

[Banking and Finance Law Daily Wrap Up, DEPOSIT INSURANCE—Bank of America owes \\$542M in deposit insurance, says FDIC, \(Jan. 10, 2017\)](#)

Banking and Finance Law Daily Wrap Up

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By [J. Preston Carter, J.D., LL.M.](#)

The Federal Deposit Insurance Corporation alleges that Bank of America "refuses to pay" over \$542 million in deposit insurance, according to a complaint filed by the FDIC in the District Court for the District of Columbia. The FDIC contends that BoA incorrectly reported its counterparty exposures for seven quarters ([Federal Deposit Insurance Corporation v. Bank of America](#), Jan. 9, 2017).

Underreporting exposures. By underreporting its counterparty exposures, the FDIC states, BoA appeared less risky than it actually was and therefore paid lower quarterly assessments for deposit insurance than it should have. BoA "was able to wrongly keep at least \$542 million for the seven quarters at issue here" (the second quarter of 2013 through the fourth quarter of 2014) that it should have paid into the Deposit Insurance Fund, the agency argues.

\$1B in total underpayments. However, the complaint states that BoA's total underpayments since 2011 are in excess of \$1 billion. The FDIC has not assessed and invoiced BoA for underpayments for quarters earlier than the seven quarters at issue, and it noted that it reserves the right to amend its complaint after the invoice is issued.

Instructions ignored. The FDIC alleges that BoA reported incorrect financial information from the second quarter of 2011 through the first quarter of 2016, in violation of 12 U.S.C. 1817, that understated its counterparty exposure. During this period, the complaint states, BoA ignored the FDIC's instruction that it report counterparty exposures at the "consolidated entity level" and, "in fact, did not consolidate any of its counterparty exposures at all."

Of the nine largest and most highly complex institutions that are subject to this reporting requirement, the complaint continues, BoA "is the only one that did not consolidate its exposures in any manner whatsoever."

The case is [No. 1:17-cv-36](#).

Attorneys: Jon Corey, Eric Lyttle, Ethan Glass (Quinn Emanuel Urquhart & Sullivan, LLP) for the FDIC.

Companies: Bank of America

LitigationEnforcement: DepositInsurance EnforcementActions