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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 309

RIN 3064-AB67

Disclosure of Information

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC or Corporation) is issuing a final rule which sets forth the Corporation's rules governing disclosure of information to members of the public. The final rule will become effective 30 days after the date of publication, and will establish the procedures to be used by members of the public when 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 final rule provides a more streamlined and efficient process under which members of the public can obtain information from the Corporation, thus meeting the goals of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

EFFECTIVE DATE: January 2, 1996.

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7049, FDIC, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

On July 6, 1995, the Corporation published for comment a proposed rule to establish procedures for the disclosure of information to the public (60 FR 35148-35158). The proposed rule prescribed a 60-day comment period and invited comments from all interested parties. No comments were received. The rule was technically corrected for clarification through the deletion of the words *court order* in the fifth sentence in § 309.6(b)(8)(i) and 309.7(c); the addition of the phrase *and not otherwise prohibited by Federal statute* to the end of the first sentence in § 309.6(b)(8)(ii); the addition of the last sentence in § 309.7(a); and the deletion of the word *exempt* in the first sentence of § 309.7(b) and 309.7(c).

II. Matters of Regulatory Procedure

Authority

This rule is promulgated under the FDIC's general authority to prescribe, through its Board of Directors, such rules and regulations as it may deem necessary to carry out the provisions of the Federal Deposit Insurance Act or any other law which the FDIC has the responsibility of administering or enforcing (except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency). 12 U.S.C. 1819 "Seventh" and "Tenth"; 5 U.S.C. 552; 12 U.S.C. 3401 *et seq.*

Regulatory Flexibility Act

The Board of Directors has concluded that the final rule will not impose a significant economic hardship on small institutions. Therefore, the Board of Directors hereby certifies pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that the final rule will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

The Board of Directors has determined that this final rule does not contain any information collection requirements that require the approval

of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 12 CFR Part 309

Banks, Banking, Credit, Freedom of information, Privacy.

For the reasons set forth in the preamble, the Federal Deposit Insurance Corporation is revising Part 309 of Chapter III of title 12, of the Code of Federal Regulations to read as follows:

PART 309—DISCLOSURE OF INFORMATION

Sec.

- 309.1 Purpose and scope.
- 309.2 Definitions.
- 309.3 Federal Register publication.
- 309.4 Publicly available records.
- 309.5 Procedures for requesting records.
- 309.6 Disclosure of exempt records.
- 309.7 Service of process.

Authority: 5 U.S.C. 552; 12 U.S.C. 1819 "Seventh" and "Tenth."

§ 309.1 Purpose and scope.

This part sets forth the basic policies of the Federal Deposit Insurance Corporation regarding information it maintains and the procedures for obtaining access to such information.

§ 309.2 Definitions.

For purposes of this part:

(a) The term *depository institution*, as used in § 309.6, includes depository institutions that have applied to the Corporation for federal deposit insurance, closed depository institutions, presently operating federally insured depository institutions, foreign banks, branches of foreign banks, and all affiliates of any of the foregoing.

(b) The terms *Corporation* or *FDIC* mean the Federal Deposit Insurance Corporation.

(c) The words *disclose* or *disclosure*, as used in § 309.6, mean to give access to a record, whether by producing the written record or by oral discussion of its contents. Where the Corporation employee authorized to release Corporation documents makes a determination that furnishing copies of the documents is necessary, the words *disclose* or *disclosure* include the furnishing of copies of documents or records. In addition, *disclose* or *disclosure* as used in § 309.6 is synonymous with the term *transfer* as