONTACT: For FHWA: Megan Cogburn, Office of Planning, Environment, and Realty, (202) 893–5850, or via email at *Megan.Cogburn@dot.gov;* Diane Mobley, Office of the Chief Counsel, (202) 366–1366, or via email at *Diane.Mobley@dot.gov;* For FRA: Lana Lau, Office of Environmental Program Management, (202) 923–5314, or via email at *Lana.Lau@dot.gov;* Faris Mohammed, Office of the Chief Counsel, (202) 763–3230, or via email at *Faris.Mohammed@dot.gov;* For FTA: Megan Blum, Office of