

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Chapter III

Semiannual Agenda of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Publication of Semiannual Agenda of Regulations.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is publishing its agenda of regulations for October 1983. The agenda includes descriptions of final rules adopted during the past six months, proposed amendments to FDIC regulations, and regulations under development.

FOR FURTHER INFORMATION CONTACT: John R. Keiper, Jr., Paperwork and Regulation Control Coordinator, Office of the Executive Secretary, telephone (202) 389-4351, or other persons identified under regulations listed in the agenda. The address for all FDIC staff identified in the agenda is Federal Deposit Insurance Corporation, Washington, D. C. 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agendas is in accordance with both the Regulatory Flexibility Act

(sec. 3, Pub. L. No. 96-354; 94 Stat. 1166 (5 U.S.C. 602)) and the FDIC statement of policy entitled "Development and Review of FDIC Rules and Regulations" (44 FR 31007, May 30, 1979; 44 FR 32353, June 6, 1979; 44 FR 76858, December 28, 1979).

Based on an assessment by the staff, none of the regulations listed in this agenda is expected to have a significant economic impact on a substantial number of small entities, except as otherwise noted. FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

Interested persons may petition the FDIC for the issuance, amendment or repeal of any regulation by submitting a written petition to the Executive Secretary. Petitioners should include complete and concise statements of their interests in the subject matters and reasons why the petitions should be granted.

#### Section A - PROPOSALS OUTSTANDING

Proposed amendments to regulations listed under this heading have been published for comment and have not yet been issued in final form.

1. Credit Card Agreements and Check Guarantees

(12 CFR Parts 332 and 337)

The FDIC published proposed amendments to its regulations that would allow banks: (1) to sponsor their customers in credit card programs offered by other banks, and (2) to issue check guarantee cards (46 FR 31018, June 12, 1981). The proposal would provide a narrow exemption from prohibitions in the regulations against banks guaranteeing the obligations of third parties.

Comments were due by August 11, 1981.

FDIC postponed final action on these amendments pending the completion of an analysis of the underlying regulations Part 332 and Part 337.

Amendments to Part 332 were being evaluated which may have made the proposed exemptions unnecessary.

The FDIC staff currently is preparing the memoranda and documents necessary to withdraw the proposal published in June 1981 because of its stale date and to issue a similar proposal as a proposed regulation. The revised proposed regulation would permit basically the same activities as those originally proposed and would incorporate suggestions received during the initial comment period.

It is anticipated that the withdrawal and publication of revised proposed regulations will be completed during 1983. Because of the time required for the comment period and any subsequent reanalysis arising therefrom, final regulations, if adopted, may not be in place prior to the end of 1983.

For further information, contact Janis R. Blake, Attorney, Legal Division, telephone (202) 389-4446.

## 2. Special Reporting Basis for Insured Savings Banks

### (12 CFR Part 350)

On May 24, 1982, the FDIC proposed a new regulation that would require current value reporting of all debt and equity securities acquired by a savings bank on or after January 1, 1983, for purposes of the reports of condition and income filed with the FDIC by savings banks, and that would permit savings banks to defer and amortize gains and losses on dispositions of financial assets acquired prior to January 1, 1983 (47 FR 23743, June 1, 1982). The regulation would provide savings banks with an opportunity to restructure their asset portfolios and place a market discipline over decisions to acquire or hold investment securities.

Comments were due by August 2, 1982.

Subsequent to the issuance of the proposed regulation, the FDIC staff and staff of the other Federal financial institutions regulatory agencies have been studying current value accounting applications for all financial institutions. This issue remains under continuing study and, therefore, final action on the proposed Part 350 has been postponed.

For further information contact Paul L. Sachtleben, Projects and Planning Specialist, Division of Bank Supervision, telephone (202) 389-4141.

### 3. Maximum Balance Restriction on Savings Deposits

#### (12 CFR Part 329)

On August 2, 1982, the FDIC published a proposed amendment to its regulations that would remove the \$150,000 maximum balance limitation that applies to savings deposits accepted by commercial banks from corporations, partnerships, associations or certain other organizations (47 FR 33276, August 2, 1982). The amendment was proposed to allow commercial banks to compete for funds more effectively.

Comments were due by October 1, 1982.

The FDIC Board of Directors has decided to defer action on this amendment until the Depository Institutions Deregulation Committee (DIDC) addresses the issue of eligibility for "Super NOW" accounts. The DIDC's position on this issue may impact on FDIC's action.

For further information, contact Peter Kravitz, Senior Attorney, Legal Division, telephone (202) 389-4171.

#### 4. Securities of Insured Nonmember Banks

##### (12 CFR Part 335)

The FDIC proposed an amendment to its securities disclosure regulation in accordance with the Securities Exchange Act of 1934, which requires that the FDIC issue regulations substantially similar to regulations of the Securities and Exchange Commission ("SEC"), or publish reasons for not doing so (47 FR 53893, November 30, 1982). The proposed amendment conforms to recent changes to SEC regulations.

Comments were due by December 30, 1982.

For further information, contact Gerald J. Gervino, Senior Attorney, telephone (202) 389-4171, or Mulford H. Smith, Senior Financial Analyst, telephone (202) 389-4651.

## 5. Unsafe and Unsound Banking Practices

### (12 CFR Part 337)

In its policy statement concerning the applicability of the Glass Steagall Act to securities activities of subsidiaries of insured nonmember banks (47 FR 38984, September 3, 1982), the FDIC Board of Directors expressed its opinion that the Act does not prohibit an insured nonmember bank from establishing an affiliate relationship with, or organizing or acquiring, a subsidiary corporation that engages in securities activities. In this connection, the FDIC proposed for public comment an amendment to its regulations that would (1) define "bona fide" subsidiary, (2) limit a bank's permissible investment in a securities subsidiary, (3) require notice of intent to invest in such a subsidiary, (4) limit the permissible securities activities of nonmember bank subsidiaries, and (5) place certain other restrictions on loans, extensions of credit, and other transactions between nonmember banks and their subsidiaries or affiliates that engage in securities activities (48 FR 22155, May 17, 1983).

The staff anticipates that this proposal will have a significant economic impact on a substantial number of small entities and, therefore, a regulatory flexibility analysis has been prepared.

On June 17, 1983 the FDIC held a public hearing on the proposal at the FDIC Building, 550 17th Street, N.W., Washington, D.C. The comment period on the proposal closed on July 18, 1983. Comments are currently being reviewed.

For further information, contact Pamela E.F. LeCren, Senior Attorney, Legal Division, telephone (202) 389-4171.

#### 6. Deposit Insurance Coverage

##### (12 CFR Part 330)

On July 15, 1983, the FDIC published a proposed rule which would include in the definition of "insured deposit" for insured commercial and savings banks the amount of accrued earnings (either interest or dividends) (48 FR 32356-57, July 15, 1983). This proposal would facilitate the FDIC's insurance activities in paying off deposits at an FDIC-insured depository institution.

Comments were due on or before September 13, 1983.

For further information, contact Roger A. Hood, Assistant General Counsel, or Fredric H. Karr, Attorney, Legal Division, telephone (202) 389-4171.



## 7. Deposit-Placement Activities

(12 CFR Parts 330 and 337)

The FDIC has developed an advance notice of proposed rulemaking to solicit comments on certain deposit-brokering and brokering-type activities in the banking industry. The FDIC is concerned that such activities result in a flow of funds, within the insured limits, into banks which are financially unstable and/or poorly managed. The advance notice also solicits views on whether the multiple insurance coverage afforded in connection with pension fund and other custodial accounts fails to encourage market and bank analyses in the placement of such deposits with insured banks.

Comments are due by November 28, 1983.

For further information, contact Joseph A. DiNuzzo, Senior Attorney, Legal Division, telephone (202) 389-4171.

## 8. Disclosure of Insider Indebtedness

(12 CFR Parts 304 and 349)

The Federal Deposit Insurance Corporation ("FDIC") has proposed to amend Parts 304 and 349 of its regulations which require annual reports of

ownership of insured State nonmember banks and insider indebtedness to insured State nonmember banks and their correspondent banks (48 FR 49517, October 26, 1983). The proposal implements the amendments to section 7(k) of the Federal Deposit Insurance Act ("FDI Act") and section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 ("BHCA Amendments") contained in sections 428 and 429 of the Garn-St Germain Depository Institutions Act of 1982 ("Garn-St Germain Act"). It reduces the existing reporting burden for banks and provides more meaningful information to the public. The proposal requires an insured State nonmember bank to disclose, upon request, the names of its executive officers and principal shareholders who (along with their related interests) have substantial borrowings from the bank or its correspondent banks. The reporting and disclosure requirements of the proposal will apply to institutions, such as mutual savings banks, not previously subject to the reporting and disclosure provisions of section 7(k) of the FDI Act and section 106(b)(2) of the BHCA Amendments as they existed prior to amendment by the Garn-St Germain Act in 1982. The proposed amendments also restate the existing statutory requirement which requires insiders to report to the board of directors of their bank any indebtedness to the correspondent banks of that bank.

Comments are due by November 25, 1983.

For further information, contact Robert E. Feldman, Attorney, Legal Division, telephone (202) 389-4171.

## Section B - POTENTIAL ACTIONS

Entries under this heading describe regulations that are either being developed or are anticipated to be developed for consideration by FDIC's Board of Directors. Entries are the result of evaluations of present circumstances; consequently, subsequent action may be taken on matters not included or may not be taken on matters included.

### 1. Investments in Bank Service Corporations

#### (12 CFR Parts 303 and 304)

The Garn-St Germain Depository Institutions Act of 1982 empowers banks insured by the FDIC to invest in corporations that engage in "banking" activities. Banks that wish to take advantage of the authority conferred by the Garn-St Germain Depository Institutions Act of 1982 must first obtain the approval of their primary regulator.

The FDIC staff is developing a form for use by nonmember insured banks applying for the FDIC's permission to make investments of this kind.

For further information, contact Jules Bernard, Senior Attorney, Legal Division, telephone (202) 389-4171.

## 2. Rules of Practice and Procedures

### (12 CFR Part 308)

The Legal Division, in conjunction with the Office of the Executive Secretary, is developing a proposed amendment to Part 308 of the FDIC's Rules and Regulations. Part 308 governs the rules and procedures applicable to hearings held concerning administrative enforcement proceedings initiated by the FDIC. The development of this proposal is being undertaken in order to clarify procedural issues raised in connection with Part 308.

For further information, contact Christine C. A. Tullio, Attorney, Legal Division, telephone (202) 389-4171.

## 3. Interest on Deposits

### (12 CFR 329)

In light of action taken at the June DIDC meeting substantially deregulating time deposits effective October 1, 1983, the Legal Division is preparing a substantial revision of Part 329 to conform to the DIDC's action.

For further information, contact F. Douglas Birdzell, Counsel, or Jules Bernard, Senior Attorney, both on (202) 389-4171.

4. Activities of Insured Banks; Real Estate, Insurance Brokerage and Underwriting, Data Processing for Third Parties, and Travel Agency Activities; Advance Notice of Proposed Rulemaking

(12 CFR Parts 332, 333, and 337)

On August 30, 1983 the Board of Directors adopted an Advance Notice of Proposed Rulemaking soliciting comment on the need for rulemaking to govern the direct or indirect involvement of insured banks in the following activities: real estate or insurance brokerage and underwriting; data processing for third parties; travel agency activities; and other financially-related activities. Specifically FDIC is soliciting comment on whether or not such activities on the part of insured banks pose any safety and soundness problems, present any conflicts of interest, or are consistent with the purposes of Federal Deposit Insurance. Comment is also being solicited as to whether or not limitations should be imposed on the ability of a firm engaged in any of the subject activities to own an insured bank (48 FR 40900, September 12, 1983).

Comments are due by November 14, 1983.

For further information, contact Pamela E.F. LeCren, Senior Attorney, or Barbara R. Messé, Attorney, Legal Division, telephone (202) 389-4171; John F. Bovenzi, Division of Research and Strategic Planning, telephone (202) 389-4321; or Ken A. Quincy, Planning and Program Development Specialist, Division of Bank Supervision, telephone (202) 389-4141.

#### 5. Employee Responsibilities and Conduct

##### (12 CFR Part 336)

The FDIC will shortly propose a revision of Part 336 of its rules and regulations, which governs the standards of ethical and other conduct of FDIC employees. Significant changes include increasing the categories of employees subject to credit restrictions; easing existing restrictions on credit from affiliates of prohibited creditors; permitting assumptions of home mortgage loans from prohibited creditors; easing existing restrictions on ownership of bank securities; reporting of family member employment by insured banks; and increasing the categories of employees reporting indebtedness. In addition, the regulation has been redrafted in simple English and reorganized along functional lines.

Comments will be due within sixty days following Federal Register publication.

For further information contact Hoyle L. Robinson, Executive Secretary and Ethics Counselor, at (202) 389-4425, or Emily F. Samaha, Deputy Ethics Counselor, at (202) 389-4446.

## 6. Securities Recordkeeping and Confirmations

### (12 CFR Part 344)

Part 344 of the FDIC's regulations covers brokerage-type securities transactions by banks. It requires that certain minimum records be maintained and that confirmations be sent to customers and contains other provisions. It was issued through the Federal Financial Institutions Examination Council on an interagency basis in 1979. All three Federal bank regulatory agencies have almost identical regulations. After several years of experience with these regulations, some changes may be desirable. These changes include, possibly, reformatting the regulations to improve their organization and clarity and reducing some of the recordkeeping and reporting burden. The three banking agencies, as a joint effort under the Examination Council, will review these regulations to determine the specific changes to be proposed.

For further information, contact John F. Harvey, Review Unit Chief, Division of Bank Supervision, telephone (202) 389-4295.

Section C - FINAL RULES ISSUED FROM MAY 10, 1983 THROUGH SEPTEMBER 30,  
1983

1. Termination of Insured Status

(12 CFR Part 307)

Effective May 31, 1983 the FDIC amended its regulation governing the notice procedures to be followed by a bank whose insured status has been terminated other than by an action of the FDIC Board of Directors (48 FR 24030, May 31, 1983). The amendment removed the requirement that an assuming or resulting bank or institution which has assumed the liabilities of an insured bank give notice of the assumption to the depositors of the bank whose liabilities have been assumed. The changes were made to conform the FDIC's regulation to the Garn-St Germain Depository Institutions Act of 1982. The Garn-St Germain Depository Institutions Act of 1982 deleted from the Federal Deposit Insurance Act the primary authority for the provisions of Part 307 which were eliminated.

For further information, contact MaryBeth Triano, Attorney, Legal Division, telephone (202) 389-4151.



## 2. Disclosure of Information

(12 CFR 309)

The FDIC amended its regulations, effective May 31, 1983, to remove restrictions placed on the disclosure of financial records and information to Federal financial institutions supervisory agencies (48 FR 24031, May 31, 1983). The Garn-St Germain Depository Institutions Act of 1982 amended the Right to Financial Privacy Act of 1978 to clarify that the exchange of records and information regarding financial institutions is permitted between the Federal financial institutions supervisory agencies. Restrictions, previously believed to be required by the Right to Financial Privacy Act, were removed from the FDIC's regulations on disclosure of information.

For further information, contact MaryBeth Triano, Attorney, Legal Division, telephone (202) 389-4151.

## 3. Delegation of Authority to Act on Merger Applications

(12 CFR Part 303)

The FDIC has delegated authority to approve, but not deny, merger applications of a routine nature (48 FR 27027, June 13, 1983). The delegation is to the Director of the Division of Bank Supervision and to the regional directors. The rule specifies the characteristics that a merger must exhibit in order to be regarded as a routine merger.

For further information, contact Donald Pfeiffer, Supervising Review Examiner, Division of Bank Supervision, telephone (202) 389-4341, or Jules Bernard, Senior Attorney, Legal Division, telephone (202) 389-4171.

#### 4. Streamlining of Application Procedures

(12 CFR Parts 303, 304 and 347)

The FDIC has adopted changes to its information and/or notification requirements for applications for branches (including remote service facilities), relocations, and deposit insurance (48 FR 28073, June 20, 1983). Changes in criteria for delegation of authority were also adopted.

For further information, contact Carmen J. Sullivan, Assistant Director, Corporate Applications & Special Activities, Division of Bank Supervision, telephone (202) 389-4545.

#### 5. Deposit Information Made Publicly Available

(12 CFR Parts 304 and 309)

The FDIC discontinued confidential treatment of information on the size and number of banks' deposit accounts reported as of June 30, 1982 and thereafter (48 FR 28079, June 20, 1983). The FDIC has previously withheld public access to the information due to the harm reporting banks

could possibly suffer from the disclosure of detailed deposit information to a competing institution. As a result of changed reporting requirements introduced in June 1982, confidential treatment is no longer needed, because the general and highly summarized data which are now reported do not contain the degree of detail that a competitor can act on.

For further information, contact William P. Carley, Planning and Program Development Specialist, Division of Bank Supervision, telephone (202) 389-4141.

#### 6. Classification of Money Market Deposit Accounts as "Savings Deposits"

##### (12 CFR Part 329)

The FDIC has classified Money Market Deposit Accounts as "savings deposits" for purposes of Part 329 of the FDIC's rules and regulations (48 FR 33477, July 22, 1983).

The new rule is merely a conforming amendment. It brings the FDIC's Part 329 into line with the action previously taken by the Depository Institutions Deregulation Committee in creating Money Market Deposit Accounts.

For further information, contact Jules Bernard, Senior Attorney, Legal Division, telephone (202) 389-4171.

7. Redefinition of "Mutual Savings Bank" and Waiver of Premature  
Withdrawal Penalty

(12 CFR Part 329)

Effective August 1, 1983, the FDIC amended its interest-rate control regulations to: (1) include all FDIC-insured, State-chartered stock savings banks within the definition of "mutual savings bank," and (2) permit an FDIC-insured, State-chartered savings bank to waive the otherwise mandatory premature-withdrawal penalty when depositors withdraw time deposits to purchase stock upon the bank's conversion to a stock savings bank (48 FR 35627, August 5, 1983).

Both amendments were designed to accommodate the current trend of State statutory enactments which permit mutual savings banks to convert to capital stock ownership. The first FDIC amendment expanded the definition of "mutual savings bank" to include all State-chartered stock savings banks, in order that those entities may be allowed to pay the "differential" interest rate on deposits to which the differential still applies. Prior to this amendment only stock savings banks in certain States were defined as mutual savings banks for purposes of the interest-rate differential. The second amendment created a new exception to the federally-mandated penalty for the early withdrawal of time deposits. The exception applies when a depositor withdraws his or her time deposit before maturity to purchase stock upon the bank's conversion from a mutual savings bank to a stock savings bank.

For further information, contact Joseph A. DiNuzzo, Senior Attorney,  
Legal Division, telephone (202) 389-4171.

8. Payment of Interest on Deposits Situated Outside of the Continental  
United States

(12 CFR Part 329)

The FDIC issued a final rule, effective September 15, 1983, to clarify FDIC's interpretation of existing regulations by subjecting any deposit to interest rate ceilings if the deposit is accessible from, automatically linked to, or an integrated part of, an account maintained and payable at any United States branch or office of the same financial institution (48 FR 35629, August 5, 1983). Such integrated accounts are not exempt from the interest rate regulations despite the fact that the bank and its customer might agree that the deposit is payable solely at a bank's office which is located outside of the United States and the District of Columbia.

In addition, certain technical amendments were made to conform Part 329 to the International Banking Act of 1978.

For further information contact, F. Douglas Birdzell, Counsel, or Barbara Messe', Attorney, Legal Division, telephone (202) 389-4171.

9. Delegation of Authority to Issue Consent Cease-and-Desist Orders When Respondent Waives Any Right to a Notice of Charges

(12 CFR 303)

The amendment delegates authority to the Director of the Division of Bank Supervision or, where confirmed in writing by the Director, to an Associate Director of the Division of Bank Supervision to execute and issue orders to cease and desist under section 8(b) of the FDI Act when the bank or other respondent consents to the issuance of such order prior to the service of a notice of charges and formally waives any right to such a notice of charges, a hearing, defenses, and findings of fact, conclusions of law and a recommended decision of an administrative law judge (48 FR 36565, August 12, 1983).

For further information, contact James L. Meador, Senior Attorney, Legal Division, telephone (202) 389-4171.

10. Prior Approval Requirement on Insider Loans

(12 CFR Part 337)

On September 12, 1983 the Board of Directors approved an amendment eliminating the current requirement for prior approval by a bank's board of directors of all extensions of credit exceeding, in the aggregate, \$25,000 made to its insiders (directors, executive officers, principal

shareholders, or any related interests of such persons) and substituted in its place a new prior approval formula. Under the new formula, prior approval would be required for (1) extensions of credit that exceed, in the aggregate, the greater of \$25,000 or five percent of the bank's capital and unimpaired surplus, and (2) all extensions of credit exceeding \$500,000 in the aggregate, regardless of a bank's capital and unimpaired surplus (48 FR 42969, September 21, 1983).

For further information, contact Pamela E.F. LeCren, Senior Attorney, Legal Division, telephone (202) 389-4171.

#### 11. Management Official Interlocks

##### (12 CFR Part 348)

The FDIC, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the National Credit Union Administration and the Federal Home Loan Bank Board proposed amendments to their respective regulations implementing the Depository Institution Management Interlocks Act (47 FR 47406, October 21, 1982). On September 12, 1983 the Board of Directors of the FDIC adopted the regulations as proposed with only minor clarifying changes. The amendments relax

certain interlock restrictions, simplify the procedure for requesting exceptions, and broaden the circumstances in which certain exceptions are available.

For further information, contact Pamela E.F. LeCren, Senior Attorney, Legal Division, telephone (202) 389-4171.

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By order of the Board of Directors, October 24, 1983.

FEDERAL DEPOSIT INSURANCE CORPORATION

(SEAL)

By: Hoyle L. Robinson  
Hoyle L. Robinson  
Executive Secretary

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