

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 307

RIN 3064-AC93

Notification of Changes of Insured Status

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The FDIC is proposing to revise its regulation addressing the certification to the FDIC of the assumption of deposits and the notification to depositors of a change in insured status. The proposed revision would clarify that a certification is required only when all of an insured institution's deposit liabilities have been assumed and that no certification is required for partial deposit assumptions. The proposal would require the institution whose deposits are transferred, or its legal successor, to provide the notification rather than the institution assuming the deposits. Finally, the proposal would also clarify the circumstances in which the FDIC would issue orders reflecting that an institution's insured status has been terminated under section 8(q) of the Federal Deposit Insurance Act. Generally, no orders would be issued when an insured institution transfers all of its deposits and its authority to engage in banking is contemporaneously cancelled, nor when the FDIC has been appointed receiver for an insured institution in default.

DATES: Written comments on the Proposal must be received by the FDIC on or before December 13, 2005 for consideration.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Agency Web Site: <http://www.fdic.gov/regulations/laws/federal/propose.html>. Follow the instructions for submitting comments.

- E-mail: comments@fdic.gov. Include "Part 307—Notification of Changes of Insured Status" in the subject line of the message.

- Mail: Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

- Hand Delivery: Comments may be hand-delivered to the guard station located at the rear of the FDIC's 550 17th Street building (accessible from F Street) on business days between 7 a.m. and 5 p.m.

Instructions: All submissions must include the agency name and use the title "Part 307—Notification of Changes of Insured Status."

All comments received will be posted without change to, <http://www.fdic.gov/regulations/laws/federal/propose.html>, including any personal information provided.

Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC, between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT:

Kevin W. Hodson, Chief, Risk Management and Applications Section II, Division of Supervision and Consumer Protection, (202) 898-6919; Donald R. Hamm, Review Examiner, Division of Supervision and Consumer Protection, (202) 898-3528; Thomas Nixon, Counsel, Legal Division, (202) 898-8766; Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

The FDIC's Part 307 contains two sections. Section 307.1 implements section 8(q) of the Federal Deposit Insurance Act (FDI Act) (12 U.S.C. 1818(q)), which states:

Whenever the liabilities of an insured depository institution for deposits shall have been assumed by another insured depository institution or depository institutions, whether by way of merger, consolidation, or other statutory assumption, or pursuant to contract

(1) the insured status of the depository institution whose liabilities are so assumed shall terminate on the date of receipt by the

Corporation of satisfactory evidence of such assumption;

(2) the separate insurance of all deposits so assumed shall terminate at the end of six months from the date such assumption takes effect or, in the case of any time deposit, the earliest maturity date after the six-month period. * * *

All assumptions of insured deposit liabilities, whether a "total" assumption of all the transferring institution's deposits or an assumption of only a portion of its deposits (a "partial" assumption), by an insured institution are subject to the Bank Merger Act and require the prior written approval of the "responsible agency."¹ The responsible agency is the primary Federal regulator of the assuming institution.

The current section 307.1 was last revised in 1983. It requires an assuming institution to provide a certification to the FDIC "[w]henver the deposit liabilities of an insured bank * * * are assumed by another insured bank. * * *" In 1997, the FDIC published a notice of proposed rulemaking concerning Part 307 which was not made final.² The preamble to that proposed rulemaking indicated that the FDIC's view of the current text of section 307.1 was that certifications should be made for both partial and total assumptions. Since the text of section 307.1 does not clearly distinguish between partial and total assumptions, institutions may be unsure whether a certification is required for partial deposit assumptions.

An insured depository institution that proposes to voluntarily terminate its insured status without transferring all of its deposits to an FDIC insured institution must obtain the FDIC's permission. (FDI Act section 18(i)(3), 12 U.S.C. 1828(i)(3)).³ Section 307.2

¹ FDI Act section 18(c)(2), (12 U.S.C. 1828(c)(2)), reads as follows:

No insured depository institution shall merge or consolidate with any other insured depository institution or, either directly or indirectly, acquire the assets of, or assume liability to pay any deposits made in, any other insured depository institution except with the prior written approval of the responsible agency. * * *

² 62 FR 26431, May 14, 1997. That proposal is withdrawn.

³ This proposal would not affect the requirements for FDIC approval of voluntary deposit insurance terminations under sections 8(a) and 8(p) of the FDI Act and for prior written consent for the conversion of an insured depository institution into a noninsured bank or institution as required by section 18(i)(3).

applies section 8(a)(6) of the FDI Act⁴ to voluntary terminations of insured status. Under section 307.2, an insured bank or insured branch of a foreign bank seeking to voluntarily terminate its insured status, but whose deposits will not be assumed by another insured depository institution, must provide notice to its depositors of the date its insured status will terminate. The regulation authorizes the appropriate FDIC Regional Director of the Division of Supervision and Consumer Protection to approve the form, manner, and timing of the notice to depositors and provides authority to the FDIC to take such other steps as may be deemed necessary for the protection of the institution's depositors.

II. The Proposed Rule

A. Revised Caption of the Part

The caption of the Part would be changed from "Notification of Changes of Insured Status" to "Certification of Assumption of Deposits and Notification of Changes of Insured Status." This would make the caption more descriptive of the content of the Part and alert institutions that the Part addresses deposit assumptions as well as changes in insured status.

B. Section 307.1—Scope and Purpose

The current Part 307 does not have a scope and purpose section. In addition, since Part 307 has not been revised since 1983, sections 307.1 and 307.2 continue to refer to an "insured bank" rather than to an "insured depository institution," consistent with the changes made to the FDIC's responsibilities and terminology by sections 201 and 202 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.⁵ The proposed rule would add a new section 307.1 to indicate that the Part applies to insured depository institutions as defined in section 3(c)(2) of the FDI Act,⁶ and to describe the purpose of the Part. The existing sections 307.1 and 307.2 would be

redesignated as sections 307.2 and 307.3, respectively.

C. Section 307.2—Certification of Assumption of Deposit Liabilities

When certification is required. As noted, there may be some ambiguity whether the current certification requirement applies only to total deposit assumptions, or also to partial assumptions. Today's proposed rule would clarify that a certification is required only when there has been a total assumption of deposits. No certification would be required in the case of a partial transfer of deposits, for example when a single branch of an institution is sold. Clarifying that no certification is necessary for a partial assumption is consistent with the FDIC's goal of reducing regulatory burden pursuant to Section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996⁷ while obtaining sufficient information for the proper implementation of section 8(q) of the FDI Act.⁸

There may be situations in which an insured depository institution disposes of all of its deposits through a series of simultaneous partial deposit assumptions involving multiple assuming institutions, rather than through a single total deposit assumption by one assuming institution. An example of this would be where all of the deposits of a transferring institution were assumed through a series of branch acquisitions by different assuming institutions that occurred on the same day. Viewed cumulatively, these partial assumptions would amount to a total assumption of the deposits of the transferring institution making certification necessary. In this situation, today's proposal would require that the transferring institution file a certification.

The current section 307.1 also does not distinguish between a deposit assumption involving operating institutions versus an assumption involving an institution in default and in FDIC receivership. The FDIC plays an integral role in the transfer and assumption of deposit liabilities when it is appointed as receiver for an insured

depository institution in default, and has in its possession information regarding the deposit transfer and assumption transaction. Section 307.2(a) of today's proposal would create an explicit exception from the certification requirement when the deposit liabilities are being transferred from an insured depository institution in default and the FDIC has been appointed as receiver.

Who must make the certification. The proposed rule would require the transferring institution, or its legal successor ("transferring institution"), rather than the assuming institution, to provide certification to the FDIC. Generally, an institution transferring deposit liabilities will be in a better position than the assuming institution to know whether the transfer constitutes all of its deposits, thus triggering application of Part 307 and FDI Act section 8(q). This would be particularly true in the case of an institution that transfers all of its deposit liabilities through multiple transfers to a variety of assuming institutions. In such a situation, it may be difficult for the assuming institutions to have sufficient knowledge of key facts in order to make accurate certifications. In a merger or consolidation there may be only one surviving entity which is the legal successor to both the transferring and assuming institutions. In such instances, that surviving entity would provide any required certification.

Content and form of the certification. Proposed section 307.2(b) would establish the certification's content. The requirements are similar to the current section 307.1 but clarify certain issues, such as where certifications should be filed with the FDIC, and the need for the certification to be on the letterhead of the transferring institution or its legal successor and to be signed by an authorized official. In addition, the proposal would require an institution that is contemporaneously relinquishing its authority to engage in the business of receiving deposits to provide the date that its authority terminated (or will terminate) as well as the method of termination (e.g., whether by the surrender of its charter, the cancellation of its charter or license to conduct a banking business, or otherwise). As discussed below, this information would be used by the FDIC to evaluate the need to issue an order terminating insurance. To assist the industry with compliance, the proposed rule provides a template (Appendix A) that may be used to satisfy with proposed section 307.2 certification requirements.

Evidence of Assumption. The current section 307.1 states that a certification made pursuant to section 307.1 "shall

⁴ 12 U.S.C. 1818(a)(6). Section 8(a)(6) reads as follows:

PUBLICATION OF NOTICE OF TERMINATION.—The Corporation may publish notice of such termination and the depository institution shall give notice of such termination to each of its depositors at his last address of record on the books of the depository institution, in such manner and at such time as the Board of Directors may find to be necessary and may order for the protection of depositors.

⁵ Public Law 101–73, 103 Stat. 103.

⁶ 12 U.S.C. 1813(c)(2). An "insured depository institution" is defined as "any bank or savings association the deposits of which are insured by the Corporation pursuant to this [the FDI] Act." Federal branches and insured branches are included in the definition of "bank" in section 3(a)(1)(A) (12 U.S.C. 1813(a)(1)(A)).

⁷ Public Law 104–208, Sept. 30, 1996, 12 U.S.C. 3311.

⁸ The 1997 proposed rule had envisioned that the certification of partial assumption could be used by the FDIC to determine when the separate deposit insurance coverage provided by section 8(q) on the assumed deposits ended. However, the FDIC can rely on other sources of information to make a separate deposit insurance coverage determination when necessary (for example, from information provided directly to the FDIC by insured depository institutions or by other Federal banking agencies, as well from the underlying transactional documents).

be considered satisfactory evidence of the assumption.” Proposed section 307.2(d) makes a similar statement for accurate certifications that have been made consistent with the requirements of proposed section 307.2 (a), (b) and (c). The term “accurate” has been added to indicate that a materially inaccurate certification would not trigger the automatic termination of the transferring institution’s insured status. The proposed section 307.2(d) would also allow the FDIC to consider other evidence, in addition to a certification, of a total deposit assumption to constitute satisfactory evidence of an assumption for the purposes of section 8(q).

Issuance of an Order. Section 8(q) can be construed as automatically terminating an institution’s insured status upon the FDIC’s receipt of satisfactory evidence of a total assumption. The FDIC did not generally issue orders terminating the insured status of transferring institutions before 1983 when the rule was last revised, and the current section 307.1 does not discuss the issuance of such orders.⁹ In most cases of total deposit assumptions, the transferring institution’s authority to engage in banking is contemporaneously cancelled. In such a situation, an FDIC order confirming the termination of insurance has no practical effect and is unnecessary. Accordingly, under the proposed rule no order confirming the termination of an institution’s insured status would generally be issued when the transferring institution’s authority to engage in banking is cancelled contemporaneously (i.e., generally within five business days after all deposits have been assumed). The proposed rule also would not require orders when deposits are transferred and assumed after a default when the FDIC has been appointed as receiver.

The proposed rule would provide for the issuance of an FDIC order confirming the termination of the insured status of a transferring institution in the relatively limited circumstance in which a total transfer of deposit liabilities has occurred but the transferring institution’s charter is not contemporaneously cancelled. Absent the entry of an order confirming the termination of insured status, an institution in such a situation might attempt to resume accepting deposits sometime after the assumption transaction occurs; an institution might also attempt to sell its charter, which

could allow what is in fact a new entity to conduct banking operations without always requiring FDIC review and approval.¹⁰

D. Section 307.3—Notice to Depositors When Insurance Is Voluntarily Terminated and Deposits Are Not Assumed

As noted earlier, a bank that has obtained the FDIC’s permission under sections 8(a), 8(p) or 18(i)(3) of the FDI Act to terminate its insured status without transferring all of its deposits to an FDIC insured institution is required by the current section 307.2 to provide notice to each of its depositors. A copy of this notice must be provided to and approved by the appropriate Regional Director of the Division of Supervision and Consumer Protection prior to the notice being distributed to the institution’s depositors. The proposed rule would clarify that the notice must be on the institution’s letterhead, signed by a duly authorized officer and sent to the depositor’s last known address on the institution’s books. To assist the industry with compliance, the proposed rule provides a template (Appendix B) that may be used to satisfy with proposed section 307.3 certification requirements.

III. Regulatory Analysis and Procedure

A. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) the FDIC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The collection of information contained in this proposed rule has been submitted to OMB for review.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC concerning the Paperwork Reduction Act implications of this proposal. Such comments should refer to “Notification of Changes of Insured Status, 3064–0124.” Comments on Paperwork Reduction Act issues may be submitted by any of the following methods:

- <http://www.FDIC.gov/regulations/laws/federal/propose.html>.
- E-mail: comments@FDIC.gov. Include “Notification of Changes of Insured Status, 3064–0124” in the subject line of the message.
- Mail: Thomas Nixon (202–898–8766), Counsel, Federal Deposit

Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

- **Hand Delivery:** Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

- A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Mark Menchik, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503, or by electronic mail to mmenchik@omb.eop.gov.

Comment is solicited on:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) The quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

(5) Estimates of capital or start-up costs and costs of operation, maintenance, and purchases of services to provide information.

Title of the collection: The proposed rule will modify an information collection previously approved by OMB titled “Notification of Changes of Insured Status” under control number 3064–0124. The collection’s title would be changed to “Certification of Assumption of Deposits and Notification of Changes of Insured Status.”

Summary of the current collection: The collection consists of two parts: a certification that an insured depository institution provides when it has assumed the deposit liabilities of another insured institution; and a notification to depositors that an insured institution provides if it has obtained FDIC approval to voluntarily terminate its insured status without an assumption of deposits.

Need and use of the information: The certification is required to implement section 8(q) of the FDI Act to determine when the insured status of an institution is terminated based on an assumption of its deposits. The depositor notification, required by Part 307 informs depositors

⁹ The 1997 proposed rule would have provided that the FDIC would generally issue an order terminating the insured status of an institution that transferred all of its deposits.

¹⁰ The transfer of the charter would require prior approval under the Bank Merger Act or the Change in Bank Control Act.

that the insured status of their deposits in the institution will terminate.

Proposed changes to the collection: The proposed rule will modify the collection by eliminating certifications of assumption for partial assumptions of deposits and will require certifications to be made by the transferring institution rather than the assuming institution. No changes are proposed in the notice to depositors.

Respondents: Insured depository institutions.

Frequency of response: Occasional.

Annual burden estimate: Number of certifications: 280; number of depositor notices: 5. Average time to prepare a certification: one quarter hour; depositor notice: 1 hour. Total annual burden: 75 hours.

B. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the FDIC certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed rule would reduce regulatory burden by eliminating the need for a certification to be filed with the FDIC when the liability for some, but not all, of the deposits of an insured institution are transferred to another institution. A certification requires a minimal amount of time and resources since it reports information readily available to the institution making the certification.

List of Subject in 12 CFR Part 307

Bank deposit insurance, Reporting and recordkeeping requirements.

The Board of Directors of the Federal Deposit Insurance Corporation hereby proposes to revise Part 307 of Title 12 of the Code of Federal Regulations to read as follows:

PART 307—CERTIFICATION OF ASSUMPTION OF DEPOSITS AND NOTIFICATION OF CHANGES OF INSURED STATUS

Sec.

307.1 Scope and purpose.

307.2 Certification of assumption of deposit liabilities.

307.3 Notice to depositor when insured status is voluntarily terminated and deposits are not assumed.

Appendix A to Part 307—[Transferring Institution Letterhead]

Appendix B to Part 307—[Institution Letterhead]

Authority: 12 U.S.C. 1818(a)(6); 1818(q); and 1819(a) [Tenth].

§ 307.1 Scope and purpose.

(a) *Scope.* This Part applies to all insured depository institutions, as

defined in section 3(c)(2) of the Federal Deposit Insurance Act (FDI Act) (12 U.S.C. 1813(c)(2)).

(b) *Purpose.* This Part sets forth the rules governing: (1) The time and manner for providing certification to the FDIC regarding the assumption of all of the deposit liabilities of an insured depository institution by one or more insured depository institutions; and (2) The notification that an insured depository institution shall provide its depositors when a depository institution's insured status is being voluntarily terminated without its deposits being assumed by one or more insured depository institutions.

§ 307.2 Certification of assumption of deposit liabilities.

(a) *When certification is required.* Whenever all of the deposit liabilities of an insured depository institution are assumed by one or more insured depository institutions by merger, consolidation, other statutory assumption, or by contract, the transferring insured depository institution, or its legal successor, shall provide an accurate written certification to the FDIC that its deposit liabilities have been assumed. No certification shall be required when deposit liabilities are assumed by an operating insured depository institution from an insured depository institution in default, as defined in section 3(x)(1) of the FDI Act (12 U.S.C. 1813(x)(1)), and that has been placed under FDIC receivership.

(b) *Certification requirements.* The certification required by paragraph (a) of this section shall be provided on official letterhead of the transferring insured depository institution or its legal successor, signed by a duly authorized official, and state the date the assumption took effect. The certification shall indicate the date on which the transferring institution's authority to engage in banking has terminated or will terminate as well as the method of termination (e.g., whether by the surrender of its charter, by the cancellation of its charter or license to conduct a banking business, or otherwise). The certification may follow the form contained in appendix A of this part. In a merger or consolidation where there is only one surviving entity which is the legal successor to both the transferring and assuming institutions, the surviving entity shall provide any required certification.

(c) *Filing.* The certification required by paragraph (a) of this section shall be provided within 30 calendar days after the assumption takes effect, and shall be submitted to the appropriate Regional

Director of the FDIC's Division of Supervision and Consumer Protection, as defined in 12 CFR 303.2(g).

(d) *Evidence of assumption.* The receipt by the FDIC of an accurate certification for a total assumption as required by paragraphs (a), (b) and (c) of this section shall constitute satisfactory evidence of such deposit assumption, as required by section 8(q) of the FDI Act (12 U.S.C. 1818(q)), and the insured status of the transferring institution shall terminate on the date of the receipt of the certification. In appropriate circumstances, the FDIC, in its sole discretion, may require additional information, or may consider other evidence of a deposit assumption to constitute satisfactory evidence of such assumption for purposes of section 8(q).

(e) *Issuance of an order.* The Executive Secretary, upon request from the Director of the Division of Supervision and Consumer Protection and with the concurrence of the General Counsel, or their respective designees, shall issue an order confirming that the insured status of the transferring insured depository institution has been terminated as of the date of receipt by the FDIC of satisfactory evidence of such assumption, pursuant to section 8(q) of the FDI Act and this regulation. Generally, no order shall be issued, under this paragraph, and insured status shall be cancelled by operation of law:

(1) If the charter of the transferring institution has been cancelled, revoked, rescinded, or otherwise terminated by operation of applicable state or federal statutes or regulations, or by action of the chartering authority for the transferring institution essentially contemporaneously, that is, generally within five business days after all deposits have been assumed; or

(2) If the transferring institution is an insured depository institution in default and for which the FDIC has been appointed receiver.

§ 307.3 Notice to depositors when insured status is voluntarily terminated and deposits are not assumed.

(a) *Notice required.* An insured depository institution that has obtained authority from the FDIC to terminate its insured status under sections 8(a), 8(p) or 18(i)(3) of the FDI Act without its deposit liabilities being assumed by one or more insured depository institutions, shall provide to each of its depositors, at the depositor's last known address of record on the books of the institution, prior written notification of the date the institution's insured status shall terminate.

(b) *Prior approval of notice.* The insured depository institution shall

provide the appropriate Regional Director of the FDIC's Division of Supervision and Consumer Protection, as defined in 12 CFR 303.2(g), a copy of the proposed notice for approval. After being approved, the notice shall be provided to depositors by the insured depository institution at the time and in the manner specified by the appropriate Regional Director.

(c) *Form of notice.* The notice to depositors required by paragraph (a) of this section shall be provided on the official letterhead of the insured depository institution, shall bear the signature of a duly authorized officer, and, unless otherwise specified by the appropriate Regional Director, may follow the form of the notice contained in appendix B of this part.

(d) *Other requirements possible.* The FDIC may require the insured depository institution to take such other actions as the FDIC considers necessary and appropriate for the protection of depositors.

Appendix A to Part 307—[Transferring Institution Letterhead]

[Date]

[Name and Address of appropriate FDIC Regional Director]

SUBJECT: *Certification of Total Assumption of Deposits*

This certification is being provided pursuant to 12 U.S.C. 1818(q) and 12 CFR 307.2. On [state the date the deposit assumption took effect], [state the name of the depository institution assuming the deposit liabilities] assumed all of the deposits of [state the name and location of the Transferring Institution whose deposits were assumed]. [If applicable, state the date and method by which the transferring institution's authority to engage in banking was or will be terminated.] Please contact the undersigned, at [telephone number], if additional information is needed.

Sincerely,

By:

[Name and Title of Authorized Representative]

Appendix B to Part 307—[Institution Letterhead]

[Date]

[Name and Address of Depositor]

SUBJECT: *Notice to Depositor of Voluntary Termination of Insured Status*

The insured status of [name of insured depository institution] under the provisions of the Federal Deposit Insurance Act, will terminate as of the close of business on [state the date] ("termination date"). Insured deposits in the [name of insured depository institution] on the termination date, less all withdrawals from such deposits made subsequent to that date, will continue to be insured by the Federal Deposit Insurance Corporation, to the extent provided by law, until [state the date]. The Federal Deposit

Insurance Corporation will not insure any new deposits or additions to existing deposits made by you after the termination date.

This Notice is being provided pursuant to 12 U.S.C. 1818(a)(6) and 12 CFR 307.3.

Please contact [name of institution official in charge of depositor inquiries], at [name and address of insured depository institution] if additional information is needed regarding this Notice or the insured status of your account(s).

Sincerely,

By: [Name and Title of Authorized Representative]

By order of the Board of Directors, at Washington DC on this 6th day of October, 2005.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 05-20590 Filed 10-13-05; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 331 and 362

RIN 3064-AC95

Interstate Banking; Federal Interest Rate Authority

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The FDIC received a petition for rulemaking to preempt certain state laws with the stated purpose of establishing parity between national banks and state-chartered banks in interstate activities and operations. The petition also requested rulemaking to implement the interest rate authority contained in the Federal Deposit Insurance Act. Generally, the requested rules would provide that the home state law of a state bank applies to the interstate activities of the bank and its operating subsidiaries to the same extent that the National Bank Act applies to the interstate activities of a national bank and its operating subsidiaries. They would also implement the federal statutory provisions addressing interest charged by FDIC-insured state banks and insured U.S. branches of foreign banks. The FDIC is requesting comments on a proposed rule to amend the FDIC's regulations in response to the rulemaking petition. Issuance of the proposed rules would serve as the FDIC's response to the rulemaking petition.

DATES: Comments must be submitted on or before December 13, 2005.

ADDRESSES: You may submit comments by any of the following methods:

- Agency Web site: <http://www.FDIC.gov/regulations/laws/federal/propose.html>. Follow the instructions for submitting comments.
- E-mail: comments@FDIC.gov.
- Mail: Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- Hand Delivered/Courier: The guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.
- Public Inspection: Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC, between 9 a.m. and 4:30 p.m. on business days.
- Internet Posting: Comments received will be posted without change to <http://www.FDIC.gov/regulations/laws/federal/propose.html>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Robert C. Fick, Counsel, (202) 898-8962; Rodney D. Ray, Counsel, (202) 898-3556; or Joseph A. DiNuzzo, Counsel, (202) 898-7349; Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. The Petition

The Financial Services Roundtable, a trade association for integrated financial services companies ("Petitioner"), has petitioned the FDIC to adopt rules concerning the interstate activities of insured state banks and their subsidiaries that are intended to provide parity between state banks and national banks. Generally, the requested rules would provide that a state bank's home state law governs the interstate activities of state banks and their operating subsidiaries ("Op Subs")¹ to the same extent that the National Bank Act ("NBA") governs a national bank's interstate business. The Petitioner requests that the FDIC adopt rules with respect to the following areas:

- The law applicable to activities conducted in a host state by a state bank that has a branch in that state,
- The law applicable to activities conducted by a state bank in a state in which the state bank does not have a branch,
- The law applicable to activities conducted by an Op Sub of a state bank,

¹ Generally, an operating subsidiary is a majority-owned subsidiary of a bank or savings association that engages only in activities that its parent bank or savings association may engage in.