

(12 CFR 330.4(a)) on the recognition of deposit ownership. Section 330.4(a) provides, in part, that, if the FDIC determines that the deposit account records of an insured depository institution are clear and unambiguous, no other records will be considered as to the manner in which those funds are owned. Section 330.5(a) of the FDIC's regulations (12 CFR 330.5(a)) already explicitly addresses the situation where more than one natural person has the right to withdraw funds from an account that is actually viewed as individually-owned. The amendment applies to situations involving deposits which appear to be jointly-owned but which are claimed to be held in other rights and capacities.

C. Accounts for Which an Insured Depository Institution Acts as an Agent, Nominee, Guardian, Custodian or Conservator

Another technical amendment concerns § 330.6(a) of the FDIC's regulations (12 CFR 330.6(a)), which governs the insurance coverage provided for agency or fiduciary accounts. Section 330.6(a) currently indicates that funds deposited by an insured depository institution acting in a fiduciary capacity are governed by § 330.10 of the insurance regulations. However, in May 1993 the FDIC amended § 330.10, along with several other sections of the insurance regulations, primarily to implement revisions to the insurance rules made by section 311 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA, Pub. L. 102-242, 105 Stat. 2236) (58 FR 29952 (May 25, 1993)). One of those required revisions limits, effective December 19, 1993, the separate insurance formerly applicable to an account held by an insured depository institution in a fiduciary capacity to an account held by an insured depository institution as a trustee of an irrevocable trust. However, the May 1993 amendment simply revised § 330.10; § 330.6 continued to refer to § 330.10 but was not revised, stating instead that "[w]hen such funds are deposited by an insured depository institution acting in a fiduciary capacity, the insurance coverage shall be governed by the provisions of § 330.10 of this part".

The present technical amendment conforms § 330.6(a) to section 311 of FDICIA. The first sentence of § 330.6(a) states the general rule—that funds owned by a principal or principals and deposited into one or more deposit accounts in the name of a fiduciary shall be insured as if deposited in the name of the principal or principals. The

second sentence implements the FDICIA change by stating that, when such funds are deposited by an insured depository institution acting as a trustee of an irrevocable trust, the insurance coverage will be governed by the provisions of § 330.10.

Like the technical amendment on joint account coverage, this technical amendment was published for comment as part of the proposed version of this capital disclosure regulation. 58 FR 64521 (December 8, 1993). The amendment proposed to state clearly, in § 330.6(a), that only funds deposited by an insured depository institution *acting as a trustee of an irrevocable trust* will be eligible for the separate insurance coverage described in § 330.10. Up until this time, § 330.6(a) had stated that funds deposited by an insured depository institution *acting in a fiduciary capacity* would be insured as provided by § 330.10, while § 330.10 stated that it pertains only to funds held by an institution acting as the trustee of an irrevocable trust. Thus, the amendment merely clarifies the language.

The FDIC received four comments on this technical amendment, all of which were favorable. Two, however, noted that the proposed regulatory language for § 330.6(a) seemed to except deposits held by insured depository institutions acting in a representative capacity from the general rule that all deposits held by fiduciaries are insured as if owned by the party represented by the fiduciary. Of course, even deposits held by insured depository institutions acting in a representative capacity follow this general rule. Thus, this final rule includes the proposed amendment to § 330.6(a), as revised to reflect the suggested clarification.

D. Accounts Held by Depository Institutions in Fiduciary Capacities

The final technical amendment further conforms the FDIC's regulations to section 311 of FDICIA, by changing the present title of § 330.10, "Accounts held by depository institutions in fiduciary capacities", to "Accounts held by a depository institution as the trustee of an irrevocable trust". This change conforms § 330.10 to section 311 of FDICIA and to the rest of § 330.10 itself. Because the amendment merely makes the title consistent with § 330.10, and because the text of § 330.10 was itself published for comment (57 FR 49026 (October 29, 1992)), it is unnecessary, under the Administrative Procedure Act, to publish this proposed change for comment. 5 U.S.C. 553(b)(3)(B).

Paperwork Reduction Act

The final rule is intended to reduce uncertainty about whether employee benefit plan deposits are eligible for "pass-through" insurance coverage and to require depository institutions to provide timely disclosure to employee benefit plan depositors when "pass-through" deposit insurance coverage is no longer available. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule. Consequently, no information has been submitted to the Office of Management and Budget for review.

The technical amendments do not require any collections of information pursuant to section 3504(h) of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Accordingly, no information has been submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

Neither the final rule nor the technical amendments will have a significant impact on a substantial number of small businesses within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Accordingly, the Act's requirements relating to an initial and final regulatory flexibility analysis are not applicable.

List of Subjects in 12 CFR Part 330

Bank deposit insurance, Banks, Banking, Savings and loan associations, Trusts and trustees.

The Board of Directors of the Federal Deposit Insurance Corporation hereby amends Part 330 of title 12 of the Code of Federal Regulations as follows:

PART 330—DEPOSIT INSURANCE COVERAGE

1. The authority citation for Part 330 continues to read as follows:

Authority: 12 U.S.C. 1813(l), 1813(m), 1817(i), 1818(q), 1819(Tenth), 1820(f), 1821(a), 1822(c).

2. Section 330.6 is amended by revising paragraph (a) to read as follows:

§ 330.6 Accounts held by an agent, nominee, guardian, custodian or conservator.

(a) *Agency or nominee accounts.* Funds owned by a principal or principals and deposited into one or more deposit accounts in the name of an agent, custodian or nominee shall be insured to the same extent as if deposited in the name of the principal(s). When such funds are deposited by an insured depository institution acting as a trustee of an irrevocable trust, the insurance coverage