

# Rules and Regulations

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## FEDERAL DEPOSIT INSURANCE CORPORATION

### 5 CFR Part 3201

### 12 CFR Parts 308, 309, 310, 311, and 337

RIN 3209-AA15 and 3064-AC56

### Agency Reorganization; Nomenclature Changes

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Final rule.

**SUMMARY:** This rule addresses nomenclature changes effected by a Federal Deposit Insurance Corporation ("FDIC") internal reorganization order dated June 30, 2002. The reorganization resulted in the merger of several divisions and offices, the redesignation of two "regional" offices as "area" offices, and the abolishment of two positions in the former Office of the Executive Secretary ("OES"). The rule also addresses nomenclature changes resulting from the merger of two divisions by an internal reorganization order dated December 8, 1996.

Consistent with these actions, this rule makes appropriate conforming changes in several of the FDIC's regulations in Title 12 and, with the concurrence of the Office of Government Ethics ("OGE"), in the FDIC's supplemental standards of ethical conduct regulation in Title 5. The rule also sets forth a Savings Provision in **SUPPLEMENTARY INFORMATION** that preserves, under their new names, all actions taken under the name of the former "Office of the Executive Secretary" and the former "Freedom of Information Act/Privacy Act ("FOIA/PA") Unit" of OES.

**DATES:** This rule is effective November 29, 2002.

**FOR FURTHER INFORMATION CONTACT:**

Linda Keener, Ethics Program Manager, (202) 898-8660, Federal Deposit

Insurance Corporation, 550 17th Street, NW., Washington, DC 20429 (Supplemental Standards of Ethical Conduct); Frederick L. Fisch, Senior Attorney, FOIA/PA Group, (202)736-0526, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429 (FOIA and Privacy Act Program); and Robert E. Feldman, Executive Secretary, (202) 898-3811, Leneta G. Gregorie, Counsel and Special Assistant to the Executive Secretary, (202) 898-3719, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429 (all other matters).

**SUPPLEMENTARY INFORMATION:**

**Background**

This rule implements the decision by the FDIC, through an internal reorganization order dated June 30, 2002, to merge OES into the Legal Division, thereby creating an Executive Secretary Section within the Supervision and Legislation Branch of the Legal Division; abolishing the positions of Deputy Executive Secretary and Assistant Executive Secretary (Ethics); and transferring program responsibility for the Freedom of Information Act, 5 U.S.C. 552, and the Privacy Act of 1974, 5 U.S.C. 552a, from the FOIA/PA Unit of OES to the FOIA/PA Group of the Litigation Branch of the Legal Division. This rule, consistent with the organizational changes, makes a number of nomenclature changes in parts 308, 309, 310, 311, and 337 of title 12 of the Code of Federal Regulations. Specifically, reference to the eliminated position of Deputy Executive Secretary is deleted, and all references to the "Office of the Executive Secretary," wherever they appear in the parts 308, 311 and 337, are changed to "Executive Secretary" or "offices of the Executive Secretary," as appropriate. Similarly, references to the "Office of the Executive Secretary" and the OES "FOIA/PA Unit" in parts 309 and 310 are changed to the "FOIA/PA Group" within the Legal Division. Conforming changes also are made to: the addresses to which FOIA and Privacy Act requests and administrative appeals of responses to FOIA and Privacy Act requests are to be submitted; the identities of the persons to whom such requests and appeals are to be directed; and the telephone numbers (voice and facsimile) of the FOIA/PA Group.

This rule, with the concurrence of OGE, also makes a number of appropriate nomenclature changes to references in the FDIC's supplemental standards of conduct regulation, as codified in 5 CFR part 3201, to reflect the June 30, 2002, mergers of certain other divisions of the FDIC and, as a result, to change the names of the "Division of Supervision" and the "Division of Compliance and Consumer Affairs" to the "Division of Supervision and Consumer Protection" and the "Division of Insurance" and the "Division of Research" to the "Division of Insurance and Research". These new names more accurately reflect the breadth of the divisions' activities as a result of the reorganization.

Moreover, this rule implements those aspects of the June 30, 2002, reorganization which converted the Boston and Memphis regional offices to area offices. Consistent with the division name changes, the conversion of two regional offices to area offices, and the aforementioned abolishment of the position of Assistant Executive Secretary (Ethics), this rule makes a number of changes in part 3201 by changing all references to "Division of Supervision" and "Division of Compliance and Consumer Protection" to "Division of Supervision and Consumer Protection" and "Division of Insurance" and "Division of Research" to "Division of Insurance and Research" wherever they appear; enlarging references to "regional office" to "regional or area office" wherever it appears; designating the "Ethics Program Manager" as the FDIC's Alternate Ethics Counselor in the place of the "Assistant Executive Secretary (Ethics)"; and clarifying the credit restrictions for field office supervisors and supervisory examiners in light of their expanded areas of responsibility as the result of the reorganization. Finally, the rule implements a previous FDIC reorganization which, on December 8, 1996, merged the "Division of Depositor and Asset Services" with the "Division of Resolutions". As a result, "Division of Depositor and Asset Services" is changed to "Division of Resolutions and Receiverships" wherever it appears in part 3201.

**Savings Provision**

This rule shall constitute notice that all references to the Office of the

Executive Secretary or OES in any documents, statements, or other communications, in any form or media, and whether made before or, with the exception of documents, statements, or other communications pertaining to the FOIA/PA Program, on or after the effective date of this rule, shall be deemed to be references to the Executive Secretary Section of the Legal Division. Moreover, any actions undertaken in the name of or on behalf of the Office of the Executive Secretary or OES, whether taken before or, except for actions related to the FOIA/PA Program, on or after the effective date of this rule, shall be deemed to have been taken in the name of or on behalf of the Executive Secretary Section. This rule shall constitute further notice that, with respect to documents, statements or other communications relating to the FOIA and Privacy Act program, in any form or media, and whether made before, on or after the effective date of this rule, all references to the FOIA/PA Unit within OES shall be deemed to be references to the FOIA/PA Group within the Legal Division. Moreover, any actions undertaken in the name of or on behalf of the FOIA/PA Unit within OES, whether taken before, on or after the effective date of this rule, shall be deemed to have been taken in the name of or on behalf of the FOIA/PA Group within the Legal Division.

#### Rulemaking Requirements

1. This rule does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1995.

2. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in the effective date are inapplicable because this rule involves a rule of agency organization, procedure, or practice. 5 U.S.C. 553(b)(A). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and opportunity for public comment are not required to be given for this rule under 5 U.S.C. or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) are not applicable. Accordingly, this rule is issued in final form. Although there is no formal comment period, public comments on this rule are welcome on a continuing basis. Comments should be submitted to

Thomas E. Nixon, FDIC Clearance Officer, Legal Division, 550 17th Street, NW., Washington, DC 20429, (202) 898-8766. Comments may be hand-delivered to the guard station at the rear of the 17th Street building (located on F Street) on business days between 7 a.m. and 5 p.m. [Fax number (202) 898-3838; Internet address [COMMENTS@FDIC.GOV](mailto:COMMENTS@FDIC.GOV)].

For the reasons set forth in the preamble, the Federal Deposit Insurance Corporation, with the concurrence of the Office of Government Ethics, is amending 5 CFR part 3201, and the Federal Deposit Insurance Corporation is also amending 12 CFR parts 308, 310, 311, and 337, as set forth below:

#### 5 CFR Chapter XXII

#### PART 3201—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE FEDERAL DEPOSIT INSURANCE CORPORATION

1. The authority citation for part 3201 continues to read as follows:

**Authority:** 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 12 U.S.C. 1819(a), 1822; 26 U.S.C. 1043; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.403, 2635.502, and 2635.803.

#### § 3201.101 [Amended]

2. In § 3201.101(b), remove the words “Assistant Executive Secretary (Ethics)” and add in their place the words “Ethics Program Manager”.

#### § 3201.102 [Amended]

3. Amend § 3201.102 as follows:

a. In paragraph (b)(2)(ii), remove the words “Division of Supervision and the Division of Compliance and Consumer Affairs” and add in their place the words “Division of Supervision and Consumer Protection”.

b. In the heading of paragraph (c), remove the words “employees assigned to the Division of Supervision and employees assigned to the Division of Compliance and Consumer Affairs” and add in their place the words “employees assigned to the Division of Supervision and Consumer Protection”.

c. In paragraph (c)(1)(ii), remove the words “regional office” and “employee’s region” and add in their place the words “regional or area office” and “employee’s region or area”, respectively, and remove the word “and” at the end of the paragraph.

d. In paragraph (c)(1)(iii), remove the period at the end and add in its place a semicolon followed by the word “and”.

e. Add a new paragraph (c)(1)(iv) to read as follows:

#### § 3201.102 Extensions of credit from FDIC-insured depository institutions.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(iv) For a field office supervisor and supervisory examiner, credit extended by an FDIC-insured State nonmember bank headquartered outside the field office supervisor’s and supervisory examiner’s respective official territories of assignment through the use of a credit card on the same terms and conditions as are offered to the general public.

\* \* \* \* \*

f. In paragraph (c)(2), remove the words “Division of Supervision, the Director of the Division of Compliance and Consumer Affairs”, “Division of Supervision, or the Director of the Division of Compliance and Consumer Affairs”, and “Division of Supervision and the Division of Compliance and Consumer Affairs” and add in their place the words “Division of Supervision and Consumer Protection”, in each instance.

g. In paragraph (d)(2), remove the words “Division of Insurance” and add in their place the words “Division of Insurance and Research”.

h. In the heading of paragraph (e) and in paragraph (e)(2), remove the words “Division of Depositor and Asset Services” and add in their place the words “Division of Resolutions and Receiverships”.

#### § 3201.109 [Amended]

4. In § 3201.109(a), remove the words “Division of Supervision or Division of Compliance and Consumer Affairs” and add in their place the words “Division of Supervision and Consumer Protection”.

#### 12 CFR Chapter III

#### PART 308—RULES OF PRACTICE AND PROCEDURE

5. The authority citation for part 308 continues to read as follows:

**Authority:** 5 U.S.C. 504, 554–557; 12 U.S.C. 93(b), 164, 505, 1815(e), 1817, 1818, 1820, 1828, 1829, 1829b, 1831i, 1831o, 1831p-1, 1832(c), 1884(b), 1972, 3102, 3108(a), 3349, 3909, 4717; 15 U.S.C. 78(h) and (i), 78o-4(c), 78o-5, 78q-1, 78s, 78u, 78u-2, 78u-3 and 78w; 6801(b), 6805(b)(1), 28 U.S.C. 2641 note; 31 U.S.C. 330, 5321; 42 U.S.C. 4012a; Sec. 3100(s), Pub. L. 104–134, 110 Stat. 1321–358.

#### § 308.102 [Amended]

6. In § 308.102(b)(2), remove the words “Executive Secretary, Deputy

Executive Secretary or the Assistant Executive Secretary (Operations)” and add in their place the words “Executive Secretary and Assistant Executive Secretary”.

#### **PART 309—DISCLOSURE OF INFORMATION**

7. The authority citation for part 309 continues to read as follows:

**Authority:** 5 U.S.C. 552; 12 U.S.C. 1819 “Seventh” and “Tenth”.

#### **§ 309.5 [Amended]**

8. Amend § 309.5 as follows:

a. In paragraph (b)(1), remove the words “Office of the Executive Secretary” and add in their place the words “Freedom of Information Act/ Privacy Act Group (“FOIA/PA Group”), Legal Division”.

b. In paragraph (b)(1)(ii), remove the words “to (202) 898–8778” and add in their place the words “to the FOIA/PA Group: (202) 736–0547”.

c. In paragraph (b)(1)(iii), remove the words “By sending a letter to the Office of the Executive Secretary, ATTN: FOIA/PA Unit,” and add in their place the words “By sending a letter to: Legal Division, FDIC, ATTN: FOIA/PA Group.”.

d. In paragraph (d)(1), remove the words “FOIA/PA Unit, Office of the Executive Secretary, shall” in the first sentence and add in their place the words “FOIA/PA Group, Legal Division shall”; and, in the last sentence, remove the words “Office of the Executive Secretary” and add in their place the words “FOIA/PA Group”.

e. In paragraph (d)(2)(i), remove the words “Office of the Executive Secretary” and add in their place the words “FOIA/PA Group.”.

f. In paragraph (d)(2)(ii), remove the words “FOIA/PA Unit” and add in their place the words “FOIA/PA Group”.

g. In paragraph (f)(1)(x), remove the words “Executive Secretary” and add in their place the words “FOIA/PA Group, Legal Division”.

h. In paragraph (f)(4)(ii), remove the words “Office of the Executive Secretary, FOIA/PA Unit” and add in their place the words “FOIA/PA Group, Legal Division”.

i. In paragraph (h)(1), remove the words “Office of the Executive Secretary” and add in their place the words “FOIA/PA Group, Legal Division”.

#### **§ 309.6 [Amended]**

9. In § 309.6(b), remove the words “Office of the Executive Secretary” wherever they appear and add in their place the words “FOIA/PA Group”.

#### **§ 309.7 [Amended]**

10. Amend § 309.7 as follows:

a. In paragraph (a), remove the words “Office of the Executive Secretary” and “Office of Corporate Communications” and add in their place the words “Executive Secretary” and “Office of Public Affairs”, respectively.

b. In paragraph (b), remove the words “Office of the Corporation’s General Counsel” and add in their place the words “General Counsel”.

#### **PART 310—PRIVACY ACT REGULATIONS**

11. The authority citation for part 310 continues to read as follows:

**Authority:** 5 U.S.C. 552a.

#### **§ 310.3 [Amended]**

12. In § 310.3(b), remove the words “Office of the Executive Secretary, FOIA/PA Unit, Federal Deposit Insurance Corporation, Washington, D.C. 20429.” in the first sentence and add in their place the words “Freedom of Information Act/Privacy Act Group, Legal Division (“FOIA/PA Group”), Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.”; and, in the last sentence, remove the words “FOIA/PA Unit, Office of the Executive Secretary” and add in their place the words “FOIA/PA Group”.

#### **§ 310.4 [Amended]**

13. In § 310.4(a), remove the words “Office of the Executive Secretary, Records Unit” and add in their place the words “FOIA/PA Group, Legal Division”.

#### **§ 310.5 [Amended]**

14. Amend § 310.5 as follows:

a. In paragraph (b), remove the words “Executive Secretary” and add in their place the words “FOIA/PA Group” in each instance.

b. In paragraph (c), remove the words “The Executive Secretary will give written notification of a reasonable period within which individuals may inspect disclosable records pertaining to themselves at the Office of the Executive Secretary” and add in their place the words “The FOIA/PA Group will give written notification of a reasonable period within which individuals may inspect disclosable records pertaining to themselves at the offices of the FOIA/PA Group”.

#### **§ 310.7 [Amended]**

15. In § 310.7, remove the words “Office of the Executive Secretary, Records Unit, Federal Deposit Insurance

Corporation, Washington, D.C. 20429” and add in their place the words “FOIA/PA Group, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429”.

#### **§ 310.8 [Amended]**

16. In § 310.8(a), remove the words “Executive Secretary of the Corporation” in the first sentence and the words “Executive Secretary” in the second sentence and add in their place the words “Senior Attorney, FOIA/PA Group” in both instances.

#### **§ 310.9 [Amended]**

17. In § 310.9(a), remove the words “Office of the Executive Secretary,” and add in their place the words “FOIA/PA Group, Legal Division,”.

#### **PART 311—RULES GOVERNING PUBLIC OBSERVATION OF MEETINGS OF THE CORPORATION’S BOARD OF DIRECTORS**

18. The authority citation for part 311 continues to read as follows:

**Authority:** 5 U.S.C. 552b and 12 U.S.C. 1819.

#### **§§ 311.4, 311.5 and 311.8 [Amended]**

19. In §§ 311.4(e), 311.5(b)(2), and 311.8(d)(2), remove the words “Office of the Executive Secretary” and add in their place the words “Executive Secretary”.

20. In § 311.8(d)(1), remove the words “Office of the Executive Secretary” and add in their place the words “offices of the Executive Secretary”.

#### **PART 337—UNSAFE AND UNSOUND BANKING PRACTICES**

21. The authority citation for part 337 continues to read as follows:

**Authority:** 12 U.S.C. 375a(4), 375b, 1816, 1818(a), 1818(b), 1819, 1820(d)(10), 1821f, 1828(j)(2), 1831, 1831f–1.

#### **§ 337.10 [Amended]**

22. In § 337.10, remove the words “Office of the Executive Secretary” and add in their place the words “Executive Secretary”.

Dated: November 12, 2002.

Federal Deposit Insurance Corporation.

**Valerie Best,**

*Assistant Executive Secretary.*

Approved: November 20, 2002.

**Amy L. Comstock,**

*Director, Office of Government Ethics.*

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