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FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of the FDIC's Response to Exception Requests Pursuant to Recordkeeping for Timely Deposit Insurance Determination

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of the FDIC's response to exception requests pursuant to the Recordkeeping for Timely Deposit Insurance Determination rule.

SUMMARY: In accordance with its rule regarding recordkeeping for timely deposit insurance determination, the FDIC is providing notice to covered institutions that it has granted a time-limited exception of up to 18 months concerning the information technology system requirements and general recordkeeping requirements for certain deposit accounts for sole proprietorships that the covered institution's information technology systems misclassify with an incorrect ownership right and capacity code and a time-limited exception of up to 12 months concerning the information technology system requirements and general recordkeeping requirements for limited number of joint deposit accounts that the covered institution has not confirmed are "qualifying joint accounts" for deposit insurance purposes.

DATES: The FDIC's grants of exception relief were effective as of July 28, 2020.

FOR FURTHER INFORMATION CONTACT: Benjamin Schneider, Section Chief, Division of Complex Institution Supervision and Resolution; beschneider@fdic.gov; 917-320-2534.

SUPPLEMENTARY INFORMATION:

The FDIC granted two time-limited exception requests to a covered institution pursuant to the FDIC’s rule entitled “Recordkeeping for Timely Deposit Insurance Determination,” codified at 12 CFR part 370 (part 370).¹ Part 370 generally requires covered institutions to implement the information technology system and recordkeeping capabilities needed to quickly calculate the amount of deposit insurance coverage available for each deposit account in the event of failure. Pursuant to section 370.8(b)(1), one or more covered institutions may submit a request in the form of a letter to the FDIC for an exception from one or more of the requirements of part 370 if circumstances exist that would make it impracticable or overly burdensome to meet those requirements. Pursuant to section 370.8(b)(3), a covered institution may rely upon another covered institution’s exception request which the FDIC has previously granted by notifying the FDIC that it will invoke relief from certain part 370 requirements and demonstrating that the covered institution has substantially similar facts and circumstances to those of the covered institution that has already received the FDIC’s approval. The notification letter must also include the information required under section 370.8(b)(1) and cite the applicable notice published pursuant to section 370.8(b)(2). Unless informed otherwise by the FDIC within 120 days after receipt of a complete notification for exception, the exception will be deemed granted subject to the same conditions set forth in the FDIC’s published notice.

¹ 12 CFR part 370.

These grants of relief may be rescinded or modified upon material change of circumstances or conditions related to the subject accounts, or upon failure to satisfy conditions applicable to each. These grants of relief will be subject to ongoing FDIC review, analysis, and verification during the FDIC's routine part 370 compliance tests. The FDIC presumes each covered institution is meeting all the requirements set forth in the Rule unless relief has otherwise been granted. The following exceptions were granted by the FDIC as of July 28, 2020.

I. Certain Deposit Accounts for Sole Proprietorships that the Covered Institution's Information Technology Systems Misclassify with an Incorrect Ownership, Right and Capacity Code.

The FDIC granted a time-limited exception of up to 18 months from the information technology requirements set forth in section 370.3 and general recordkeeping requirements set forth in section 370.4(a) of the rule to allow a covered institution to perform system updates and remediation efforts to ensure certain sole proprietorship deposit accounts are correctly classified by its part 370 information technology system. The covered institution identified that the subject accounts were opened in a manner such that its information technology systems identified the accounts as being held under the BUS ownership right and capacity code. As a result, the institution must update its information technology systems to ensure the appropriate ownership right and capacity code of SGL is applied to the subject accounts.

In connection with the FDIC's grant of relief, the covered institution has represented that it will both perform information technology system updates and update policies to ensure current and future accounts for sole proprietorships are assigned the

appropriate SGL ownership right and capacity code. The covered institution has represented that it will maintain the capability to place holds on the deposit accounts subject to the exception in the event of failure until a deposit insurance determination can be made and place all such accounts into the pending file of its part 370 output files during the relief period. As conditions of relief, the covered institution must submit a status report to part370@fdic.gov at the midpoint of the exception relief period and immediately bring to the FDIC's attention any change of circumstances or conditions.

II. A Limited Number of Joint Accounts for Which the Covered Institution has not Confirmed “Qualifying Joint Account” status for Deposit Insurance Purposes Pursuant to 12 CFR Section 330.9.

The FDIC granted a time-limited exception of up to 12 months from the information technology requirements set forth in section 370.3 and general recordkeeping requirements set forth in section 370.4(a) of the rule for a limited number of joint accounts that a covered institution has not confirmed are “qualifying joint accounts” entitled to separate deposit insurance coverage pursuant to 12 CFR section 330.9(c).² The covered institution represented that it performed extensive review of joint account records to verify satisfaction of the signature-card requirement set forth in 12 CFR section 330.9(c)(1)(ii). For the population of joint accounts without signature cards

² Pursuant to 12 CFR 330.9(c)(1), the following requirements must be met for a joint account to be a “qualifying joint account” entitled to separate deposit insurance coverage: (i) all co-owners of the funds in the account are “natural persons” (as defined in § 330.1(l)); (ii) each co-owner has personally signed, which may include signing electronically, a deposit account signature card, or the alternative method provided in paragraph (c)(4) of this section is satisfied; and (iii) each co-owner possesses withdrawal rights on the same basis.

signed by each joint account owner, the covered institution conducted a multi-tiered remediation effort to determine whether an alternative method could be used to satisfy the signature-card requirement pursuant to 12 CFR section 330.9(c)(4).³

Remediation included the utilization of software to digitally scan signature cards and development of a various technical solutions to review usage of joint deposit accounts by each co-owner.⁴

The covered institution represented that it could not verify whether a limited number of joint accounts (the “subject accounts”) were “qualifying joint accounts” because it could not locate signed signature cards nor could it confirm that the signature-card requirement is satisfied via an alternative method. The FDIC granted this covered institution a time-limited exception to continue remediation efforts to verify the signature-card requirement is satisfied.

In connection with the FDIC’s grant of relief, the covered institution has represented that it will place the subject accounts into the pending file of its part 370 output files and that access to all subject accounts can be restricted in the event of the covered institution’s failure until qualifying joint account status is confirmed. As conditions of relief, the covered institution must: within 30 days from the receipt of notification of the grant of relief, submit a plan to part370@fdic.gov detailing

³ Pursuant to 12 CFR 330.9(c)(4), the signature-card requirement also may be satisfied by information contained in the deposit account records establishing co-ownership of the deposit account, such as evidence that the institution has issued a mechanism for accessing the account to each co-owner or evidence of usage of the deposit account by each co-owner.

⁴ The covered institution provided a summary of 13 unique analyses performed to confirm ownership of joint accounts. Such analysis included the manual or systematic review of issued debit cards, issued checks, web banking ids, ACH transactions, safety deposit box records, or bank maintained call logs evidencing ownership of a joint account.

remediation efforts to meet the signature-card requirements of 12 CFR section 330.9, such as outreach, manual review, disclosures, or digital analysis for the subject accounts; submit a status report to part370@fdic.gov by the midpoint of the exception relief period; and immediately bring to the FDIC's attention any change of circumstances or conditions.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on July 29, 2020.

James P. Sheesley,

Acting Assistant Executive Secretary.

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