

FOR IMMEDIATE RELEASE

PR-21-91 (FDIC) (2-13-91)
PR-55-91 (RTC)FDIC SETS POLICY ON OUTSIDE COUNSEL FEES, REPORTS \$21.1 BILLION IN RECOVERIES

The Legal Division of the Federal Deposit Insurance Corporation today announced a policy intended to enhance competition and reduce costs for legal services to the FDIC and the Resolution Trust Corporation.

The FDIC also announced that its Legal Division helped recover an estimated \$21.1 billion for the two agencies during 1990 in connection with failed banks and thrifts. The Division's expenses totalled about \$733 million, with \$615 million for outside legal costs and \$118 million for internal costs, excluding collection costs elsewhere in the agencies. The data indicate that the Division helped recover an estimated \$29 for every \$1 spent. The \$21.1 billion is cash collected and does not include unpaid court judgments. The Division's wide-ranging collection activities include intensive efforts against former executives and other professionals at failed institutions, for which it paid outside counsel about \$80 million in 1990 but recovered \$373 million.

The outside counsel policy states that firms which received more than \$2.5 million in aggregate fees from the FDIC and RTC during any previous 12-month period must obtain prior written approval from a designated FDIC official before gaining new business from the agencies. This policy is expected to promote more efficient and economical legal services while providing the flexibility to make more extensive use of certain firms where appropriate. The FDIC anticipates that firms exceeding the cap must offer special expertise, reduced fees or other benefits.

FDIC General Counsel Alfred J.T. Byrne said: "This policy reflects our significant and ongoing efforts to monitor more closely outside legal expenses, control those expenses and, ultimately, to reduce them."

The Legal Division provides services to the FDIC's Division of Liquidation, the RTC and other FDIC organizations. It is responsible for more than 100,000 pending lawsuits. Through litigation and other efforts, the Legal Division and the nearly 1,000 private firms it uses seek recoveries in failed bank and thrift liquidations and from lawsuits against directors, officers and others associated with failed institutions.

The FDIC previously observed an informal policy aimed at preventing the agency from relying extensively on a small number of outside firms. Effective today, the Legal Division is implementing the following formal program for reviewing proposed new work for outside firms:

- o New business could be given to firms with aggregate fees between \$2.5 million and \$5 million in any previous consecutive 12-month period, excluding expenses, only with the prior approval of an FDIC Deputy General Counsel or the appropriate Regional Counsel.
- o Firms with aggregate fees between \$5 million and \$7.5 million must get approval from a Deputy General Counsel for additional work.
- o Firms with aggregate fees of \$7.5 million or more must obtain approval from the FDIC General Counsel to obtain new business.

Mr. Byrne said: "The hard work of the Legal Division and our outside counsel clearly is paying dividends. In fact, the \$21.1 billion understates our recoveries because it excludes collections from sources such as RTC conservatorships. At the same time, the \$615 million paid to outside counsel overstates our use of firms because it includes work not specifically undertaken at our request, such as bills for work inherited from the former Federal Savings and Loan Insurance Corporation.

"Although we are generally satisfied with the excellent return on our costs," General Counsel Byrne stated, "we also believe our new policies and procedures will help us improve our use of outside counsel and increase our margin of return on those costs."