

## Federal Deposit Insurance Corporation

## § 307.1

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.

(c) *Filing.* The certification required by paragraph (a) of this section shall be provided within 30 calendar days after the assumption takes effect, and shall be submitted to the appropriate Regional Director of the FDIC's Division of Supervision and Consumer Protection, as defined in 12 CFR 303.2(g).

(d) *Evidence of assumption.* The receipt by the FDIC of an accurate certification for a total assumption as required by paragraphs (a), (b) and (c) of this section shall constitute satisfactory evidence of such deposit assumption,

as required by section 8(q) of the FDI Act (12 U.S.C. 1818(q)), and the insured status of the transferring institution shall terminate on the date of the receipt of the certification. In appropriate circumstances, the FDIC, in its sole discretion, may require additional information, or may consider other evidence of a deposit assumption to constitute satisfactory evidence of such assumption for purposes of section 8(q).

(e) *Issuance of an order.* The Executive Secretary, upon request from the Director of the Division of Supervision and Consumer Protection and with the concurrence of the General Counsel, or their respective designees, shall issue an order terminating the insured status of the transferring insured depository institution as of the date of receipt by the FDIC of satisfactory evidence of such assumption, pursuant to section 8(q) of the FDI Act and this regulation. Generally, no order shall be issued, under this paragraph, and insured status shall be cancelled by operation of law:

(1) If the charter of the transferring institution has been cancelled, revoked, rescinded, or otherwise terminated by operation of applicable state or federal statutes or regulations, or by action of the chartering authority for the transferring institution essentially contemporaneously, that is, generally within five business days after all deposits have been assumed; or

(2) If the transferring institution is an insured depository institution in default and for which the FDIC has been appointed receiver.

**§ 307.3 Notice to depositors when insured status is voluntarily terminated and deposits are not assumed.**

(a) *Notice required.* An insured depository institution that has obtained authority from the FDIC to terminate its insured status under sections 8(a), 8(p) or 18(i)(3) of the FDI Act without its deposit liabilities being assumed by one or more insured depository institutions shall provide to each of its depositors, at the depositor's last known address of record on the books of the institution, prior written notification of the date the institution's insured status shall terminate.

(b) *Prior approval of notice.* The insured depository institution shall provide the appropriate Regional Director of the FDIC's Division of Supervision and Consumer Protection, as defined in 12 CFR 303.2(g), a copy of the proposed notice for approval. After being approved, the notice shall be provided to depositors by the insured depository institution at the time and in the manner specified by the appropriate Regional Director.

(c) *Form of notice.* The notice to depositors required by paragraph (a) of this section shall be provided on the official letterhead of the insured depository institution, shall bear the signature of a duly authorized officer, and, unless otherwise specified by the appropriate Regional Director, may follow the form of the notice contained in Appendix B of this part.

(d) *Other requirements possible.* The FDIC may require the insured depository institution to take such other actions as the FDIC considers necessary and appropriate for the protection of depositors.

#### APPENDIX A TO PART 307—TRANSFER- RING INSTITUTION LETTERHEAD

[Date]

[Name and Address of appropriate FDIC Regional Director]

SUBJECT: *Certification of Total Assumption of Deposits*

This certification is being provided pursuant to 12 U.S.C. 1818(q) and 12 CFR 307.2. On [state the date the deposit assumption took effect], [state the name of the depository institution assuming the deposit liabilities] assumed all of the deposits of [state the name and location of the transferring institution whose deposits were assumed]. [If applicable, state the date and method by which the transferring institution's authority to engage in banking was or will be terminated.] Please contact the undersigned, at [telephone number], if additional information is needed.

Sincerely,

By:

[Name and Title of Authorized Representative]

#### APPENDIX B TO PART 307—INSTITUTION LETTERHEAD

[Date]

[Name and Address of Depositor]

SUBJECT: *Notice to Depositor of Voluntary Termination of Insured Status*

The insured status of [name of insured depository institution], under the provisions of the Federal Deposit Insurance Act, will terminate as of the close of business on [state the date] ("termination date"). Insured deposits in the [name of insured depository institution] on the termination date, less all withdrawals from such deposits made subsequent to that date, will continue to be insured by the Federal Deposit Insurance Corporation, to the extent provided by law, until [state the date]. The Federal Deposit Insurance Corporation will not insure any new deposits or additions to existing deposits made by you after the termination date.

This Notice is being provided pursuant to 12 CFR 307.3.

Please contact [name of institution official in charge of depositor inquiries], at [name and address of insured depository institution] if additional information is needed regarding this Notice or the insured status of your account(s).

Sincerely,

By:

[Name and Title of Authorized Representative]

## PART 308—RULES OF PRACTICE AND PROCEDURE

### Subpart A—Uniform Rules of Practice and Procedure

Sec.

- 308.0 Applicability date.
- 308.1 Scope.
- 308.2 Rules of construction.
- 308.3 Definitions.
- 308.4 Authority of the Board of Directors.
- 308.5 Authority of the administrative law judge (ALJ).
- 308.6 Appearance and practice in adjudicatory proceedings.
- 308.7 Good faith certification.
- 308.8 Conflicts of interest.
- 308.9 Ex parte communications.
- 308.10 Filing of papers.
- 308.11 Service of papers.
- 308.12 Construction of time limits.
- 308.13 Change of time limits.
- 308.14 Witness fees and expenses.
- 308.15 Opportunity for informal settlement.
- 308.16 FDIC's right to conduct examination.
- 308.17 Collateral attacks on adjudicatory proceeding.
- 308.18 Commencement of proceeding and contents of notice.
- 308.19 Answer.
- 308.20 Amended pleadings.
- 308.21 Failure to appear.
- 308.22 Consolidation and severance of actions.
- 308.23 Motions.
- 308.24 Scope of document discovery.