

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 309

RIN 3064-AA06

Disclosure of Information

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC or Corporation) is proposing to revise its rule which sets forth the procedures to be used by members of the public in requesting records maintained by the FDIC, the amount of fees charged by the Corporation for responding to requests, the procedures to be used when appealing a decision to deny access to records or for a waiver of fees, circumstances and procedures under which exempt records might be disclosed, and the method by which a party can serve legal process on the Corporation in order to obtain information. The revisions in the proposed rule are designed to accommodate changes in the organizational structure of the Corporation, provide clearer guidance to requesters on how to obtain records under the Freedom of Information Act (FOIA) as amended by the Freedom of Information Reform Act (FOIRA), and allow the Corporation to charge appropriate fees as required under the FOIRA and the guidelines established by the United States Office of Management and Budget.

DATES: Comments must be received on before September 5, 1995.

ADDRESSES: Send comments to Jerry L. Langley, Executive Secretary, FDIC, 550 17th Street, NW, Washington, DC 20429. Comments may be hand-delivered to room 400, 1776 F Street, NW, Washington, DC 20429 on business days between 8:30 a.m. and 5 p.m. [FAX number: (202) 898-3604; Internet: comments@FDIC.gov]. Comments will be available for inspection and

photocopying at the FDIC's Reading Room, room 7118, 550 17th Street, NW, Washington, DC 20429, between 9:00 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Paul A. Jeddeloh, Senior Program Attorney, Office of the Executive Secretary, telephone (202) 898-7161; Z. Scott Birdwell, Senior Attorney, Corporate and Special Litigation Section, Legal Division, telephone (202) 736-0536; or Dirck A. Hargraves, Attorney, Regulation and Legislation Section, Legal Division, telephone (202) 898-7049, FDIC, 550 17th Street, NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

This proposed rule is intended to revise the Corporation's rule governing the release of records maintained by the Corporation and sets forth the procedures to be used by members of the public when requesting such records from the FDIC, the method used by the Corporation in determining the amount of fees to be charged to various categories of requesters, the procedures to be used when appealing a decision to deny access to records or for a waiver of fees, circumstances and procedures under which exempt records might be disclosed, and the method by which a party can serve legal process on the Corporation in order to obtain information.

II. Amendments to Part 309

1. *Purpose and Scope.* No changes have been proposed in § 309.1.

2. *Definitions.* Section 309.2 provides definitions that are used throughout part 309. Proposed § 309.2(f) recognizes that the FDIC conducts joint examinations with other federal financial institutions regulators and clarifies that compliance examination reports are included within the definition of "report of examination". A new § 309.2(i) has been proposed in order to define the term "Director of Division having primary authority" as including the heads of FDIC offices which create, maintain custody, or otherwise have primary responsibility for the handling of FDIC records or information.

3. *Federal Register publication.* No changes have been proposed in § 309.3.

4. *Publicly available records.* Proposed § 309.4 sets forth the procedure to be followed by requesters

who seek publicly available FDIC records. The FDIC has established a worldwide server on the Internet whereby users may access information. The address is set forth in the regulation. Paragraphs (a)(3) through (a)(6) of § 309.4 have been added to advise requesters that the public portion of Community Reinvestment Act (CRA) Evaluations, records regarding final compliance and enforcement actions, Summaries of Deposit Reports, and Annual Reports of Trust Assets can be obtained from the FDIC's Office of Corporate Communications.

Proposed § 309.4(b) has been amended by adding the term "administrative" to the term "cases" in order to clarify the type of final opinions and orders available through the FDIC's Office of the Executive Secretary.

Paragraphs (c)(3), (c)(4), and (c)(5) of § 309.4 have been added to advise requesters that they may obtain from the FDIC's Division of Supervision the Manual of Trust Examination Policies, the Federal Financial Institutions Examination Council Information Systems Handbook and, in the FDIC's discretion, the Consolidated Reports of Income and Consolidated Reports of Condition.

No changes have been proposed for § 309.4(d).

In proposed § 309.4(e), an updated listing of the manuals available from the Division of Depositor and Asset Services has been provided.

Proposed § 309.4(f) has been added to accommodate the creation of the FDIC's Division of Compliance and Consumer Affairs and its role as the contact for the Compliance Examination Manual.

Paragraph § 309.4(g) of the current rule has been deleted in the proposed rule since the information has been consolidated in § 309.4(e) of the proposed rule.

5. *Procedures for requesting records.* Proposed § 309.5 implements the procedural provisions of the FOIA, as amended by the FOIRA, and sets forth the procedures to be followed by members of the public when requesting records maintained by the Corporation, the method by which the Corporation would determine and charge fees for responding to such requests, a delineation of the various categories of requesters for the purpose of determining the application of fees, and