

stock form of ownership may not repurchase its capital stock within one year following the date of its conversion to stock form, except that stock repurchases of no greater than 5% of the bank's outstanding capital stock may be repurchased during this one-year period where compelling and valid business reasons are established, to the satisfaction of the FDIC. Any stock repurchases shall be subject to the requirements of section 18(i)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1828(i)(1)).

(e) *Stock benefit plan limitations.* The FDIC will presume that a stock option plan or management or employee stock benefit plan that does not conform with the applicable percentage limitations of the regulations issued by the Office of Thrift Supervision constitutes excessive insider benefits and thereby evidences a breach of the board of directors' or trustees' fiduciary responsibility. In addition, no converted insured mutual state savings bank shall, for one year from the date of the conversion, implement a stock option plan or management or employee stock benefit plan, other than a tax-qualified employee stock ownership plan, unless each of the following requirements is met:

(1) Each of the plans was fully disclosed in the proxy solicitation and conversion stock offering materials;

(2) All such plans are approved by a majority of the bank's stockholders, or in the case of a recently formed holding company, its stockholders, prior to implementation at a duly called meeting of shareholders, either annual or special, to be held no sooner than six months after the completion of the conversion;

(3) In the case of a savings bank subsidiary of a mutual holding company, all such plans are approved by a majority of stockholders other than its parent mutual holding company prior to implementation at a duly called meeting of shareholders, either annual or special, to be held no sooner than six months following the stock issuance;

(4) For stock option plans, stock options are granted at no lower than the market price at which the stock is trading at the time of grant; and

(5) For management or employee stock benefit plans, no conversion stock is used to fund the plans.

[59 FR 61246, Nov. 30, 1994, as amended at 63 FR 44750, Aug. 20, 1998; 68 FR 50461, Aug. 21, 2003]

INTERPRETATIONS

§ 333.101 Prior consent not required.

(a) The extension by any State nonmember insured bank of its business to include personal, character or installment loans, or the extension by an industrial bank of its business to include the business of a commercial bank, is not a change in the general character or type of business requiring the prior written consent of the Corporation.

(b) An insured State nonmember bank, not exercising trust powers may act as trustee or custodian of Individual Retirement Accounts established pursuant to the Employee Retirement Income Security Act of 1974 and Self-Employed Retirement Plans established pursuant to the Self-Employed Individuals Retirement Act of 1962 without the prior written consent of the Corporation provided:

(1) The bank's duties as trustee or custodian are essentially custodial or ministerial in nature, (2) the bank is required to invest the funds from such plans only (i) in its own time or savings deposits, or (ii) in any other assets at the direction of the customer provided the bank does not exercise any investment discretion or provided any investment advice with respect to such account assets, and (3) the bank's acceptance of such accounts without trust powers is not contrary to State law.

[41 FR 2375, Jan. 16, 1976, as amended at 50 FR 10754, Mar. 18, 1985]

PART 334—FAIR CREDIT REPORTING

Subparts A—H—[Reserved]

Subpart I—Duties of Users of Consumer Reports Regarding Identity Theft

Sec.

334.80–334.82 [Reserved]

334.83 Disposal of consumer information.

AUTHORITY: 12 U.S.C. 1818 and 1819 (Tenth); 15 U.S.C. 1681b, 1681s, and 1681w.

§ 334.80–334.82

SOURCE: 69 FR 77618, Dec. 28, 2004, unless otherwise noted.

EFFECTIVE DATE NOTE: At 69 FR 77618, Dec. 28, 2004, the authority citation for part 334 and a new subpart I were added, effective July 1, 2005. For the convenience of the user, the added text is set forth as follows:

Subparts A–H—[Reserved]

Subpart I—Duties of Users of Consumer Reports Regarding Identity Theft

§ 334.80–334.82 [Reserved]

§ 334.83 Disposal of consumer information.

(a) *In general.* You must properly dispose of any consumer information that you maintain or otherwise possess in accordance with the Interagency Guidelines Establishing Information Security Standards, as set forth in appendix B to part 364 of this chapter, prescribed pursuant to section 216 of the Fair and Accurate Credit Transactions Act of 2003 (15 U.S.C. 1681w) and section 501(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 6801(b)), to the extent the Guidelines are applicable to you.

(b) *Rule of construction.* Nothing in this section shall be construed to:

(1) Require you to maintain or destroy any record pertaining to a consumer that is not imposed under any other law; or

(2) Alter or affect any requirement imposed under any other provision of law to maintain or destroy such a record.

PART 335—SECURITIES OF NONMEMBER INSURED BANKS

Sec.

- 335.101 Scope of part, authority and OMB control number.
- 335.111 Forms and schedules.
- 335.201 Securities exempted from registration.
- 335.211 Registration and reporting.
- 335.221 Forms for registration of securities and similar matters.
- 335.231 Certification, suspension of trading, and removal from listing by exchanges.
- 335.241 Unlisted trading.
- 335.251 Forms for notification of action taken by national securities exchanges.
- 335.261 Exemptions; terminations; and definitions.

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- 335.301 Reports of issuers of securities registered pursuant to section 12.
- 335.311 Forms for annual, quarterly, current, and other reports of issuers.
- 335.321 Maintenance of records and issuer's representations in connection with required reports.
- 335.331 Acquisition statements and acquisitions of securities by issuers.
- 335.401 Solicitations of proxies.
- 335.501 Tender offers.
- 335.601 Requirements of section 16 of the Securities Exchange Act of 1934.
- 335.611 Initial statements of beneficial ownership of securities (Form 3).
- 335.612 Statement of changes in beneficial ownership of securities (Form 4).
- 335.613 Annual statement of beneficial ownership of securities (Form 5).
- 335.701 Filing requirements, public reference, and confidentiality.
- 335.801 Inapplicable SEC regulations; FDIC substituted regulations; additional information.
- 335.901 Delegation of authority to the Director (DSC) and to the associate directors, regional directors and deputy regional directors to act on matters with respect to disclosure laws and regulations.

AUTHORITY: 15 U.S.C. 78l(i).

SOURCE: 62 FR 6856, Feb. 14, 1997, unless otherwise noted.

§ 335.101 Scope of part, authority and OMB control number.

(a) This part is issued by the Federal Deposit Insurance Corporation (the FDIC) under section 12(i) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78) (the Exchange Act) and applies to all securities of FDIC insured banks (including foreign banks having an insured branch) which are neither a member of the Federal Reserve System nor a District bank (collectively referred to as nonmember banks) that are subject to the registration requirements of section 12(b) or section 12(g) of the Exchange Act (registered nonmember banks). The FDIC is vested with the powers, functions, and duties vested in the Securities and Exchange Commission (the Commission or SEC) to administer and enforce the provisions of sections 10A(m), 12, 13, 14(a), 14(c), 14(d), 14(f), and 16 of the Securities Exchange Act of 1934, as amended (the Exchange Act) (15 U.S.C. 78l, 78m, 78n(a), 78n(c), 78n(d), 78n(f), and 78(p)), and sections 302, 303, 304, 306, 401(b), 404, 406, and 407 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7241, 7242,