



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 that it has granted time-limited exception relief to covered institutions from: the information technology system and recordkeeping requirements applicable to certain formal revocable and irrevocable trust accounts; the information technology system requirements, general recordkeeping requirements, and alternative recordkeeping requirements applicable to certain deposit accounts for which the covered institution must perform data clean up to assign an appropriate ownership right and capacity code to the subject accounts and related system updates; the information technology system requirements and general recordkeeping requirements to certain internal (work-in-process) deposit accounts for which the covered institution's information technology system is not yet capable of calculating deposit insurance within 24 hours after the appointment of the FDIC as receiver; and the information technology system requirements, general recordkeeping requirements, and alternative recordkeeping requirements for a limited number of deposit accounts held in the covered institution's trust department, which acts in an agency or fiduciary capacity.

DATES: The FDIC's grants of exception relief were effective as of February 3, 2021.

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 multiple covered institutions and three 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 § 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.

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. These grants of relief may be rescinded or modified upon: discovery of misrepresentation; material change of circumstances or conditions related to

¹ 12 CFR part 370.

the subject accounts; or failure to satisfy conditions applicable to each. The following exceptions were granted by the FDIC as of February 3, 2021.

I. Certain Formal Revocable and Irrevocable Trust Accounts with Transactional Features for which the Covered Institution Must Maintain a Unique Identifier for a Grantor in its Deposit Account Records.

The FDIC granted time-limited exception relief from the information technology system requirements set forth in § 370.3 and certain recordkeeping requirements set forth in § 370.4(b)(2) of the rule to two covered institutions for up to 18 months from their compliance date. These covered institutions requested exception relief in order to review records, perform customer outreach where necessary, and update recordkeeping and information technology systems in order to maintain a unique identifier of a grantor in the deposit account records for a limited number of deposit accounts held in connection with a formal revocable or irrevocable trust that would be insured as described in 12 CFR 330.10 or 12 CFR 330.13.

These covered institutions represented that they had not maintained a unique identifier (which may be, but is not required to be, a government issued identification number such as a social security number or tax identification number) for a grantor of a formal trust with transactional features in its records for the subject accounts. The covered institutions believe that they can obtain the information needed to maintain a unique identifier for such a grantor through a review of trust-related documents and customer outreach, but that information technology system updates are also necessary to ensure a unique identifier for each grantor can be maintained in deposit account records.

In connection with the FDIC's grants of relief, these covered institutions have represented that they 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, these covered institutions 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. Certain Deposit Accounts for which the Covered Institution's Information Technology System is not Capable of Completing Deposit Insurance Calculation Process because Additional Time is Required for Data Cleanup to Assign an Ownership, Right and Capacity Code and for Related System Updates.

The FDIC granted time-limited exception relief from the information technology system requirements set forth in § 370.3, general recordkeeping requirements set forth in § 370.4(a), and alternative recordkeeping requirements set forth in § 370.4(b) of the rule to a covered institution for up to 12 months from the granted relief date. The covered institution requested exception relief to perform data cleanup of account records, make system updates, and assign ownership, right and capacity codes to a limited number of various deposit accounts. These data cleanup and system update efforts are needed so that the covered institution's deposit account records and part 370-compliant information technology system capabilities can be used to calculate deposit insurance for the subject accounts.

The covered institution has identified data quality issues that led to inappropriate ownership, right and capacity codes being assigned to various deposit accounts. Data quality issues included inappropriate ownership, right and capacity codes being assigned to the subject accounts due to system logic misidentifying keywords in account titles. For example, a single account opened by 'James Bond' might be assigned the public bond account ownership right and capacity code of PBA. In other instances, a limited number of accounts were not assigned an ownership right and capacity code due to unclear account titling, insufficient records, and general data quality issues.

The covered institution requested time-limited relief to review records, assign the appropriate ownership right and capacity code, and ensure its systems can calculate deposit insurance for the subject accounts. In addition, the covered institution represented that it will be able to identify the applicable ownership right and capacity code upon the completion of remediation efforts for the majority of accounts.

In connection with the FDIC's grant of relief, the covered institution will investigate the reason accounts were placed into the pending file of the covered institution's part 370 output files, review account records, write new system logic to ensure the applicable ownership right and capacity code is applied to the subject accounts, and, in the event of its failure, ensure that holds can be placed on all deposit accounts subject to this time-limited exception relief until sufficient information is obtained to enable calculation of deposit insurance coverage. 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.

III. A Limited Number of Internal (Work-in-Process) Deposit Accounts for which the Covered Institution's Information Technology System is not capable of Completing Deposit Insurance Calculation Process within 24 Hours of Failure.

The FDIC granted time-limited exception relief from the information technology requirements set forth in § 370.3 and general recordkeeping requirements set forth in § 370.4(a) of the rule to a covered institution for up to 18 months from its compliance date for certain internal (work-in-process) accounts that the covered institution's information technology system cannot calculate deposit insurance within 24 hours of failure. The covered institution identified these internal accounts as accounts utilized for functions such as clearing, settlement, suspense or work-in-process. Such accounts do not qualify

for alternative recordkeeping.

In connection with the FDIC's grant of relief, the covered institution described the internal (work-in-process) accounts in detail, including, account titling, the number of accounts, account balances, data and trends regarding transaction settlement cycles, business-as-usual processes in place, and zero-balance accounts. The covered institution has represented that it will place all such accounts into the pending file of the covered institution's part 370 output files; document procedures and processes to upload the data into the covered institution's deposit insurance calculation engine; and certify that the covered institution can obtain information from internal business lines necessary to make a deposit insurance determination as soon as possible after appointment of the FDIC as receiver.

As conditions of relief, the covered institution must submit a status report to part370@fdic.gov at the midpoint of the exception relief period setting forth progress made towards rule compliance for the subject accounts; provide annually data regarding the number of and amount of deposits held in the internal accounts covered by this exception; provide a final copy of the documentation that describes the processes put in place to obtain beneficial ownership information necessary to make an insurance determination for the subject accounts as quickly as possible; confirm that the covered institution currently has the capability to restrict access to any or all of the subject accounts if required; make reasonable efforts, in the ordinary course of upgrading its information technology systems, to implement an information technology solution that would permit a deposit insurance determination for the subject accounts within 24 hours; and immediately bring to the FDIC's attention any change of circumstances or conditions.

IV. A Limited Number of Deposit Accounts for which the Covered Institution's Trust Department Acts in an Agency or Fiduciary Capacity.

The FDIC granted time-limited exception relief from the information technology requirements set forth in § 370.3, general recordkeeping requirements set forth in § 370.4(a), and alternative recordkeeping requirements set forth in § 370.4(b) of the rule for up to 18 months from its compliance date for a limited number of deposit accounts for which its trust department acts in an agency or fiduciary capacity. The covered institution's trust department² provides fiduciary and agency services to corporations, retirement plans, and individuals. These services include safeguarding assets, making investment decisions, or facilitating clients' complex business transactions.

In performing such services, the trust department opens deposit accounts that hold funds from uninvested cash, sweeps, or other transactions on behalf of its customers. The account records for the subject accounts, which the trust department maintains on a separate system of record, reflect that funds are held by the covered institution's trust department as an agent or fiduciary for its clients.

The covered institution must perform system enhancements to assign an ownership, right and capacity code to the subject accounts and update the trust department's systems of record in order to calculate deposit insurance. The covered institution represented that it must review account records to assign an ownership, right and capacity code to the subject accounts; input missing information or data into the trust department's systems of record; enhance information technology system logic; develop new account opening procedures at account onboarding; and if necessary, amend trust agreements and provide notices to third-party recordkeepers for accounts that qualify for alternative recordkeeping treatment with transactional features.³

In connection with the FDIC's grant of relief, the covered institution will ensure

² The covered institution's trust department is a separate department that segregates its client data from other parts of the Bank, uses a separate client accounting system of record, observes trust department rules that do not apply to banks, and follows other distinct processes.

³ The requirements of § 370.4(b)(2)(ii) require the Bank obtain grantor unique identification information for accounts with transactional features.

that, in the event of its failure, holds can be placed on all deposit accounts subject to this time-limited exception relief until sufficient information is obtained to enable calculation of deposit insurance coverage. 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.

Federal Deposit Insurance Corporation.

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

James P. Sheesley,

Assistant Executive Secretary.

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