409 3rd Street, SW., Suite 4200
Washington, DC 20416
(202) 205–6148 or (202) 205–6213

III. United States Postal Service

United States Postal Service

The United States Postal Service will cooperate with process servers in the service of process regarding private civil or criminal matters only when service is attempted in person on the subject employee at the employee's place of employment, in accordance with the provisions of 39 CFR 243.2(g). Service of summonses and complaints, in private matters, by mail to either the agent or employees at their workstations is not permitted. The Postal Service agent will attempt to facilitate and assist personnel of child support enforcement agencies within the limitations imposed by the Privacy Act, 5 U.S.C. 552a and relevant Postal regulations. The requester must furnish the name and social security number of the person who is the subject of the inquiry.

Manager
Payroll Processing Branch
1 Federal Drive
Ft. Snelling, MN 55111–9650
(612) 293–6300

IV. Executive Office of the President

Executive Office of the President

General Counsel
Office of Administration
Old Executive Office Building
Washington, DC 20503
(202) 395–2273

[FR Doc. 95–16814 Filed 7–7–95; 8:45 am]

BILLING CODE 6325–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 360

RIN 3064–AB25

Receivership Rules

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The final rule interprets a provision of an amendment, enacted on August 10, 1993, to section 11(d)(11) of the Federal Deposit Insurance Act (FDI Act) providing for a national depositor preference for amounts realized from the liquidation or other resolution of any depository institution insured by the Federal Deposit Insurance Corporation (FDIC). The regulation describes the expenses that are includable under the priority in the new statutory amendment for administrative expenses of the receiver. The intended effect of the final rule is to clarify that post-closing and certain pre-closing expenses may be paid as administrative expenses of the receiver in connection with the liquidation or other resolution of FDIC-insured institutions. The final rule replaces an interim rule that has been in effect since August 13, 1993, and is essentially unchanged from the interim provisions.

EFFECTIVE DATE: The final rule is effective July 10, 1995.

FOR FURTHER INFORMATION CONTACT: Stephen N. Graham, Associate Director, Division of Depositor and Asset Services (202/898–7377), Rodney D. Ray, Senior Counsel, Legal Division (202/736–0348), Joseph A. DiNuzzo, Acting Senior Counsel, Legal Division (202/898–7349), Federal Deposit Insurance Corporation, Washington, DC, 20429.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) are contained in this final rule. Consequently, no information has been submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

The Board hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). It will not impose burdens on depository institutions of any size and will not have the type of economic impact addressed by the Act. Accordingly, the Act's requirements regarding an initial and final regulatory flexibility analysis (Id. at 603 & 604) are not applicable here.

Background

A. National Depositor Preference Legislation

On August 10, 1993, the President signed into law a bill that amended section 11(d)(11) of the FDI Act (12 U.S.C. 1821(d)(11)) to provide for a national depositor preference for amounts realized from the liquidation or other resolution of FDIC-insured depository institutions. Pub. L. 103–66, 107 Stat. 312 (1993).

Generally, the amendment provides that distributions shall be made from all future receivership estates in the following order:

1. Administrative expenses of the receiver;
2. Deposit liability claims;
3. Other general or senior liabilities of the institution, other than subordinated obligations or shareholder claims;
4. Subordinated obligations; and
5. Shareholder claims.

The legislation applies to all receiverships of insured institutions established after its enactment date and supersedes any inconsistent state or other federal distribution provisions. As noted, the first priority encompasses ''administrative expenses of the receiver''. The language of the statute explicitly covers post-appointment obligations incurred by a receiver as part of the liquidation of an institution. The FDIC Board of Directors (Board of Directors) has determined that this priority also covers certain expenses incurred prior to the appointment of the receiver. Such expenses include obligations which may have been incurred prior to the closing of the institution but which the receiver determines should be paid by the receiver to facilitate the smooth and orderly transfer of banking operations to a purchasing institution or to obtain an accounting and orderly disposition of the assets of the institution. These expenses may include, but are not limited to, for example, the payment of the institution's last payroll, guard services, data processing services, utilities and expenses related to leased facilities. Generally, they do not include expenses such as severance pay claims, golden parachute claims and claims arising from contract repudiations. The final rule limits the inclusion of expenses within the scope of ''administrative expenses'' to those that the receiver determines are necessary and appropriate for the orderly liquidation or resolution of the institution. This general language is necessitated by the variety of such expenses ordinarily incurred by a receiver for a particular failed depository institution.

The legislative history of the statute is explicit on the coverage of certain pre-receivership obligations within the scope of the ''administrative expenses'' priority of the receivership. The House/Senate Conference Report on the legislation notes that: ''it is the conferees' intent that the FDIC interpret the depositor preference provision for the payment of administrative expenses of the receiver as including ordinary and necessary expenses of the institution that are unpaid at the time of failure, but only those that the receiver determines are necessary to maintain services and facilities to effect an orderly resolution of the institution''. H.R. Rep. No. 213, § 3001, Omnibus Budget Reconciliation Act of 1993, 103rd Cong., 1st Sess. (1993). The conferees noted that such coverage of expenses is the FDIC's current practice (in its role as receiver of failed insured

institutions): ''the conferees intend that the FDIC continue its current practice of paying these expenses prior to paying deposits or other expenses if it determines such payment is required for an orderly resolution of the institution''. *Id*.

B. The Interim Rule

To prevent any ambiguity on the coverage of administrative expenses of the institution/receiver that were incurred by the institution prior to the appointment of a receiver, the FDIC issued an interim rule published in the **Federal Register** on August 13, 1993 (58 *FR* 43069). The interim rule clarified that receivers have the authority to pay certain pre-closing obligations of the failed institution as an ''administrative expense'' under the statute.

The Board of Directors had determined that, in order to ensure an orderly continuation of the handling of closed institutions, it was necessary to clarify the requirements of the statutory amendment relative to the definition and treatment of administrative expenses of the receiver of such institutions. In the preamble to the interim rule the Board of Directors explained the necessity to apply the interim rule to all receiverships subject to the new statutory amendment. The interim rule was amended by a final rule which redesignated §§ 360.1 through 360.3 as §§ 360.2 through 360.4, respectively (58 *FR* 67662 (Dec. 22, 1993)).

The Final Rule

The final rule retains the section added by the interim rule to Part 360 of the FDIC's regulations (12 CFR Part 360) to clarify the priority for administrative expenses contained in the depositor preference statute.

As provided for in the statute, all FDIC-insured institutions for which a receiver is appointed after the date of enactment of the statute will be subject to the priorities provided therein. Pre-appointment expenses that the receiver determines are within the scope of the ''administrative expenses'' priority will be included within that priority after the enactment date of the statute. As the conferees noted in House/Senate Conference Report, ''[p]rior to the implementation of such regulations [to clarify the meaning of the term administrative expenses], it is the conferees' intent that the FDIC continue its current practice of paying these expenses before paying depositors''. *Id*.

The current § 360.3 of the FDIC's regulations (12 CFR 360.3) specifies receivership priorities for failed savings associations. These provisions will continue to apply to such savings associations for which a receiver was appointed on or prior to the effective date of the statutory amendment, August 10, 1993. Liquidations or other resolutions of all insured depository institutions (including savings associations) for which a receiver is appointed after that date are subject to the statutory amendments and interim rule and will be subject to the final rule.

The FDIC received one public comment on the interim rule. The comment was from a national banking and thrift industry trade group who expressed full support for the interim rule.

Because the final rule is unchanged from the interim rule, which became effective on its issuance date of August 13, 1993, the Board of Directors has determined that good cause exists for waiving the 30-day delayed effective date ordinarily required by the Administrative Procedure Act (5 U.S.C. 553). The Board of Directors also has determined that section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103–325, 108 Stat. 2160) (1994) (RCDRIA) does not apply to the issuance of the final rule.[1] Thus, the final rule will become effective upon its publication date in the **Federal Register**. On that same date, the interim rule will be replaced.

List of Subjects in 12 CFR Part 360

Banks, banking, Savings associations.

For the reasons set out in the preamble, part 360 of chapter III of title 12 of the Code of Federal Regulations is amended as follows:

PART 360—RESOLUTION AND RECEIVERSHIP RULES

1. The authority citation for Part 360 is revised to read as follows:

Authority: 12 U.S.C. 1821(d)(11), 1823(c)(4); Sec. 401(h), Pub. L. 101–73, 103 Stat. 357.

2. Section 360.3 is amended by revising paragraph (f) to read as follows:

§ 360.3 Priorities.

* * * * *

(f) Under the provisions of section 11(d)(11) of the Act (12 U.S.C. 1821(d)(11)), the provisions of this § 360.3 do not apply to any receivership established and liquidation or other resolution occurring after August 10, 1993.

[1] Section 302 of RCDRIA provides that any new regulations and amendments to existing regulations which impose reporting, disclosure or other requirements on insured depository institutions may only take effect on the first day of a calendar quarter unless certain exceptions are satisfied.

3. Section 360.4 is revised to read as follows:

§ 360.4 Administrative expenses.

The priority for ''administrative expenses of the receiver'', as that term is used in section 11(d)(11) of the Act (12 U.S.C. 1821(d)(11), shall include those necessary expenses incurred by the receiver in liquidating or otherwise resolving the affairs of a failed insured depository institution. Such expenses shall include pre-failure and post-failure obligations that the receiver determines are necessary and appropriate to facilitate the smooth and orderly liquidation or other resolution of the institution.

Dated at Washington, D.C., this 27th day of June, 1995.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 95–16671 Filed 7–7–95; 8:45 am]

BILLING CODE 6714–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–5255–8]

Extension of Stay of the Reformulated Gasoline Program: Nine Counties in New York, Twenty-Eight Counties in Pennsylvania, and Two Counties in Maine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In today's action, EPA is extending the previous temporary stay of the reformulated gasoline program requirements in nine opt-in counties in New York, in twenty-eight opt-in counties in Pennsylvania and in two opt-in counties in Maine. In a separate action published June 14, 1995, EPA proposed to approve the requests for opt-out for these specified counties from the States of New York, Pennsylvania, and Maine. Today's action stays the applicability of the RFG requirements for these areas effective from July 1, 1995, until the agency has completed rulemaking on the proposed opt-out for these areas. Although EPA believes that the RFG program provides a highly cost-effective means of reducing ground-level ozone and toxic vehicle emissions, the Agency believes that states should be given the flexibility to choose which programs best meet each state's needs for emissions reductions.