



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

**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 that it has granted time-limited exception relief to covered institutions until March 31, 2022, from information technology system requirements and recordkeeping requirements for principal and interest payments held in mortgage servicing accounts for which the covered institutions act as servicers or sub-servicers. The recommended relief will provide the covered institutions additional time to remediate their servicing platforms and internal processing capabilities pending further direction from the FDIC.

**DATES:** The FDIC's grant of exception relief was effective as of February 4, 2021.

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

### **SUPPLEMENTARY INFORMATION:**

The FDIC granted time-limited exception relief to multiple covered institutions and pursuant to the FDIC's rule entitled "Recordkeeping for Timely Deposit Insurance Determination," codified at 12 CFR part 370 (part 370).<sup>1</sup> 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

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<sup>1</sup> 12 CFR part 370.

available for each deposit account in the event of failure. Pursuant to § 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 § 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 § 370.8(b)(1) and cite the applicable notice published pursuant to § 370.8(b)(2). Unless informed otherwise by the FDIC within 120 days after the FDIC's 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.

This grant 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. This grant of relief may be rescinded or modified upon: discovery of misrepresentation; material change of circumstances or conditions related to the subject accounts; or failure to satisfy conditions applicable to each. The following exception was granted by the FDIC as of February 4, 2021.

**I. Mortgage Servicing Accounts for which the Covered Institution's System of Record Cannot Calculate Principal and Interest at an Account Level at a Given Point in Time**

The FDIC granted time-limited exception relief to covered institutions up to March 31, 2022, from the information technology system requirements of 12 CFR 370.3

and the recordkeeping requirements of 12 CFR 370.4 for principal and interest payments held in mortgage servicing accounts for which the covered institutions act as servicers or sub-servicers. The recommended relief will provide the covered institutions additional time to remediate their servicing platforms and internal processing capabilities pending further direction from the FDIC.

Pursuant to 12 CFR 330.7(d), mortgage principal and interest payments are insured for the cumulative balance paid into the account by the mortgagors, up to the limit of the standard maximum deposit insurance amount per mortgagor. If a covered institution does not maintain deposit records that enable it to calculate deposit insurance, the covered institution must maintain, at a minimum, the following in its deposit account records: (i) the unique identifier of the account holder; and (ii) the corresponding "pending reason" code listed in pending file format set forth in Appendix B to Part 370.

The covered institutions service the mortgage loans using platforms hosted by third party vendors. Principal and interest payments from mortgagors are placed into the mortgage servicing accounts with the funds held in custody for the investors that own the underlying mortgages. Because the loans are tracked and managed as a group by pool, the servicing platforms do not have a mechanism to allocate the mortgage servicing accounts balances to specific mortgagors. As a result, the covered institutions do not have a process to input mortgagor principal and interest data into their information technology systems to calculate deposit insurance coverage for the mortgage servicing accounts.

Remediation efforts are underway and include the development of a business requirements document, system updates, implementation, and testing. However, a number of the covered institutions have asked the FDIC for additional clarification of the part 370 recordkeeping rule with respect to the mortgage servicing accounts to determine how to produce borrower account level principal and interest data on a date of failure. Given the complexities of payments to investors under the agreements with the covered

institutions, additional information from the FDIC is needed to finalize programming logic and various business requirements documents between the Banks and their service providers.

The FDIC's grant of relief is subject to the condition that each covered institution must submit within 60 days, upon receipt of additional information from the FDIC with respect to the part 370 processing for the mortgage servicing account ownership right and capacity code, a status report setting forth the project plan and timeline for integrating the mortgage servicing account ownership right and capacity code processing capabilities into the covered institution's information technology system.

The FDIC reserves the right to rescind or modify the grant of relief upon any material change of circumstances or conditions related to the accounts subject to this request.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on February 5, 2021.

**James P. Sheesley,**

*Assistant Executive Secretary.*

**BILLING CODE 6714-01-P**

[FR Doc. 2021-02781 Filed: 2/10/2021 8:45 am; Publication Date: 2/11/2021]