

JUL 19 1990

Title 46 - DEPARTMENT OF BANKING AND FINANCE

Chapter 12 - DISTRIBUTION OF FUNDS TO DEPOSITORS OF
INDUSTRIAL LOAN AND INVESTMENT COMPANIES

001 Scope and Application

001.01 This rule will govern the distribution of funds to depositors of certain industrial loan and investment companies pursuant to the provisions of LB 272A enacted by the Nebraska Unicameral Legislature in Ninety-First Legislature, Second Session, 1990. This rule will also govern distributions of funds which may be appropriated to the Department by the Legislature in future sessions from time to time for the purposes set forth in LB 272A.

002 Definitions. As used in these Regulations, the following terms have the following definitions:

002.01 "Account" shall mean a certificate of indebtedness or any other similar evidence of an industrial company's indebtedness to depositors or accountholders that was unpaid when a Protected Company filed bankruptcy pursuant to Chapter 11 of the United States Bankruptcy Code or when a Company now in receivership entered receivership, and the successor obligations thereof issued to depositors or accountholders by the Successor Companies. Account shall not include the indebtedness represented by any capital note issued by an industrial company prior to such bankruptcy or receivership. The subsequent issuance by the Successor Companies of capital notes in exchange for certificates of indebtedness or other evidences of indebtedness to depositors or accountholders of the Protected Companies shall not impair the guaranteed status of such original certificates of indebtedness or other evidences of

indebtedness to depositors or accountholders of the Protected Companies.

002.02 "Act" shall mean LB 272A, as enacted by the Ninety-First Legislature, Second Session.

002.03 "Company now in receivership" shall mean Commonwealth Savings Company, Lincoln, Nebraska.

002.04 "Department" shall mean the Nebraska Department of Banking and Finance.

002.05 "Depositor" shall mean the owner of an Account.

002.06 "Guaranteed Account" shall mean an Account that is entitled to share in the appropriations made under the Act by reason of having been guaranteed by the NDIGC. Guaranteed Account shall not include any Account that, pursuant to a plan of reorganization of a Protected Company, (i) was paid in full upon the effective date of said plan by reason of having been less than \$1,000 in principal amount, or (ii) wherein the holder of an Account, pursuant to an election made under the plan of reorganization, elected to reduce his or her claim to \$1,000.

002.07 "Nebraska Depository Institution Guaranty Corporation" or "NDIGC" shall mean the private corporation for guarantee of Accounts formed under Neb. Rev. Stat. § 21-17,127 et seq.

002.08 "Person" shall mean a natural person, estate, trust, corporation, partnership, unincorporated association, or other entity.

002.09 "Protected Company" shall mean American Savings Company, Omaha, Nebraska, and State Security Savings Company, Lincoln, Nebraska.

002.10 "Receiver" shall mean the Receiver for Commonwealth Savings Company, insolvent.

002.11 "Successor Company" shall mean an existing corporation which is a successor to a Protected Company and which has issued evidences of indebtedness, such as capital notes, to Depositors for the unpaid amounts of their deposits. The Successor Companies

JUL 19 1990

covered by this Rule are American Investments, Inc., Omaha, Nebraska, and Security Investment Company, Lincoln, Nebraska.

002.12 Other terms used herein and not defined shall have the meanings specified therefor in the Act.

003 Distribution of Appropriated Funds

003.01 The Department shall distribute to the Successor Companies and to the Receiver the funds appropriated under the Act. The Successor Companies and the Receiver shall in turn distribute such funds to their Depositors in satisfaction of the Depositors' Guaranteed Accounts. All distributions of the appropriated funds, whether by the Department to the Successor Companies and the Receiver, or by the Successor Companies and the Receiver to their Depositors, shall be made in accordance with this Rule.

004 Determination of Entitlement to Guaranty

004.01 The Receiver and the Successor Companies shall use the standards set forth in this Rule to determine entitlement to share in the appropriated funds.

005 Allocation of Appropriated Funds

005.01 It is the intent of the Legislature under the Act to treat equally each similarly situated Depositor, regardless of the identity of the industrial company in which said Depositor originally deposited his or her funds. While the Legislature has stated its intention that future Legislatures shall continue to appropriate funds to the Department for distribution to the Depositors until the principal amount of all Guaranteed Accounts has been distributed to the Depositors, the Legislature acknowledged that this statement of intent is not binding on future Legislatures. All appropriated funds shall be allocated among the Successor Companies and the Receiver for distribution to the Depositors in accordance with the terms of the Act and in light of the possibility that future Legislatures may decide not to make further appropriations to the payment of the Guaranteed Accounts. One or more distributions of

appropriated funds to the Successor Companies and the Receiver may therefore be disproportionate at the Successor Company and Receiver level until each similarly situated Depositor receives an equal percentage of the principal amount on deposit in his or her Guaranteed Account.

006 Certification of Guaranteed Deposits

006.01 Within ten (10) days after notice from the Department, the Receiver and each Successor Company shall certify the following to the Department: (i) the total principal amount of its unpaid Guaranteed Accounts, up to a maximum of \$30,000 per Guaranteed Account that, pursuant to this Rule, are entitled to receive funds appropriated under the Act; and (ii) the unpaid percentage of the total principal amount, up to \$30,000 per Guaranteed Account, of said Guaranteed Accounts, determined at the Depositor level.

007 Findings and Statement of Intent for Entitlement to Guaranty and Determination of Guaranty

007.01 It is the intent of the Legislature under the Act to fulfill the \$30,000 NDIGC guaranty of Accounts. Article IV, section (e) of the Plan of Operation and Bylaws of the NDIGC controls the guaranty of Accounts by setting the following definition:

(e) "Covered Claim" means any unpaid Account of a saver in a member depository institution as defined by rule and regulations of the Federal Deposit Insurance Corporation under Title 12, Code of Federal Regulations, 330, entitled "Clarification and Definition of Deposit Insurance Coverage", and all amendments thereto, where applicable and consistent with the laws of Nebraska, which is not in excess of the maximum limit and authorized by the Director of Banking and Finance, State of Nebraska if such depository institution becomes insolvent or goes into liquidation or receivership.

A copy of Title 12, Code of Federal Regulation, 330, in effect November 1, 1983, is attached to this Rule as pages 8 to 14 and incorporated herein by reference. With the limitation of section 002.01, supra, the

JUL 19 1990

appropriated funds shall be distributed in satisfaction of the NDIGC guaranty in accordance with the NDIGC's Plan of Operation and Bylaws, as set forth herein.

007.02 The same person's Guaranteed Accounts with separate institutions shall not be aggregated with each other for purposes of determining the guaranteed amount of that person's Accounts.

007.03 The guaranty coverage of Accounts maintained by Depositors, in the same or different rights and capacities, as is set forth under Title 12, Code of Federal Regulations, entitled "Clarification and Definition of Deposit Insurance Coverage," attached to this Rule as pages 8 to 14, shall be up to the maximum amount of the \$30,000 NDIGC guaranty of Accounts.

008 Ownership of Accounts for Entitlement to Guaranty

008.01 Funds appropriated under the Act shall be distributed only to the rightful owners of the Guaranteed Accounts. Prior to distributing any appropriated funds, the Successor Companies and the Receiver shall establish ownership of each Guaranteed Account in accordance with this Section 008. Absent a change in circumstances of which notification in writing has been made to the Receiver and Successor Company, it shall be sufficient if payments to the Account owners are made by check to the order of such Account owners shown on the certificate.

008.02 In the event of a change of circumstances, of which notification in writing has been made to the Receiver and the Successor Companies, payment instructions executed by all owners shown on the certificate shall be sufficient to permit such payment. In lieu of the signatures of all persons shown on a certificate as owners thereof, the persons claiming to be the owner(s) of a Guaranteed Account shall present evidence to the Successor Companies and the Receiver substantiating that claim, which shall be satisfactory in the judgement of the Receiver or Successor Company of such proof of ownership.

008.03 Following are examples of permissible means to substantiate a claim of ownership of an Account; they are not the exclusive means to establish ownership:

008.03A In the case of a divorce, a divorce decree and property settlement agreement establishing said ownership.

008.03B In the case of death, or a guardianship or conservatorship, letters appointing the claimant as personal representative, letters of guardianship, or letters of conservatorship.

008.03C In the case of death, a deed of distribution or instrument of distribution establishing the heir's or devisee's claim.

008.03D In the case of an attorney-in-fact, a signed power of attorney.

008.03E In the case of a payable on death Account, a death certificate of the original Account owner and satisfactory proof of the claimant's identity.

008.03F In the case of other trust Accounts, evidence satisfactory to the Receiver or Successor Company of the occurrence of the conditions precedent to the claimant's entitlement to the Account.

009 Payment

009.01 Payment to each Depositor shall be made by check issued by a Successor Company or Receiver as designated by the Department. Each such check shall bear the following statement on the front side:

"Void 120 days after issuance."

009.02 Any such check issued to a Depositor shall be an "offer of payment" as that term is used in the Act. Any Depositor who fails or refuses to present such check for payment, within 120 days of issuance, shall be considered to be the owner of unclaimed funds.

JUL 19 1990

009.03 The Department, Successor Company or Receiver shall determine, after 120 days have elapsed from the issuance of checks, the total amount of money represented by checks which have not been presented for payment within 120 days of issuance. The amount so determined shall be paid by the Department, Successor Company or Receiver to the Treasurer of the State of Nebraska as unclaimed property pursuant to Section 69-1301 et. seq.

**PART 330—CLARIFICATION AND DEFINITION OF DEPOSIT
INSURANCE COVERAGE**

Regulations

- Sec.
 330.0 Definition.
 330.1 General principles applicable in determining insurance of deposit accounts.
 330.2 Single ownership accounts.
 330.3 Testamentary accounts.
 330.4 Accounts held by executors or administrators.
 330.5 Accounts held by a corporation or partnership.
 330.6 Accounts held by an unincorporated association.
 330.7 Independent activity.
 330.8 Public Unit Accounts.
 330.9 Joint accounts.
 330.10 Trust accounts.
 330.11 Deposits evidenced by negotiable instruments.
 330.12 Deposit obligations for payment of items forwarded for collection by bank acting as agent.
 330.13 [Revoked]
 330.14 [Revoked]
 330.15 Amount of insured deposit.

Interpretations

- 330.101 Recognition of deposit ownership in custodial accounts.
 Appendix—Examples of insurance coverage afforded deposit accounts in banks insured by the Federal Deposit Insurance Corporation.

AUTHORITY: 12 U.S.C. 1813, 1817, 1821, 1822.

SOURCE: The provisions of this Part 330 appear at 32 Fed. Reg. 10408, July 14, 1967, except as otherwise noted.

REGULATIONS

§ 330.0 Definition.

For the purpose of this Part 330 the term "insured bank" includes an insured branch of a foreign bank.

[Codified to 12 C.F.R. § 330.0]

§ 330.1 General principles applicable in determining insurance of deposit accounts.

(a) *General.* This Part 330 provides for determination by the Corporation of the insured depositors of an insured bank and the amount of their insured deposit accounts. The rules for determining the insurance coverage of deposit accounts maintained by depositors in the same or different rights and capacities in the same insured bank are set forth in the following provisions of this part. Insofar as rules of local law enter into such determinations, the law of the jurisdiction in which the insured bank's principal office is located shall govern, except where the insured bank is an insured branch of a foreign bank, in which case the law of the jurisdiction where the insured branch is located shall govern.

(b) *Records.* (1) The deposit account records of the insured bank shall be conclusive as to the existence of any relationship pursuant to which the funds in the account are deposited and on which a claim for insurance coverage is founded. Examples would be trustee, agent, custodian or executor. No claim for insurance based on such a relationship will be recognized in the absence of such disclosure.

(2) If the deposit account records of an insured bank disclose the existence of a relationship which may provide a basis for additional insurance, the details of the relationship and the interests of other parties in the account must be ascertainable either

JUL 19 1990

from the records of the bank or the records of the depositor maintained in good faith and in the regular course of business.

(3) [Reserved]

(4) The interests of the co-owners of a joint deposit account shall be deemed equal, unless otherwise stated on the insured bank's records in the case of a tenancy in common.

(c) *Valuation of trust interests.* (1) Trust interests in the same trust deposited in the same account will be separately insured if the value of the trust interest is capable of determination, without evaluation of contingencies, except for those covered by the present worth tables and rules of calculation for their use set forth in § 20.2031-7 of the Federal Estate Tax Regulations (26 CFR 20.2031-7). Notwithstanding the foregoing, in connection with pension and other trustee employee benefit funds (including those qualifying under section 401(d) or section 408(a) of the Internal Revenue Code of 1954), the trust interest of each participant shall be evaluated for insurance purposes as if the interest of such participant had fully vested as of the date the insured bank was closed on account of inability to meet the demands of its depositors.

(2) In connection with any trust in which certain trust interests are not capable of evaluation in accordance with the foregoing rule, payment by the Corporation to the trustee with respect to all such trust interests shall not exceed the basic insured amount of \$100,000.

(3) Each trust interest in any trust established by two or more settlors shall be deemed to be derived from each settlor pro rata to his contribution to the trust.

(4) The term "trust interest" means the interest of a beneficiary in an irrevocable express trust, whether created by trust instrument or statute, but does not include any interest retained by the settlor. Notwithstanding the foregoing, any allocable interest created pursuant to an employee benefit plan, including a plan qualified under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, as amended, shall be deemed to be a trust interest.

(5) With respect to trust funds held by an insured bank in a fiduciary capacity pursuant to section 7(i) of the Act, the term "trust interest" shall mean the same as the term "trust funds" as used in section 3(p) of the Act.

(d) *Insured branches of foreign banks.* (1) Except as provided in § 330.1(d)(3) deposits in an insured branch of a foreign bank which are payable in the United States shall be insured in accordance with the rules of this part.

(2) Deposits held by an insured depositor in any insured branch or insured branches of the same foreign bank shall be added together for deposit insurance purposes.

(3) Deposits to the credit of the foreign bank or any office, branch or agency of and wholly owned (except for a nominal number of directors' shares) subsidiary of the foreign bank shall not be insured.

[Codified to 12 C.F.R. § 330.1]

[Section 330.1 amended at 35 Fed. Reg. 460, January 14, 1970, effective December 23, 1969; 39 Fed. Reg. 41359, November 27, 1974; 43 Fed. Reg. 10683, March 15, 1978; 43 Fed. Reg. 58081, December 12, 1978; 44 Fed. Reg. 40059, July 9, 1979; 45 Fed. Reg. 23645, April 8, 1980, effective March 31, 1980; 51 Fed. Reg. 21138, June 11, 1986]

§ 330.2 Single ownership accounts.

Funds owned by an individual and deposited in the manner set forth below shall be added together and insured up to \$100,000 in the aggregate.

(a) *Individual accounts.* Funds owned by an individual (or by the community between husband and wife of which the individual is a member) and deposited in one or more deposit accounts in his own name shall be insured up to \$100,000 in the aggregate.

(b) *Accounts held by agents or nominees.* Funds owned by a principal and deposited in one or more deposit accounts in the name or names of agents or nominees shall be added to any individual deposit accounts of the principal and insured up to \$100,000 in the aggregate.

(c) *Accounts held by guardians, custodians, or conservators.* Funds held by a guardian, custodian, or conservator for the benefit of his ward or for the benefit of a minor under a Uniform Gifts to Minors Act and deposited in one or more deposit accounts in the name of the guardian, custodian, or conservator shall be added to any individual deposit accounts of the ward or minor and insured up to \$100,000 in the aggregate.

[Codified to 12 C.F.R. § 330.2]

[Section 330.2 amended at 35 Fed. Reg. 460, January 14, 1970, effective December 23, 1969; 39 Fed. Reg. 41359, November 27, 1974; 45 Fed. Reg. 23645, April 8, 1980, effective March 31, 1980]

§ 330.3 Testamentary accounts.

(a) Funds owned by an individual and deposited in a revocable trust account, tentative or "Totten" trust account, "payable-on-death" account or similar account evidencing an intention that on his death the funds shall belong to his spouse, child or grandchild shall be insured up to \$100,000 in the aggregate as to each such named beneficiary, separately from any other accounts of the owner.

(b) If the named beneficiary of such an account is other than the owner's spouse, child or grandchild, the funds in such account shall be added to any individual accounts of such owner and insured up to \$100,000 in the aggregate.

[Codified to 12 C.F.R. § 330.3]

[Section 330.3 amended at 35 Fed. Reg. 460, January 14, 1970, effective December 23, 1969; 39 Fed. Reg. 41359, November 27, 1974; 45 Fed. Reg. 23646, April 8, 1980, effective March 31, 1980]

§ 330.4 Accounts held by executors or administrators.

Funds of a decedent held in the name of the decedent or in the name of the executor or administrator of his estate and deposited in one or more deposit accounts shall be insured up to \$100,000 in the aggregate, separately from the individual deposit accounts of the beneficiaries of the estate or of the executor or administrator.

[Codified to 12 C.F.R. § 330.4]

[Section 330.4 amended at 35 Fed. Reg. 460, January 14, 1970, effective December 23, 1969; 39 Fed. Reg. 41359, November 27, 1974; 45 Fed. Reg. 23646, April 8, 1980, effective March 31, 1980]

§ 330.5 Accounts held by a corporation or partnership.

(a) Deposit accounts of a corporation or partnership engaged in any independent activity shall be insured up to \$100,000 in the aggregate. A deposit account of a corporation or partnership not engaged in an independent activity shall be deemed to be owned by the person or persons owning such corporation or comprising such partnership and, for deposit insurance purposes, the interest of each person in such a deposit account shall be added to any other deposit accounts individually owned by such person and insured up to \$100,000 in the aggregate.

(b) Notwithstanding any other provision of this Part 330, any trust or other business arrangement which has filed or is required to file a registration statement with the Securities and Exchange Commission pursuant to section 8 of the Investment Company Act of 1940 shall be deemed to be a corporation for purposes of determining deposit insurance coverage.

[Codified to 12 C.F.R. § 330.5]

[Section 330.5 amended at 35 Fed. Reg. 460, January 14, 1970, effective December 23, 1969; 39 Fed. Reg. 41359, November 27, 1974; 42 Fed. Reg. 10312, February 22, 1977, effective March 24, 1977; 45 Fed. Reg. 23646, April 8, 1980, effective March 31, 1980]

JUL 19 1990

§ 330.6 Accounts held by an unincorporated association.

Deposit accounts of an unincorporated association engaged in any independent activity shall be insured up to \$100,000 in the aggregate. A deposit account of an unincorporated association not engaged in an independent activity shall be deemed to be owned by the persons comprising such association and, for deposit insurance purposes, the interest of each owner in such a deposit account shall be added to any other deposit accounts individually owned by such person and insured up to \$100,000 in the aggregate.

[Codified to 12 C.F.R. § 330.6]

[Section 330.6 amended at 35 Fed. Reg. 460, January 14, 1970, effective December 23, 1969; 39 Fed. Reg. 41359, November 27, 1974; 45 Fed. Reg. 23646, April 8, 1980, effective March 31, 1980]

§ 330.7 Independent activity.

The term "independent activity" means any activity other than one directed solely at increasing insurance coverage.

[Codified to 12 C.F.R. § 330.7]

§ 330.8 Public unit accounts.

(a) (1) Each official custodian of funds of the United States depositing the same in time or savings deposits in an insured bank shall be separately insured up to \$100,000 as to such deposits. Each such official custodian depositing such funds in a demand deposit shall be separately insured up to \$100,000.

(2) Each official custodian of funds of any State of the United States or any county, municipality, or political subdivision thereof depositing the same in time or savings deposits in an insured bank in the same State shall be separately insured up to \$100,000.

(3) Each official custodian of funds of the District of Columbia lawfully depositing the same in time or savings deposits in an insured bank in the District of Columbia shall be separately insured up to \$100,000.

(4) Each official custodian of funds of the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, or Guam, or of any county, municipality, or political subdivision thereof lawfully depositing the same in time or savings deposits in an insured bank in Puerto Rico, the Virgin Islands, American Samoa, or Guam, respectively, shall be separately insured up to \$100,000.

(5) Each official custodian referred to in paragraphs (a)(2), (3), and (4) of this section lawfully depositing such funds in demand deposits in an insured bank within the same State, District of Columbia, Commonwealth, possession or territory comprising the public unit or wherein the public unit is located, or in any form of deposit, whether time, savings or demand, in an insured bank outside such jurisdiction, shall be separately insured up to \$100,000.

(6) For purposes of this paragraph (a), if the same person is an official custodian of more than one public unit, he shall be separately insured with respect to the public funds held by him for each such unit, but shall not be separately insured by virtue of holding different offices in such unit or, except as provided in paragraph (b) of this section, holding such funds for different purposes.

(b) *Public bond issues.* Where an officer, agent or employee of a public unit has custody of certain funds which by law or under the bond indenture are required to be paid to the holders of bonds issued by the public unit, any deposit of such funds in an insured bank shall be deemed to be a deposit by a trustee of trust funds of which the bondholders are pro rata beneficiaries, and each such beneficial interest shall be separately insured up to \$100,000.

(c) *Political subdivision.* The term "political subdivision" includes any subdivision of a public unit, as defined in section 3(m) of the Federal Deposit Insurance Act, or any principal department of such public unit, (1) the creation of which subdivision or department has been expressly authorized by State statute, (2) to which some functions of government have been delegated by State statute, and (3) to which funds have been allocated by statute or ordinance

for its exclusive use and control. It also includes drainage, irrigation, navigation, improvement, levee, sanitary, school or power districts, and bridge or port authorities and other special districts created by State statute or compacts between the States. Excluded from the term are subordinate or nonautonomous divisions, agencies, or boards within principal departments.

[Codified to 12 C.F.R. § 330.8]

[Section 330.8 amended at 34 Fed. Reg. 247, January 8, 1969; 35 Fed. Reg. 460, January 14, 1970, effective December 23, 1969; 39 Fed. Reg. 41359, November 27, 1974; 45 Fed. Reg. 23646, April 8, 1980, effective March 31, 1980]

§ 330.9 Joint accounts.

(a) *Separate insurance coverage.* Deposits owned jointly, whether as joint tenants with right of survivorship, as tenants by the entireties, as tenants in common, or by husband and wife as community property, shall be insured separately from deposit accounts individually owned by the co-owners.

(b) *Qualifying joint accounts.* A joint deposit account shall be deemed to exist, for purpose of insurance of accounts, only if each co-owner has personally executed a deposit account signature card and possesses withdrawal rights. The restrictions of this paragraph shall not apply to co-owners of a time certificate of deposit or to any deposit obligation evidenced by a negotiable instrument, but such a deposit must in fact be jointly owned.

(c) *Failure to qualify.* A deposit account owned jointly which does not qualify as a joint account for purposes of insurance of accounts shall be treated as owned by the named persons as individuals and the actual ownership interest of each such person in such account shall be added to any other accounts individually owned by such person and insured up to \$100,000 in the aggregate.

(d) *Same combination of individuals.* All joint deposit accounts owned by the same combination of individuals shall first be added together and insured up to \$100,000 in the aggregate.

(e) *Interest of each co-owner.* The interests of each co-owner in all joint deposit accounts owned by different combinations of individuals shall then be added together and insured up to \$100,000 in the aggregate.

[Codified to 12 C.F.R. § 330.9]

[Section 330.9 amended at 33 Fed. Reg. 8505, June 8, 1968; 35 Fed. Reg. 460, January 14, 1970, effective December 23, 1969; 39 Fed. Reg. 41359, November 27, 1974; 45 Fed. Reg. 23646, April 8, 1980, effective March 31, 1980]

§ 330.10 Trust accounts.

All trust interests for the same beneficiary deposited into deposit accounts established pursuant to valid trust agreements created by the same settlor (grantor) shall be added together and insured up to \$100,000 in the aggregate, except time and savings deposits of the same beneficiary which qualify as pension or profit-sharing plans under section 401(d) or 408(a) of the Internal Revenue Code of 1954, as amended. The vested and ascertainable interest (excluding any remainder interest) of each beneficial owner in a time or savings deposit established under either of the above sections, shall be added together and insured to an additional \$100,000 maximum for each beneficial owner, notwithstanding the insurance provided in this section to other types of deposit accounts. The insurance of such trust interests shall be separate from that afforded deposit accounts of the trustee of such trust funds or the settlor or beneficiary of such trust arrangement.

[Codified to 12 C.F.R. § 330.10]

[Section 330.10 amended at 35 Fed. Reg. 460, January 14, 1970, effective December 23, 1969; 39 Fed. Reg. 41359, November 27, 1974; 43 Fed. Reg. 58081, December 12, 1978; 45 Fed. Reg. 23646, April 8, 1980, effective March 31, 1980]

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330.11 Deposits evidenced by negotiable instruments.

If any insured obligation of a bank be evidenced by a negotiable certificate of deposit, negotiable draft, negotiable cashier's or officer's check, negotiable certified check, or negotiable traveler's check or letter of credit, the owner of such deposit obligation will be recognized for all purposes of claim for insured deposits to the same extent as if his name and interest were disclosed on the records of the bank provided the instrument was in fact negotiated to such owner prior to the date of the closing of the bank. Affirmative proof of such negotiation must be offered in all cases to substantiate the claim.

[Codified to 12 C.F.R. § 330.11]

§ 330.12 Deposit obligations for payment of items forwarded for collection by bank acting as agent.

Where a closed bank has become obligated for the payment of items forwarded for collection by a bank acting solely as agent, the owner of such items will be recognized for all purposes of claim for insured deposits to the same extent as if his name and interest were disclosed on the records of the bank when such claim for insured deposits, if otherwise payable, has been established by the execution and delivery of prescribed forms. Such bank forwarding such items for the owners thereof will be recognized as agent for such owners for the purpose of making an assignment of the rights of such owners against the closed insured bank to the Federal Deposit Insurance Corporation and for the purpose of receiving payment on behalf of such owners.

[Codified to 12 C.F.R. § 330.12]

§ 330.13 Continuation of prior coverage.

[Revoked at 44 Fed. Reg. 75623, December 21, 1979]

§ 330.14 Notification of depositors.

[Revoked at 44 Fed. Reg. 75623, December 21, 1979]

330.15 Amount of insured deposit.

(a) For those depository institutions where earnings on any savings deposit are calculated at a contract rate, the amount of an insured deposit is the principal amount which the insured deposit holder would have been entitled to withdraw as of the date of default of the institution, plus earnings on the deposit accrued to such date at the contract rate, without regard to whether such deposit is subject to any pledge.

(b) For those depository institutions where earnings on any deposit are calculated at an anticipated or announced rate, the amount of an insured deposit is the principal amount which the insured deposit holder would have been entitled to withdraw as of the date of default of the institution, plus the earnings on the deposit accrued to such date at the anticipated or announced rate, without regard to whether such deposit is subject to any pledge.¹ In the absence of any such announced or stated anticipated rate, such rate for savings deposits shall be the rate paid in the immediately preceding payment period.

(c) With respect to certificates of deposit sold at a discount from their face value, and for which there is no stated rate of interest, the value of the certificate shall be its original purchase price plus the amount of accrued earnings calculated by compounding interest annually at the rate necessary to increase the original purchase price to the maturity value over the life of the certificate.

(d) For all insured banks, where there is a time deposit with a fixed or minimum term or a qualifying or notice period that has not expired as of such date, interest thereon to the date of closing shall be computed according to the terms of the deposit contract as if the deposit

¹ Regardless of the method of the calculation of earnings on a deposit and whether or not the deposit is subject to any pledge, said method and/or presence or absence of a pledge shall not affect the FDIC's right to deduct offsets in determining the amount of insured deposits, as set forth in section 3(m)(1) of the Federal Deposit Insurance Act.

§ 330.15- NOT ADOPTED
AS OF 11/1/83

could have been withdrawn on such date without any penalty or reduction in the rate of earnings.

[Codified to 12 C.F.R. 330.15]

[Section 330.15 added at 48 Fed. Reg. 52031, November 16, 1983, effective December 16, 1983]

INTERPRETATIONS

§ 330.101 Recognition of deposit ownership in custodial accounts.

(a) The opinion of the Board of Directors has been requested as to whether a fractional or percentage computation of the interests of owners of commingled funds on deposit in custodial accounts in banks insured by the Federal Deposit Insurance Corporation meets the requirements of § 330.1.

(b) Section 330.1 provides that if the name and interest of an owner of any portion of a specifically designated custodial deposit is disclosed on the records of the person in whose name the deposit is maintained and such records are maintained in good faith and in the regular course of business, such owner will be recognized for all purposes of claim for insured deposits to the same extent as if his name and interest were disclosed on the records of the bank.

(c) The Board of Directors has concluded that, if the records of the depositor, maintained in good faith and in the regular course of business, reflect, at all times, the name and ascertainable interest of each owner in a specifically designated custodial deposit, such interest may be determined on a fractional or percentage basis. This may be accomplished in any manner which indicates that where the funds of an owner are commingled with other funds held in custody and a portion thereof is placed on deposit in one or more insured banks, his interest in a custodial deposit in any one insured bank would represent at any given time the same fractional share as his share of the total commingled funds.

[Codified to 12 C.F.R. § 330.101]

NOTES

Nullification of regulation limiting insurance coverage of brokered deposits. On March 26, 1984, the FDIC issued a joint regulation with the Federal Home Loan Bank Board limiting the insurance coverage of funds placed with an insured depository institution either by or through a deposit broker. 49 FR 13003 (1984). The regulation was to take effect on October 1, 1984. The FDIC promulgated the brokered deposits regulation because it deems deposit brokerage to be a misuse of the federal deposit insurance system and a significant threat to the federal deposit insurance fund.

On the same day the FDIC issued the brokered deposits regulation, court action was brought to nullify the regulation. On June 20, 1984, the Federal District Court for the District of Columbia ruled that the regulation was illegal, concluding that the FDIC (and the Federal Home Loan Bank

Board) had exceeded statutory boundaries in imposing insurance limitations on brokered deposits. The FDIC intends to pursue an appeal of the Court's decision.

In view of the Court's decision, the March 26 amendments to sections 330.0, 330.2, 330.10 and 330.13 have been removed from FDIC's rules and regulations.

~~Brochure on Insurance of Deposit Accounts. The text of the question and answer brochure on insurance of deposit accounts, entitled "Your Insured Deposit," reads as follows:~~

~~"FOREWORD"~~

~~"This booklet provides examples of insurance coverage under Federal Deposit Insurance Corporation (FDIC) regulations on certain accounts commonly held by depositors in insured banks.~~