DEPOSIT CHANGES COMING DOWN THE TRACK

by Steve Brown

Following many bank failures and after reviewing lessons learned from those events, regulators drafted rules around CDs. The rules kick in on January 1, 2010 and relate to interest rates paid on deposits for certain institutions.

Specifically, the rule restricts the use of brokered deposits and the rate of interest paid on deposits for banks that are less than well-capitalized. The final rule redefines the national rate as "a simple average of rates paid by all insured depository institutions and branches for which data are available." It also indicates the prevailing rate in all market areas is deemed to be the national rate, however banks operating in high-rate areas can ask the FDIC to confirm whether or not that is the case (if not, then the national rate is used).

While the headline and coffee house talk has focused on banks that are less than well-capitalized, it should be noted there are exceptions that expand the universe of banks that must also comply. For instance, the rules specifically state that less-than-well-capitalized institutions are subject to the interest rate restrictions and a quantitatively well-capitalized bank that is subject to a capital maintenance provision within a formal written agreement is reclassified as adequately capitalized for this purpose. Therefore, the rules also apply to any bank operating under a formal written agreement regardless of capitalization.

Bankers may also need to enhance systems and process to track the local, national and rates paid. For instance, the rule states that banks subject to the interest rate restrictions must not pay deposit rates that exceed the national rate caps. While banks operating in high rate areas can use the prevailing rates in those areas to determine conformance (if the bank has the OK from the FDIC), they must continue to use the national rate to determine conformance for all deposits outside the market area. We would expect that for bankers to track and report such things, additional programming and system enhancements are likely to be needed.

Bankers seeking to gain approval for operating in a high rate area will need to apply to the FDIC. If you go down this route, be sure to have reports and analysis ready. As part of its review, the FDIC indicates it will use standardized data (average rates by state, metropolitan statistical area and "micropolitan" statistical area) for the market in which the bank is operating to determine if it is a high-rate area. If the standardized rate data for the bank's market area exceeds the national average for a minimum of 3 of the 4 deposit products reviewed by at least 10%, it can be determined the institution is operating in a high-rate area. These non-jumbo (less than $100,000) product types will be reviewed: money market deposit account, 12-month CD, 24-month CD and 36-month CD.

The FDIC has also stated that the language "significantly exceeds" means more than 75bp. In addition, the market survey cannot consist of a subset of banks with similar characteristics, such as asset size or a retail focus. In addition, branches of large institutions should be included, as the goal is to get the rate landscape of an area to include all FDIC-insured competitors.

A couple of other quick nuances: 1) Banks should calculate the rate by averaging competitors' levels based on the same deposit term (i.e. 1Y CDs, etc.). Banks can segregate savings, NOW and MMDA accounts for evaluation purposes, but further account bifurcation is not allowed. 2) For deposits of like maturity, banks should calculate the prevailing rate for deposits under $100k (non-jumbo) and over $100k (jumbo). 3) Banks will also have to include the cost of any gifts given for opening a deposit account in the calculation of the deposit rate.

Finally, the FDIC has ruled that deposits received through a deposit placement network (sometimes referred to as reciprocal deposits ARE brokered deposits and should be reported as such on Call Reports. While reciprocal deposits ARE excluded when calculating the newly added adjusted brokered deposit ratio for Risk Category I institutions, they ARE included within the general definition of a brokered deposit.

Our Liability Coach product is designed to help banks better manage their liability structure, including the tracking of rates for compliance. However, to do it yourself, find more information at:

http://www.fdic.gov/regulations/resources/rates/index.html

BANK NEWS

Wells Fargo

The last bank to repay TARP has announced it will do so by raising $10.4B in stocks.

BofA

Following Monday's meeting with the White House, the bank committed to increase small business lending by $5B in the coming year.

Fed Funds

PIMCO predicts the FRB will not raise rates until 2011, as it waits for unemployment to drop below 9%.

GDP

Analysis by the White House finds the economy will need to grow 5% on a sustained basis to bring unemployment back to its long-term trend within 4Ys. GDP is expected to grow 1% to 2% in 2010 and 3.5% in 2011.

FRB

FOMC Chair Bernanke said in a recent speech that he sees "formidable headwinds" still facing the economy.