1996. A permanent change in the collection date would be required. *Id.*

Shortly after the new system was adopted, however, the FDIC began to receive information suggesting that more institutions would be adversely affected by the December collection date than was initially thought. Moreover, the Independent Bankers Association of America (IBAA) issued a letter to the FDIC requesting the FDIC to reconsider the issue in light of the December collection date's effect on cash-basis institutions. The FDIC's Board of Directors considers that it is appropriate to regard the IBAA's request as a "petition for the amendment of a regulation" within the meaning of the FDIC's policy statement "Development and Review of FDIC Rules and Regulations," 2 FED. DEPOSIT INS. CORP. LAWS, REGULATIONS, RELATED ACTS 5057 (1984).

Accordingly, FDIC has decided to propose, for public comment, certain changes in the quarterly collection schedule. The proposed changes would take effect upon publication in the **Federal Register**.

2. Interest on Underpaid and Overpaid Assessments

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

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

The FDIC is proposing to replace the TFRM rate with a rate keyed to the 3-month Treasury bill discount rate. The new rate would take effect on January 1,

B. The Proposed Amendment

1. The Payment Schedule

a. Delaying the Collection Date for First Payments

The proposed rule would change the collection date for the first quarterly payment for the first semiannual period

of each year (first payment). Under the present regulation, the collection date is December 30 of the prior year. The proposed rule would delay the collection date to the first business day following January 1. Accordingly, every institution would ordinarily make its first payment on that date.

No other aspect of the collection procedure would be altered: there would be no change in the amount of the assessment due, and there would be no change in the other collection dates.

The proposal is designed to protect cash-basis institutions against the adverse consequences of having to make an extra assessment payment during 1995. The remedy is necessarily a continuing one. Accordingly, the FDIC considers that it is appropriate to make the change in the collection date permanent.

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

The FDIC further believes that most institutions have already prepared to comply with the direct-debit procedures, and would suffer no procedural disadvantage from the proposed delay in the collection date. The FDIC would collect the January 1 payment in the same manner as under the existing regulation.

b. Prepaying First Payments

The FDIC recognizes, however, that some institutions may prefer the existing payment schedule, notwithstanding the fact that they would be making five payments during 1995. The proposed rule accommodates these institutions. Under the proposed rule, an institution would be able to elect to prepay its first payment for any year.

The FDIC would collect prepayments by electronically debiting prepaying institutions' accounts, just as the FDIC collects other quarterly assessment payments. The collection date for the prepayments would be December 30 of the prior year (or, if December 30 is not a business day, the preceding business day).

An institution could prepay either the amount of the first payment or twice that amount. The doubled amount represents an approximation of the entire amount due for the first

semiannual period. The approximation is not intended to be exact. Growing institutions would ordinarily owe an additional amount on the next quarterly collection date; shrinking institutions would ordinarily receive a credit for the overpayment.

In order to elect to prepay the first payment for a given year, an institution would have to file a certification to that effect by the preceding November 1. The prepayment election would be effective with respect to the first payment for the upcoming year and for all years thereafter.

The institution would have to complete a pre-printed form supplied by the FDIC to make the certification. The FDIC's Division of Finance would make pre-printed forms available for this purpose. The institution's chief financial officer, or an officer designated by the institution's board of directors, would have to sign the form.

An institution would certify that it would pay its first assessment in accordance with the prepayment procedure. The institution would also specify whether it would prepay the invoiced amount or double that amount.

An institution could terminate its election of the prepayment option in the same way as it made the election: by certifying that it was terminating the election for an upcoming year. As in the case of the original election, the institution would have to use a preprinted form supplied by the FDIC to make the certification, and would have to file the form by November 1 of the prior year. The institution would then revert to the regular payment schedule for the upcoming year and for all future years.

An institution that terminated an election could make a new election. An institution could even terminate one election and make a new election for the same semiannual period—e.g., for the purpose of changing the amount of a prepayment—if the institution filed both certifications by the November 1 deadline.

The proposed rule does not contemplate that the FDIC would pay interest on prepaid assessments.

The FDIC believes that it is appropriate to allow the prepayment option for two reasons. The FDIC recognizes that institutions that keep their books on an accrual basis are not materially harmed by having to pay five quarters' worth of assessments in 1995. (By the same token, these institutions are not materially harmed by delaying the collection date from December to January.)

Some of these institutions may prefer to prepay some or all of their first