

## 9 *Post-Representation Responsibilities*

### 9.1

#### **Responsibilities as Former Outside Counsel**

This chapter identifies some of the responsibilities that continue after your representation of the FDIC concludes. The FDIC recognizes that as a lawyer you are also subject to requirements imposed by the state in which you practice.

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### 9.2

#### **Conflicts of Interest and Confidentiality**

As former FDIC outside counsel, you may not, without a written waiver from the FDIC, represent another client against the FDIC in a matter substantially related to any matter in which you previously represented the FDIC. You are also expected to observe all requirements of attorney-client confidentiality after the conclusion of any FDIC representation.

When in doubt about the existence of a conflict, you should nevertheless disclose the matter to the FDIC and seek a waiver. If you have questions concerning conflicts, please contact the Outside Counsel Liaison in Washington, D.C. at (800) 846-1901.

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### 9.3

#### **File Retention**

As former FDIC counsel you have an obligation to preserve your firm's files pertaining to the legal matter for which you represented the FDIC. Those files may not be destroyed without the express permission of the FDIC.

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### 9.4

#### **Contacts with the Public and Media**

All restrictions concerning public and media contacts applicable during your representation of the FDIC continue after your representation concludes. These restrictions are discussed in [Chapter 1, Section 1.10](#).

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**9.5****Identifying FDIC as a Former Client**

You may list FDIC as a former client in published materials provided you comply with the guidance discussed in [Chapter 1, Section 1.2](#).

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**9.6****Compliance with Subpoenas and Other Court Orders**

If you are served with a subpoena, court order or other legal process relating to your representation of the FDIC, you must immediately notify the FDIC's General Counsel, and may not disclose FDIC records or provide testimony without authorization from the FDIC.

This requirement and the follow-up steps are discussed in FDIC regulations at 12 C.F.R. §§ 309.7(b) and (c).

You agree to cooperate with the FDIC, if the Legal Division decides to appeal or challenge the subpoena or order. Under no circumstances should it be construed that FDIC will represent you in this matter or reimburse you for any legal fees or other expenses you may incur in complying with this requirement. However, FDIC will consider requests for reimbursement on a case-by-case basis.

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