

Federal Deposit Insurance Corporation.
Robert E. Feldman,
Executive Secretary.
 [FR Doc. 00-6708 Filed 3-16-00; 8:45 am]
 BILLING CODE 6714-01-U

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection titled "Securities of Insured Nonmember Banks."

DATES: Comments must be submitted on or before May 16, 2000.

ADDRESSES: Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898-7453, Office of the Executive Secretary, Room F-4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429. All comments should refer to "Securities of Insured Nonmember Banks." 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]. Comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Tamara R. Manly, at the address identified above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collection of information:

Title: Securities of Insured Nonmember Banks.
OMB Number: 3064-0030.
Form Number: F-7, F-8, F-8A.
Frequency of Response: Annually.
Affected Public: All financial institutions.

Estimated Number of Respondents: 3,620.

Estimated Time per Response: Form F-7 (1 hour); Form F-8 (0.5 hour); Form F-8A (1 hour)

Estimated Total Annual Burden: 2,220 hours.

General Description of Collection: The information is collected from FDIC-supervised banks and from officers, directors and shareholders subject to the securities registration requirements of the Securities Exchange Act of 1934, as amended. The information is considered necessary for actual and potential investors making investment decisions concerning securities issued by reporting banks.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, D.C., this 10th day of March, 2000.

Federal Deposit Insurance Corporation.

Robert E. Feldman,
Executive Secretary.

[FR Doc. 00-6709 Filed 3-16-00; 8:45 am]

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FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection titled "Notices Required of Government Securities Dealers or Brokers (Insured State Nonmember Banks)."

DATES: Comments must be submitted on or before May 16, 2000.

ADDRESSES: Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898-7453, Office of the Executive Secretary, Room F-4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429. All comments should refer to "Notices Required of Government Securities Dealers or Brokers (Insured State Nonmember Banks)." 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]. Comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Tamara R. Manly, at the address identified above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collection of information:

Title: Notices Required of Government Securities Dealers or Brokers (Insured State Nonmember Banks).

OMB Number: 3064-0093.

Form Number: G-FIN, G-FINW, G-FIN-4, G-FIN-5.

Frequency of Response: On occasion.
Affected Public: All financial institutions.

Estimated Number of Respondents: 180.

Estimated Time per Response: 1 hour.
Estimated Total Annual Burden: 180 hours.

General Description of Collection: The Government Securities Act of 1986 requires all financial institutions acting as government securities brokers and dealers to notify their federal regulatory agencies of their broker-dealer activities,

unless exempted from the notice requirement by Treasury Department regulation.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, D.C., this 10th day of March, 2000.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 00-6710 Filed 3-16-00; 8:45 am]

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FEDERAL DEPOSIT INSURANCE CORPORATION

General Counsel's Opinion No. 12, Engaged in the Business of Receiving Deposits Other Than Trust Funds

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of General Counsel's Opinion No. 12.

SUMMARY: Section 5 of the Federal Deposit Insurance Act provides that an applicant for deposit insurance must be "engaged in the business of receiving deposits other than trust funds." The statute has included this phrase since 1950. During the past half century the FDIC has construed the phrase so as to accommodate the evolving nature of banking. The phrase has been interpreted on a case-by-case basis to encompass non-traditional banks that do not accept unlimited non-trust deposits from the general public.

This long-standing interpretation is confirmed in this General Counsel's opinion. As set out in this opinion, the statutory requirement of being "engaged in the business of receiving deposits other than trust funds" is satisfied by the continuous maintenance of one or more non-trust deposits in the aggregate amount of \$500,000.

FOR FURTHER INFORMATION CONTACT:

Christopher L. Hencke, Counsel, Legal Division, (202) 898-8839, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

Text of General Counsel's Opinion

General Counsel's Opinion No. 12, Engaged in the Business of Receiving Deposits Other Than Trust Funds

By William F. Kroener, III, General Counsel

Introduction

The FDIC is authorized to approve or disapprove applications for federal deposit insurance. See 12 U.S.C. 1815. In determining whether to approve deposit insurance applications, the FDIC considers the seven factors set forth in the Federal Deposit Insurance Act (FDI Act). These factors are (1) the financial history and condition of the depository institution; (2) the adequacy of the institution's capital structure; (3) the future earnings prospects of the institution; (4) the general character and fitness of the management of the institution; (5) the risk presented by the institution to the Bank Insurance Fund or the Savings Association Insurance Fund; (6) the convenience and needs of the community to be served by the institution; and (7) whether the institution's corporate powers are consistent with the purposes of the FDI Act. 12 U.S.C. 1816. Also, the FDIC must determine as a threshold matter that an applicant is a "depository institution which is engaged in the business of receiving deposits other than trust funds * * *," 12 U.S.C. 1815(a)(1). Applicants that do not satisfy this threshold requirement are ineligible for deposit insurance.

The FDIC applies the seven statutory factors in accordance with a "Statement of Policy on Applications for Deposit Insurance." See 63 FR 44752 (August 20, 1998). The Statement of Policy discusses each of the factors at length; however, it does not address the threshold requirement that an applicant be "engaged in the business of receiving deposits other than trust funds."

The threshold requirement for obtaining federal deposit insurance is set forth in section 5 of the FDI Act. See 12 U.S.C. 1815(a)(1). The language used

by section 5 ("engaged in the business of receiving deposits other than trust funds") also appears in section 8 and section 3 of the FDI Act. Under section 8, the FDIC is obligated to terminate the insured status of any depository institution "not engaged in the business of receiving deposits, other than trust funds * * *." 12 U.S.C. 1818(p). In section 3, the term "State bank" is defined in such a way as to include only those State banking institutions "engaged in the business of receiving deposits, other than trust funds * * *." 12 U.S.C. 1813(a)(2). This definition is significant because the term "State bank" appears in a number of sections of the FDI Act.

For many years the FDIC has applied the statutory phrase on a case-by-case basis. In applying the phrase, the FDIC has approved applications from institutions that did not intend to accept non-trust deposits from the general public. The FDIC has thus found that the acceptance of non-trust deposits from the public at large is not a necessary component of being "engaged in the business of receiving [non-trust] deposits." The acceptance of non-trust deposits from a particular group (such as affiliates or trust customers) has been deemed by the FDIC to be sufficient.

Prior to 1991 the Office of the Comptroller of the Currency (OCC) was responsible for determining whether new national banks would be "engaged in the business of receiving [non-trust] deposits." See 12 U.S.C. 1814(b) (1980). The OCC similarly never adopted an interpretation that would require new national banks to accept non-trust deposits from the general public.

The long-standing practices of the FDIC and the OCC have not been sufficient to remove all questions as to the proper interpretation of being "engaged in the business of receiving deposits other than trust funds." Questions have arisen from time to time about the application of the agencies' long-standing interpretation in the context of certain non-traditional depository institutions, such as credit card banks and trust companies.

The purpose of this General Counsel's opinion is to clarify the Legal Division's interpretation of being "engaged in the business of receiving deposits other than trust funds." Although the primary purpose of this opinion is to provide guidance to applicants for deposit insurance under section 5 of the FDI Act, the interpretation in this opinion also applies to section 8 (dealing with terminations) and section 3 (definition of "State bank").