

regulator, and whether, in the depository institution's judgment, employee benefit plan deposits made with the institution, at the time the information is requested, would be eligible for "pass-through" insurance coverage under paragraphs (a) and (b) of this section. Such notice shall be provided within five business days after receipt of the request for disclosure.

(2) *Disclosure upon opening of an account.* An insured depository institution shall, upon the opening of any account comprised of employee benefit plan funds, provide a clear and conspicuous written notice to the depositor consisting of an accurate explanation of the requirements for "pass-through" deposit insurance coverage provided in paragraphs (a) and (b) of this section; the institution's PCA capital category; and a determination of whether or not, in the depository institution's judgment, the funds being deposited are eligible for "pass-through" insurance coverage.

(3) *Disclosure when "pass-through" coverage is no longer available.* Whenever new, rolled-over or renewed employee benefit plan deposits placed with an insured depository institution would no longer be eligible for "pass-through" insurance coverage, the institution shall provide a clear and conspicuous written notice to all existing depositors of employee benefit plan funds of its new PCA capital category, if applicable, and that new, rolled-over or renewed deposits of employee benefit plan funds made after the applicable date shall not be eligible for "pass-through" insurance coverage under paragraphs (a) and (b) of this section. Such written notice shall be provided within ten business days after the institution receives notice or is deemed to have notice that it is no longer permitted to accept brokered deposits under section 29 of the Act and the institution no longer meets the requirements in paragraph (b) of this section.

(4) *Definition of "employee benefit plan".* For purposes of this paragraph (h), the term "employee benefit plan" has the same meaning as provided under paragraph (g)(2) of this section but also includes any eligible deferred compensation plans described in sec-

tion 457 of the Internal Revenue Code of 1986 (26 U.S.C. 457).

§ 330.15 Public unit accounts.

(a) *Extent of insurance coverage—(1) Accounts of the United States.* Each official custodian of funds of the United States lawfully depositing such funds in an insured depository institution shall be separately insured in the amount of:

(i) Up to \$100,000 in the aggregate for all time and savings deposits; and

(ii) Up to \$100,000 in the aggregate for all demand deposits.

(2) *Accounts of a state, county, municipality or political subdivision.* (i) Each official custodian of funds of any state of the United States, or any county, municipality, or political subdivision thereof, lawfully depositing such funds in an insured depository institution in the state comprising the public unit or wherein the public unit is located (including any insured depository institution having a branch in said state) shall be separately insured in the amount of:

(A) Up to \$100,000 in the aggregate for all time and savings deposits; and

(B) Up to \$100,000 in the aggregate for all demand deposits.

(ii) In addition, each such official custodian depositing such funds in an insured depository institution outside of the state comprising the public unit or wherein the public unit is located, shall be insured in the amount of up to \$100,000 in the aggregate for all deposits, regardless of whether they are time, savings or demand deposits.

(3) *Accounts of the District of Columbia.* (i) Each official custodian of funds of the District of Columbia lawfully depositing such funds in an insured depository institution in the District of Columbia (including an insured depository institution having a branch in the District of Columbia) shall be separately insured in the amount of:

(A) Up to \$100,000 in the aggregate for all time and savings deposits; and

(B) Up to \$100,000 in the aggregate for all demand deposits.

(ii) In addition, each such official custodian depositing such funds in an insured depository institution outside of the District of Columbia shall be insured in the amount of up to \$100,000 in

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the aggregate for all deposits, regardless of whether they are time, savings or demand deposits.

(4) *Accounts of the Commonwealth of Puerto Rico and other government possessions and territories.* (i) Each official custodian of funds of the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, Guam, or The Commonwealth of the Northern Mariana Islands, or of any county, municipality, or political subdivision thereof lawfully depositing such funds in an insured depository institution in Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, Guam, or The Commonwealth of the Northern Mariana Islands, respectively, shall be separately insured in the amount of:

(A) Up to \$100,000 in the aggregate for all time and savings deposits; and

(B) Up to \$100,000 in the aggregate for all demand deposits.

(ii) In addition, each such official custodian depositing such funds in an insured depository institution outside of the commonwealth, possession or territory comprising the public unit or wherein the public unit is located, shall be insured in the amount of up to \$100,000 in the aggregate for all deposits, regardless of whether they are time, savings or demand deposits.

(5) *Accounts of an Indian tribe.* Each official custodian of funds of an Indian tribe (as defined in 25 U.S.C. 1452(c)), including an agency thereof having official custody of tribal funds, lawfully depositing the same in an insured depository institution shall be separately insured in the amount of:

(i) Up to \$100,000 in the aggregate for all time and savings deposits; and

(ii) Up to \$100,000 in the aggregate for all demand deposits.

(b) *Rules relating to the "official custodian"*—(1) *Qualifications for an "official custodian"*. In order to qualify as an "official custodian" for the purposes of paragraph (a) of this section, such custodian must have plenary authority, including control, over funds owned by the public unit which the custodian is appointed or elected to serve. Control of public funds includes possession, as well as the authority to establish accounts for such funds in insured depository

institutions and to make deposits, withdrawals, and disbursements of such funds.

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

(3) *Split of authority or control over public unit funds.* If the exercise of authority or control over the funds of a public unit requires action by, or the consent of, two or more officers, employees, or agents of such public unit, then they will be treated as one "official custodian" for the purposes of this section.

(c) *Public bond issues.* Where an officer, agent or employee of a public unit has custody of certain funds which by law or under a bond indenture are required to be set aside to discharge a debt owed to the holders of notes or bonds issued by the public unit, any deposit of such funds in an insured depository institution shall be deemed to be a deposit by a trustee of trust funds of which the noteholders or bondholders are pro rata beneficiaries, and the beneficial interest of each noteholder or bondholder in the deposit shall be separately insured up to \$100,000.

(d) *Definition of "political subdivision"*. The term "political subdivision" 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. It also includes any subdivision of a public unit mentioned in paragraphs (a)(2), (a)(3) and (a)(4) of this section or any principal department of such public unit:

(1) The creation of which subdivision or department has been expressly authorized by the law of such public unit;

(2) To which some functions of government have been delegated by such law; and

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(3) Which is empowered to exercise exclusive control over funds for its exclusive use.

§ 330.16 Effective dates.

(a) *Prior effective dates.* Former §§ 330.1(j), 330.10(a), 330.12(c), 330.12(d)(3) and 330.13 (see 12 CFR part 330, as revised January 1, 1998) became effective on December 19, 1993.

(b) *Time deposits.* Except with respect to the provisions in former § 330.12 (a) and (b) (see 12 CFR part 330, as revised January 1, 1998) and current § 330.14(a) and (b), any time deposits made before December 19, 1991 that do not mature until after December 19, 1993, shall be subject to the rules as they existed on the date the deposits were made. Any time deposits made after December 19, 1991 but before December 19, 1993, shall be subject to the rules as they existed on the date the deposits were made. Any rollover or renewal of such time deposits prior to December 19, 1993 shall subject those deposits to the rules in effect on the date of such rollover or renewal. With respect to time deposits which mature only after a prescribed notice period, the provisions of this part shall be effective on the earliest possible maturity date after June 24, 1993 assuming (solely for purposes of this section) that notice had been given on that date.

PARTS 331—332 [RESERVED]

PART 333—EXTENSION OF CORPORATE POWERS

REGULATIONS

Sec.

333.1 Classification of general character of business.

333.2 Change in general character of business.

333.4 Conversions from mutual to stock form.

INTERPRETATIONS

333.101 Prior consent not required.

AUTHORITY: 12 U.S.C. 1816, 1818, 1819 (“Seventh”, “Eighth” and “Tenth”), 1828, 1828(m), 1831p-1(c).

12 CFR Ch. III (1–199 Edition)

REGULATIONS

§ 333.1 Classification of general character of business.

State nonmember insured banks are divided into five categories for the purpose of classifying their general character or type of business,² viz: commercial banks, banks and trust companies, savings banks (including mutual and stock), industrial banks, and cash depositories.

[15 FR 8644, Dec. 6, 1950]

§ 333.2 Change in general character of business.

No State nonmember insured bank (except a District bank) or branch thereof shall hereafter cause or permit any change to be made in the general character or type of business exercised by it after the effective date of this part without the prior written consent of the Corporation.

[15 FR 8644, Dec. 6, 1950]

§ 333.4 Conversions from mutual to stock form.

(a) *Scope.* This section applies to the conversion of insured mutual state savings banks to the stock form of ownership. It supplements the procedural and other requirements for such conversions in § 303.15 of this chapter. This section also applies, to the extent appropriate, to the reorganization of insured mutual state savings banks to the mutual holding company form of ownership. As determined by the Board of Directors of the FDIC on a case-by-case basis, the requirements of paragraphs (d), (e), and (f) of this section do not apply to mutual-to-stock conversions of insured mutual state savings banks whose capital category under § 325.103 of this chapter is “undercapitalized”, “significantly undercapitalized” or “critically undercapitalized”. As provided in § 303.162 of this chapter, the Board of Directors of the FDIC may grant a waiver in writing from any requirement of this section for good cause shown.

² A bank’s business may include two or more of the general classifications.