

Federal Deposit Insurance Corporation

§ 304.24

authority to obtain information from insured depository institutions.

§§ 304.15–304.20 [Reserved]

Subpart C—Computer-Security Incident Notification

SOURCE: 86 FR 66443, Nov. 23, 2021, unless otherwise noted.

§ 304.21 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued under the authority of 12 U.S.C. 1463, 1811, 1813, 1817, 1819, and 1861–1867.

(b) *Purpose.* This subpart promotes the timely notification of computer-security incidents that may materially and adversely affect FDIC-supervised institutions.

(c) *Scope.* This subpart applies to all insured state nonmember banks, insured state licensed branches of foreign banks, and insured State savings associations. This subpart also applies to bank service providers, as defined in § 304.22(b)(2).

§ 304.22 Definitions.

(a) Except as modified in this subpart, or unless the context otherwise requires, the terms used in this subpart have the same meanings as set forth in 12 U.S.C. 1813.

(b) For purposes of this subpart, the following definitions apply.

(1) *Banking organization* means an FDIC-supervised insured depository institution, including all insured state nonmember banks, insured state-licensed branches of foreign banks, and insured State savings associations; provided, however, that no designated financial market utility shall be considered a banking organization.

(2) *Bank service provider* means a bank service company or other person that performs covered services; provided, however, that no designated financial market utility shall be considered a bank service provider.

(3) *Business line* means a product or service offered by a banking organization to serve its customers or support other business needs.

(4) *Computer-security incident* is an occurrence that results in actual harm to the confidentiality, integrity, or availability of an information system or the

information that the system processes, stores, or transmits.

(5) *Covered services* are services performed, by a person, that are subject to the Bank Service Company Act (12 U.S.C. 1861–1867).

(6) *Designated financial market utility* has the same meaning as set forth at 12 U.S.C. 5462(4).

(7) *Notification incident* is a computer-security incident that has materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade, a banking organization's—

(i) Ability to carry out banking operations, activities, or processes, or deliver banking products and services to a material portion of its customer base, in the ordinary course of business;

(ii) Business line(s), including associated operations, services, functions, and support, that upon failure would result in a material loss of revenue, profit, or franchise value; or

(iii) Operations, including associated services, functions and support, as applicable, the failure or discontinuance of which would pose a threat to the financial stability of the United States.

(8) *Person* has the same meaning as set forth at 12 U.S.C. 1817(j)(8)(A).

§ 304.23 Notification.

A banking organization must notify the appropriate FDIC supervisory office, or an FDIC-designated point of contact, about a notification incident through email, telephone, or other similar methods that the FDIC may prescribe. The FDIC must receive this notification from the banking organization as soon as possible and no later than 36 hours after the banking organization determines that a notification incident has occurred.

§ 304.24 Bank service provider notification.

(a) A bank service provider is required to notify at least one bank-designated point of contact at each affected banking organization customer as soon as possible when the bank service provider determines that it has experienced a computer-security incident

that has materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade, covered services provided to such banking organization for four or more hours.

(1) A bank-designated point of contact is an email address, phone number, or any other contact(s), previously provided to the bank service provider by the banking organization customer.

(2) If the banking organization customer has not previously provided a bank-designated point of contact, such notification shall be made to the Chief Executive Officer and Chief Information Officer of the banking organization customer, or two individuals of comparable responsibilities, through any reasonable means.

(b) The notification requirement in paragraph (a) of this section does not apply to any scheduled maintenance, testing, or software update previously communicated to a banking organization customer.

§§ 304.25–304.30 [Reserved]

PARTS 305–306 [RESERVED]

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 depositors 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].

SOURCE: 71 FR 8791, Feb. 21, 2006, unless otherwise noted.

§ 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.