

### § 303.8

of acquisition of control, include the name(s) of the acquiring parties. In the case of an application to relocate an insured branch of a foreign bank, include the current and proposed address of the branch.

(ii) Type of filing being made;

(iii) Name of the depository institution(s) that is the subject matter of the filing;

(iv) That the public may submit comments to the appropriate FDIC regional director;

(v) The address of the appropriate FDIC office where comments may be sent (the same location where the filing will be made);

(vi) The closing date of the public comment period as specified in the appropriate subpart; and

(vii) That the nonconfidential portions of the application are on file in the appropriate FDIC office and are available for public inspection during regular business hours; photocopies of the nonconfidential portion of the application file will be made available upon request.

(2) The requirements of paragraphs (c)(1)(iv) through (vii) of this section may be satisfied through use of the following notice:

Any person wishing to comment on this application may file his or her comments in writing with the regional director of the Federal Deposit Insurance Corporation at the appropriate FDIC office [insert address of office] not later than [insert closing date of the public comment period specified in the appropriate subpart of part 303]. The nonconfidential portions of the application are on file at the appropriate FDIC office and are available for public inspection during regular business hours. Photocopies of the nonconfidential portion of the application file will be made available upon request.

(d) *Multiple transactions.* The FDIC may consider more than one transaction, or a series of transactions, to be a single filing for purposes of the publication requirements of this section. When publishing a single public notice for multiple transactions, the applicant shall explain in the public notice how the transactions are related. The closing date of the comment period shall be the closing date of the longest public comment period that applies to any of the related transactions.

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(e) *Joint public notices.* For a transaction subject to public notice requirements by the FDIC and another federal or state banking authority, the FDIC will accept publication of a single joint notice containing all the information required by both the FDIC and the other federal agency or state banking authority, provided that the notice states that comments must be submitted to the appropriate FDIC office and, if applicable, the other federal or state banking authority.

(f) Where public notice is required, the FDIC may determine on a case-by-case basis that unusual circumstances surrounding a particular filing warrant modification of the publication requirements.

#### § 303.8 Public access to filing.

(a) *General.* For filings subject to a public notice requirement, any person may inspect or request a copy of the non-confidential portions of a filing (the public file) until 180 days following final disposition of a filing. Following the 180-day period, non-confidential portions of an application file will be made available in accordance with § 303.8(c). The public file generally consists of portions of the filing, supporting data, supplementary information, and comments submitted by interested persons (if any) to the extent that the documents have not been afforded confidential treatment. To view or request photocopies of the public file, an oral or written request should be submitted to the appropriate FDIC office. The public file will be produced for review not more than one business day after receipt by the appropriate FDIC office of the request (either written or oral) to see the file. The FDIC may impose a fee for photocopying in accordance with § 309.5(f) of this chapter at the rates the FDIC publishes annually in the FEDERAL REGISTER.

(b) *Confidential treatment.* (1) The applicant may request that specific information be treated as confidential. The following information generally is considered confidential:

(i) Personal information, the release of which would constitute a clearly unwarranted invasion of privacy;

(ii) Commercial or financial information, the disclosure of which could result in substantial competitive harm to the submitter; and

(iii) Information, the disclosure of which could seriously affect the financial condition of any depository institution.

(2) If an applicant requests confidential treatment for information that the FDIC does not consider to be confidential, the FDIC may include that information in the public file after notifying the applicant. On its own initiative, the FDIC may determine that certain information should be treated as confidential and withhold that information from the public file.

(c) *FOIA requests.* A written request for information withheld from the public file, or copies of the public file following closure of the file 180 days after final disposition, should be submitted pursuant to the Freedom of Information Act (5 U.S.C. 552) and part 309 of this chapter to the FDIC, Attn: FOIA/Privacy Group, Legal Division, 550 17th Street, NW., Washington, DC 20429.

### § 303.9 Comments.

(a) *Submission of comments.* For filings subject to a public notice requirement, any person may submit comments to the appropriate FDIC regional director during the comment period.

(b) *Comment period*—(1) *General.* Consult appropriate subparts of this part for the comment period applicable to a particular filing.

(2) *Extension.* The FDIC may extend or reopen the comment period if:

(i) The applicant fails to file all required information on a timely basis to permit review by the public or makes a request for confidential treatment not granted by the FDIC that delays the public availability of that information;

(ii) Any person requesting an extension of time satisfactorily demonstrates to the FDIC that additional time is necessary to develop factual information that the FDIC determines may materially affect the application; or

(iii) The FDIC determines that other good cause exists.

(3) *Solicitation of comments.* Whenever appropriate, the appropriate regional director may solicit comments from

any person or institution which might have an interest in or be affected by the pending filing.

(4) *Applicant response.* The FDIC will provide copies of all comments received to the applicant and may give the applicant an opportunity to respond.

### § 303.10 Hearings and other meetings.

(a) *Matters covered.* This section covers hearings and other proceedings in connection with filings and determinations for or by:

(1) Deposit insurance by a proposed new depository institution or operating non-insured institution;

(2) An insured state nonmember bank to establish a domestic branch or to relocate a main office or domestic branch;

(3) Relocation of an insured branch of a foreign bank;

(4)(i) Merger transaction which requires the FDIC's prior approval under the Bank Merger Act (12 U.S.C. 1828(c));

(ii) Except as otherwise expressly provided, the provisions of this § 303.10 shall not be applicable to any proposed merger transaction which the FDIC Board of Directors determines must be acted upon immediately to prevent the probable failure of one of the institutions involved, or must be handled with expeditious action due to an existing emergency condition, as permitted by the Bank Merger Act (12 U.S.C. 1828(c)(6));

(5) Nullification of a decision on a filing; and

(6) Any other purpose or matter which the FDIC Board of Directors in its sole discretion deems appropriate.

(b) *Hearing requests.* (1) Any person may submit a written request for a hearing on a filing:

(i) To the appropriate regional director before the end of the comment period; or

(ii) To the appropriate regional director, pursuant to a notice to nullify a decision on a filing issued pursuant to § 303.11(g)(2)(i) or (ii).

(2) The request must describe the nature of the issues or facts to be presented and the reasons why written submissions would be insufficient to make an adequate presentation of those issues or facts to the FDIC. A