A. Introduction to the Claims Manual

Contents

This chapter contains the following information on the Claims Manual:

Topic Title	Page Number
Overview	I-A-1
Scope of Manual	I-A-1
Organization of Manual	I-A-2
Chapter Organization	I-A-3
Organizational Changes and Job Titles	I-A-3

Overview

The Division of Resolutions and Receiverships (DRR) Claims Manual provides policies and procedures for the Claims function as it relates to a failed financial institution. The manual also includes several of the statutory and regulatory framework issues relevant to understanding and performing the Claims function.

Scope of Manual

Guidelines

The Claims Manual does not attempt to provide guidance for every potential situation that may arise. The manual focuses on the policies and general procedures to be used during the Claims process. The manual provides a framework in which to use those policies and procedures.

Other Reference and Resource Tools

The Claims Manual should be used in conjunction with other reference and resource tools that contain material relevant to the performance of Claims Functions. These include:

- Receivership Liability System (RLS) User's Manual
- RLS Deposit Broker Processing User's Manual
- RLS Operations Manual
- Claims Administration System (CAS) Participant Guide
- Deposit Brokers Web Site
- CAS-NDC Training Guide
- FDIC DRR Claims Computer-Based Instruction (CBI)
- FDIC DRR Certificate in Deposit Insurance Claims

- FDIC DRR Advanced Claims Class
- FDIC DRR Failed Financial Institution Closing Manual
- FDIC DRR Resolutions Policy Manual
- AYSS Manual
- F.A.C.T.S User Guide

The Claims Manual will not in general duplicate authoritative guidance and materials that are found in the reference sources noted throughout the Claims manual. Consequently, personnel performing the Claims function need to be familiar with the current version of all of the reference materials noted herein in order to competently perform the totality of the Claims function.

Organization of Manual

Overview

The Claims Manual is divided into two volumes. Volume I primarily focuses on policies and general procedures relating to Claims matters other than deposit insurance determinations. Volume II focuses on deposit insurance determinations.

Sections

Within Volume I, most material is placed principally into one of three Sections, which cover the Pre-Closing, Closing, and Post-Closing phases of the Claims process. This chronological ordering follows the general flow of Claims work. Naturally, some of the processes begin in one phase but may not be concluded until a later phase.

Chapters

Within some Sections, there are numerous chapters, each of which typically covers one topic or issue. Exhibits, in the form of job aids, tools, standard forms, reports, etc., pertinent to that chapter, are identified within the Contents component of each chapter. Some exhibits are referenced in more than one chapter. An exhibit is placed within the manual where it is first discussed. In addition, some exhibits have attachments.

By subdividing the manual in this fashion, it is hoped that each chapter will be easy to use and that the exhibits and attachments which may be needed by an individual performing a Claims function can be located quickly.

Chapter Organization

Organization of Topic

Each chapter within the manual will typically have the following component parts:

- A Contents component which describes the topics discussed and lists job aids, operating instructions (OI) and other exhibits which are important in performing the function described therein
- An Overview component which provides useful background information on the specific topic of that chapter
- A Policy statement or statements
- A Procedures component or components that provide an overview of how to accomplish the tasks at hand

Exhibits and Attachments

Much of the detail of each chapter is discussed through the use of Job Aids and other exhibits and attachments to that particular chapter.

Organizational Change and Job Titles

Organizational Changes

With the passage of time, the Claims Manual may no longer reflect current organizational or office structures, titles, and/or responsibilities. An individual assigned to perform any of the Claims functions discussed herein should keep that in mind when applying the policies and procedures discussed within this manual. Similarly, the job title, grade, and/or other designation of an individual assigned to perform one or more Claims function may change over time.

Terminology Employed

This manual uses “generic” terms when referring to those who perform Claims functions. Terms such as "Claims Agent”, “Claims Specialist”, and/or “Claim Agent in Charge” are used to denote an individual who has been assigned certain responsibilities relating to the Claims function, regardless of job title, grade, or other designation of that individual.

A. A Broad Overview of Claims

Contents

This section contains the following topics on A Broad Overview of Claims:

Topic Title	Page Number
Overview	II-A-1
Federal Law and the Federal Deposit Insurance Corporation	II-A-2
Federal Deposit Insurance Corporation as Deposit Insurer Acting in its Corporate Capacity	II-A-4
Federal Deposit Insurance Corporation as Receiver	II-A-4
The Closing of an Insured Financial Institution	II-A-5

Overview

The Claims function, broadly defined, of the Federal Deposit Insurance Corporation (FDIC) is as old as the FDIC itself and a principal reason the FDIC came into existence. Prior to the creation of the FDIC in 1933, the financial impact on the depositors of a failed institution was a major concern. Before federal deposit insurance, depositors typically recovered only 50 percent to 60 percent of their money, with that recovery stretched over several years, as the assets of the failed bank were liquidated. With the high number of bank failures in the 1920s and early 1930s, public confidence in the banking system waivered and depositor runs became more frequent, thus triggering even more bank closings. Federal deposit insurance was designed to provide greater protection to depositors, thereby enhancing public confidence in the banking system and leading to greater financial stability.[1]

The first 75+ years of the federal deposit insurance program have been an unqualified success, since depositor runs at banks have become very infrequent and no depositor has ever lost a single penny of insured deposits in an FDIC insured institution.

The Claims function and processes cover a broad spectrum of responsibilities and activities. They include deposit insurance determinations on all deposit accounts of a failed institution. The details of deposit insurance determination are covered in Volume II of the Claims Manual. The Claims function also includes the processes of determining how, or if, “claimants” other than depositors are owed monies as a result of those claimants having had some type of product, service or monetary investment with the failed institution.

As used in this manual, a "claim" is an assertion of indebtedness of a failed institution to a depositor or to a party which has a non-deposit liability such as a general creditor, subordinated debt holder, or shareholder.[2] The Claims function within the FDIC analyzes such "assertions". Based on appropriate documentation and guided by applicable law, regulation, and internal policies and procedures, the FDIC may approve the claim, may disallow the claim, or may partially allow and partially disallow the claim. It is the policies and procedures used by Claims in this latter aspect of its work that is the principal focus of Volume I of the Claims Manual. As briefly discussed later in this section, the FDIC performs some of these functions in its corporate capacity and some of these functions in its capacity as receiver of a failed financial institution.

Federal Law and the Federal Deposit Insurance Corporation

The FDIC was created by and its role has changed as a direct result of a number of federal law(s) which have been passed since 1933. Below is a summary of the more important federal laws and their impact on the Claims function.

Banking Act of 1933

The FDIC came into existence as a result of the Banking Act of 1933. There have been numerous subsequent laws that have changed, modified, and/or expanded the role and responsibilities of the FDIC. Many of these laws have dealt specifically with deposit insurance and the Claims function.[3] When the laws themselves did not provide the level of specificity needed for implementation, the FDIC promulgated regulations to carry out the intent of the laws. In addition, the FDIC has developed internal policies and procedures to further accomplish the objectives at hand.

History of Deposit Insurance

Of direct historical interest to those involved in the Claims process is how the level of deposit insurance has changed since 1934.[4] The chart below shows those changes and the laws that led to the changes:

Deposit Insurance Levels

Year	Amount	Law
1934 (January)	$ 2,500	Banking Act of 1933
1934 (June)	5,000	National Housing Act of 1934[5]
1950	10,000	Federal Deposit Insurance Act of 1950
1966	15,000	Financial Institutions Supervisory Act of 1966
1969	20,000	Interest Rates and Mortgage Credit Controls – Extension[6]
1974	40,000	Federal Deposit Insurance Increase[7]
1980	100,000	Depository Institutions Deregulation and Monetary Control Act of 1980[8]
2008	250,000	Dodd-Frank Wall Street Reform and Consumer Protection Act[9]

Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA)

The passage of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) was important for numerous reasons. From a Claims perspective, of particular importance were the provisions that standardized certain procedures for presenting, resolving, and paying claims filed by creditors against any and all failed financial institutions. Prior to this law, the claims process varied, depending on whether the failed institution's charter was federal or state. For failed federally chartered banks, the Claims process was based on general provisions of law (the National Bank Act) dating to 1864. The claims process for failed state chartered banks was determined by the laws of the various states. The Federal Savings and Loan Insurance Corporation (FSLIC) had its own procedures for handling claims filed against failed thrifts. With the enactment of FIRREA, the receivership claims process became standardized for all failed banks or thrifts, whether federal or state chartered.[10]

Omnibus Budget Reconciliation Act of 1993

In addition to the specific laws mentioned above, at least one other federal law merits particular attention. That law is the Omnibus Budget Reconciliation Act of 1993. A significant provision of that law was the establishment of a **"national depositor preference"** distribution schedule for assets of institutions[11] that failed on or after August 10, 1993. In accordance with this law, claims are paid in the following order of priority:

1. Administrative expenses of the receiver
2. Deposits (the FDIC's claim as subrogee for insured depositors is also included)
3. Other general or senior liabilities of the institution
4. Subordinated obligations; and
5. Shareholder claims

The general effect of this law makes it unlikely that creditors other than depositors will receive any dividends on their allowed claims.

Dodd/Frank Wall Street Reform and Consumer Protection ACT 2010

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) represents historic financial reform legislation which significantly enhanced the role of the FDIC in the financial regulatory arena. This enhanced role also reflects the confidence and respect that the Congress and the public have in the FDIC.

The legislation brought about changes aimed at the comprehensive view of risk in the financial system, including the establishment of enhanced prudential standards for bank holding companies and systemic, nonbank financial companies and the creation of the Financial Stability Oversight Council. On the consumer side, the act created the Consumer Financial Protection Bureau which will focus on setting and maintaining strong uniform consumer protection rules for banks and nonbank financial companies. Dodd-Frank also made permanent the rise in the deposit insurance limit to $250,000 and extended unlimited deposit insurance coverage on zero percent checking accounts and failed bank official items through December 31, 2012.

Federal Deposit Insurance Corporation as Deposit Insurer Acting in its Corporate Capacity

Policies and Procedures

It is in its corporate capacity that the FDIC insures deposits, up to the limits of deposit insurance as dictated by federal law, regulations, and FDIC policy. Therefore, some of the policies and procedures enunciated within this manual, particularly in Volume II which focuses primarily on deposit insurance determinations, relate to the FDIC specifically in that capacity.

BIF, SAIF and DIF

In carrying out these responsibilities and in accordance with law the FDIC maintains the Deposit Insurance Fund. On February 8, 2006, the President signed The Federal Deposit Insurance Reform Act of 2005 (the Reform Act) into law. The Reform Act merged the Bank Insurance Fund (BIF) and the Saving Association Insurance Fund (SAIF) into a new fund called the Deposit Insurance Fund (DIF). This change was made effective March 31, 2006.

Federal Deposit Insurance Corporation as Receiver

FDIC Appointment as Receiver

Many of the policies and procedures in Volume I have to do with the responsibilities of the FDIC as receiver. By law, the FDIC must be appointed receiver for insured federal savings associations and national banks. For insured state chartered savings associations or banks, the FDIC may accept appointment as receiver by the appropriate state regulatory authority, but it is not required to accept such an appointment.[12] [13]

The Closing of an Insured Financial Institution

Overview

As discussed in depth later in this manual, Claims has a role in the closing process of an insured financial institution beginning prior to the institution's actual failure and continuing long after its failure. While much of what Claims does will vary only slightly, regardless of the nature of the closing, other Claims processes will be materially altered depending on the type of closing transaction. In all situations, the FDIC is ultimately appointed receiver of the failed financial institution. The basic types of closing transactions are:

- Purchase and Assumption (P & A)
- Payout
- Insured Deposit Transfer (IDT)
- Deposit Insurance National Bank (DINB)

In addition to the types of transactions mentioned above, the FDIC also resolves failing financial institutions using the following techniques:

- Bridge Bank
- Conservatorship

In recent years, most transactions have been one of the variations of the Purchase and Assumption or the Payout. Consequently, those are the transactions which are discussed briefly below and which are the focus of this Manual. However, in any transaction, DRR Claims needs to focus carefully on the details of the transaction in order to carry out its duties properly. For a more complete discussion of the types of closing transactions, see the Resolutions Policy Manual, Chapter IV.

Purchase and Assumption

Purchase and Assumption transactions have several variations. The principal ones are:

- Whole Bank P & A
- P & A with Options
- Clean Bank (this is just a variation of a P & A with Options)

These names have been given to the transactions principally to reflect which assets may be purchased by the acquiring institution. What is most important about these transactions, from a Claims perspective, however, is that in any of the P & A transactions, either all deposits or only insured deposits may pass to the acquiring institution. **Thus, regardless of the name that is used to describe the transaction, Claims staff should focus on the disposition of**

the deposits. Are all deposits passed to the acquiring institution? Are only insured deposits passed to the acquiring institution? Or, is the transaction some sort of hybrid?

Payout

In this transaction, there is no acquiring institution and the FDIC pays insured depositors, generally by issuing checks.

Insured Deposit Transfer

In an Insured Deposit Transfer (IDT), the FDIC transfers the insured deposits of the failed institution to one or more insured depository institutions called Agent Bank(s). The Agent Bank does not assume the direct liability in regard to these deposits and all other categories of liabilities do not pass. The Agent Bank acts as Paying Agent for FDIC on the insured deposits.

Deposit Insurance National Bank

Under certain circumstances, the FDIC will charter a new national bank or federal savings association called a Deposit Insurance National Bank (DINB; also sometimes chartered as a National Depository Institution). A DINB transaction is considered a hybrid of a payout and an IDT with the DINB assuming and paying out insured transactional accounts over a limited period of time (typically 30 days). Certificates of deposit and individual retirement accounts are retained by the FDIC and paid out immediately following the failure.

ENDNOTES

[1] "Managing the Crisis: The FDIC and RTC Experience, 1980-1994."
[2] A shareholder has no claim against the failed institution, because the amount "owed" cannot be determined. A shareholder does, however, have the right to any funds left over after all other categories of claimants have been paid in full. Consequently, in the general sense, they are included in the definition.
[3]For a detailed history of the various pieces of legislation which are important to the FDIC, see "Managing the Crisis: The FDIC and RTC Experience, 1980 – 1994, Appendix A."
[4]The level of deposit insurance is important since deposits over the deposit insurance limit – "excess or uninsured" deposits – are claims against the receivership that are unlikely to be paid in full. If deposit insurance covered all deposits, many of the policies and procedures covered in Volumes I and Volume II of the Claims Manual would be unnecessary.
[5] The $5,000 level of deposit insurance was made permanent by the Banking Act of 1935.
[6] Public Law 91-151, dated December 23, 1969.
[7] Some accounts, namely time and savings accounts, of state and political subdivisions were insured up to $100,000.
[8] Public Law 93-495, dated October 28, 1980.
[9] The Dodd-Frank Wall street Reform and Consumer Protection Act was signed into law on July 21, 2010 and contains provisions effecting the level of deposit insurance retroactively to 2008.
[10] "Managing the Crisis: The FDIC and RTC Experience 1980-1994," pp. 245-247.
[11] Failed institutions whose deposits are insured by the FDIC.
[12] "Managing the Crisis: The FDIC and RTC Experience 1980 – 1994," pp. 214 – 215.
[13] While it is unusual for the FDIC not to be appointed receiver, or to turn over its responsibilities as receiver to another party, such situations do arise, and are a reason to remember in which capacity the

FDIC is functioning. A case in point is the Golden City Commercial Bank, New York, New York, which was closed by the Superintendent of Banks of the State of New York in 1999. The Superintendent appointed the FDIC as receiver. However, in 2001, the FDIC resigned as receiver and transferred all remaining responsibilities as receiver back to the Superintendent.

A. Discussion of Resolution Types

Contents

This chapter contains the following information on the Discussion of Resolution Types:

Topic Title	Page Number
Overview	III-A-1
Policy Statement	III-A-1
History of The Resolution Process	III-A-1
Current Resolution Options	III-A-2
Exhibit III-A-1: Resolution Types	III-A-4

Overview

The Franchise and Asset Marketing Branch (FAMB) is charged with resolving failing financial institutions. The resulting resolution can minimally or drastically impact the work of the DRR Claims Department.

Policy Statement

The FDIC is charged with the responsibility of resolving failing financial institutions in the method that is least costly to the Deposit Insurance Fund (DIF).

History of The Resolution Process

FDIC Resolution Options

The FDIC's options for resolving failed institutions have been prescribed in various laws beginning with the Banking Act of 1933. Under this Act, the FDIC's only means of paying depositors of a failed institution was through the creation of a Deposit Insurance National Bank (DINB), a national bank with limited life and powers that was chartered without any capitalization. A pay off of depositors, either directly or through an existing bank, was authorized in The Banking Act of 1935. This Act also allowed the FDIC to, among other things, purchase assets, which added flexibility to the resolution process. This resolution became known as a purchase and assumption (P & A) transaction.

Two Basic Methods of Resolution

At the beginning of the 1980s, the FDIC relied on two basic methods to resolve failing banks: (i) the P & A; and (ii) the deposit Payout. In 1983, the FDIC introduced a new type of transaction — the Insured Deposit Transfer (IDT), also referred to as a Deposit Insurance Transfer Agreement (DITA). In contrast to a straight deposit Payout, the IDT allowed for the transfer of insured deposits to a healthy institution who agreed to act as the FDIC's agent. The agent bank made available to the insured depositors of the failed bank a "transferred deposit' account, which the depositor may continue to maintain at the agent bank.

FDICIA

In December 1991, the Federal Deposit Insurance Corporation Improvement Act (FDICIA) was signed into law. This law has been described as the most important banking legislation since the Banking Act of 1933. While the law touched a wide range of regulatory areas, certain provisions had profound effects on the way the FDIC conducted failed bank resolutions. Under FDICIA, if the FDIC does not liquidate a failing institution (conduct a deposit payout), then it must pick the least costly resolution transaction available. All bids for a failed institution must be considered together and evaluated on the basis of comparative cost. FDICIA compelled the FDIC to consider more transaction options than in the past to make certain that all plausible least cost structures are considered. For example, it influenced the FDIC to reduce its resolution cost by selling a failed bank's branches to different banks. This resolution option is referred to as a branch break-up transaction.

In addition to eliminating the FDIC's preference for passing assets, it also eliminated the automatic assumption that all deposits were to be passed to acquirers. Under the various P&A asset purchase structures offered post-FDICIA, the FDIC gave bidders the option of bidding on insured deposits only. Previously, P&A bids required that the acquirer assume all of the failed institution's deposits. Because an insured-deposits-only bid does not have to compensate the FDIC for the additional cost of covering 100 percent of the uninsured depositors' claims, it is easier for an insured-deposits-only bid to pass the least cost test. The following briefly describes the least cost test:

> FDICIA requires the FDIC to choose the method that is least costly to the deposit insurance fund from all of the possible methods for resolving the failed institution. The least costly method is the method for which the net present value, using a reasonable discount rate, of estimated costs to the FDIC are the lowest. In most cases, the FDIC will receive at least one bid that is less costly than the estimated cost of liquidation. Savings over estimated liquidation costs occur for a number of reasons, such as the acquirer pays a premium or the assets are sold to an acquirer at a higher price than that estimated by the FDIC staff.

Current Resolution Options

Four Basic Resolution Types

When notified of a potential failure, FAMB evaluates various options available for selling a failing institution. The FDIC currently uses four basic resolution types:

- Purchase & Assumption
- Insured Deposit Transfer
- Payout
- Deposit Insurance National Bank

Claims Involvement is required on all institution closings, but the degree of participation varies depending on the resolution type. Claims Agents are primarily concerned with the deposit liabilities. Please see below and refer to Exhibit III-A-1: Resolution Types for details on the Claims processes required for each of the four resolution types mentioned above.

Purchase & Assumption

Initially, FAMB offers potential bidders two transaction types concerning deposit liabilities under the P & A option:

- All Deposit P & A
- Insured Deposit P & A

To ensure the most cost-effective transaction, bidders have the option to bid for all deposits or just insured deposits. In general, all-deposit bids must be higher than insured-deposit-only bids. The additional premium received for an all-deposit bid must be sufficient to cover the loss that would have been incurred by the uninsured depositors in an insured-deposit-only bid. In an Insured Deposit P & A, the marketing strategy may exclude or make optional certain deposits; (e.g., deposits relating to the credit card portfolio). If the acquirer does not assume these deposits, the Corporation will pay out the excluded insured deposits.

Typically, most of a failing institution's assets and liabilities are offered using the P & A. Franchise Marketing may offer the following transaction types for the P&A concerning the failed institution's assets:

- **Whole Bank Purchase and Assumption**

  In a Whole Bank Purchase and Assumption Transaction, the acquirer purchases all or most of the assets of the failed bank. The bid amount is typically negative, reflecting the amount of FDIC assistance requested by the acquirer. During the due diligence period, the acquirer determines the extent to which the failed bank's assets are worth more or less than book value, and the value associated with deposit franchise. These elements form the basis of the negative bid.

- **Standard Purchase and Assumption**

  This transaction provides flexibility for structuring a transaction and may include:

  - Required Loan Pools purchased at book value.
  - Optional Loan Pools purchased on a bid basis with established reserve prices. May or may not be linked to the assumption of deposit liabilities.
  - Individual Branch Breakup or Branch Clusters. Deposits will be and loans may be available on an individual branch/cluster basis.

- **Loss Sharing Transaction**

  This structure is currently used to resolve most institutions.

  - Credit Losses are shared between FDIC and acquirer – based upon the acquirer's accepted bid.
  - Typically Includes: Construction & Land Development Loans; Commercial & Industrial Loans; and Multi-Family Real Estate Loans.
  - Agreements are operative for 10 years.

If all deposits pass to an acquirer, the Claim Agent-in-Charge is concerned mainly with the Non-Depositor Claims process (see Section V, Chapter A). If only *insured* deposits pass to an acquirer(s), then the Claims Team will need to determine which deposits are insured and which are uninsured. Therefore, it is imperative that the Claims Agent-in-Charge verify the proposed disposition of the deposits as early in the pre-closing phase as possible.

Insured Deposit Transfer

In an Insured Deposit Transfer (IDT) resolution, the FDIC transfers the insured deposits of the failed institution to one or more insured depository institutions called an Agent Bank(s). The Agent Bank **does not** assume the direct liability in regard to these deposits and all other categories of liabilities do not pass. **The Agent Bank acts as Paying Agent** for FDIC on the insured deposits. It agrees to:

- Accept the transferred deposits
- Open an account in the name of the depositor that owns the account
- Make the deposit immediately available to its owner

The Agent Bank does not purchase any assets although it may assume the safe deposit box business. No option to purchase the fixed assets is provided. A major advantage to this Agency-type agreement over the Payout is that

customer accounts are transferred without disturbing items in transit. The Agent Bank clears items in transit.

Payout

In this resolution type there is no acquiring institution and the FDIC pays insured depositors, generally by issuing checks. This resolution type is used as a last resort when all marketing efforts prove to be unsuccessful. It is the most disruptive to the failed bank's depositors. Items in transit do not clear and are returned to the payee. There is no transaction agreement because the FDIC is the only party to the resolution.

DINB

Deposit Insurance National Banks (DINBs) are limited purpose banks chartered by the primary regulator of the failed institution for the FDIC. In this resolution type there is a P&A between the Receiver and the DINB, but no outside acquiring institution. The FDIC operates the institution for a limited amount of time, allowing insured depositors an opportunity to close their accounts. This resolution type is less disruptive than a Payout to the failed bank's depositors. Items in transit will clear if presented while the DINB is operational.

Miscellaneous

In addition to the resolution types outlined above, it is possible to have multiple transactions in a single failed bank resolution. FAMB may only be successful in selling a portion of the failing institution's deposits/branches. So, it is possible to have one or several acquirers for some deposits/branches and have no buyer for the remaining deposits/branches in which case these deposits would be paid out. FAMB analyzes the branch-breakup option at the beginning stages of the resolution process and it is important to determine if this option is under consideration by FAMB.

Resources

- Managing the Crisis: "The FDIC and RTC Experience 3, 1980-1994"
- DRR Resolutions Policy Manual

Listed below are the Claims' Processes performed for the resolution types discussed in this chapter:

ALL CLOSING TYPES INCLUDING ALL DEPOSIT P & A*

- Preparation of Uninsured Deposit Estimate Memo
- Preparation of Claims Strategic Resolution Plan
- Building General Files
- RLS Equipment & FIN Setup
- Publication & Notices
- Download & Reconciliation of Official Items
- Reconciliation of Deposit Download
- Account Holds
- Stratification – "Going Final"
- Corporate Funding
- Creditor Claims
- Processing & Issuance of Receiver's Certificates
- Ongoing Reconciliation Process
- Unclaimed Deposits
- Receivership Dividends
- Information and Reporting Requirements

*In an All Deposit P & A include Acquiring Institution Relations.

INSURED P & A AND INSURED DEPOSIT TRANSFER

- Performing the Grouping Function
- Meeting With Customers of a Failed Institution
- Account Hold Release Process
- Overview of Deposit Broker Processing et al*
- Collections After Closing
- Overview of Offsets
- Secured Accounts/Preferred Claims
- Corporate Settlement Process
- Acquiring Institution Relations

*Only if failed institution has brokered deposits.

PAYOUT

- Automated Clearinghouse (ACH) Payments
- Performing the Grouping Function
- Printing of Deposit Insurance Checks (Payout Only)
- Meeting With Customers of a Failed Institution
- Account Hold Release Process
- Overview of Deposit Broker Processing et al*
- Collections After Closing
- Overview of Offsets
- Secured Accounts/Preferred Claims

*Only if failed institution has brokered deposits.

B. Preparation of Uninsured Deposit Estimate Memo

Contents

This chapter contains the following information on Preparation of Uninsured Deposit Estimate Memo:

Topic Title	Page Number
Overview	III-B-1
Policy Statement	III-B-1
Procedures	III-B-3

Overview

Notification from a financial institution's primary regulator to the FDIC stating that an institution is in danger of failing starts the Pre-Closing Process. The Franchise and Asset Marketing Branch (FAMB) of DRR then dispatches a Team Leader to the institution to prepare an Executive Summary that will be distributed to potential acquirers. Included in this Executive Summary is a section detailing the deposit liabilities.

Policy Statement

It is the policy of DRR Claims to provide an Uninsured Deposit Estimate Memo to FAMB for all potential bank failures.

Sensitive Information

Potentially sensitive accounts must be gleaned from the XX and PH Depositor Case File searches in CAS. Sensitive depositors are defined as churches, synagogues, charitable or religious organizations, *unsecured* public units and the like. (It is not necessary to include public units that are fully insured and/or fully secured.) Along with the name of these identified depositors, include the *uninsured* amount on the Uninsured Deposit Estimate Memo.

Unique Observations

There may be some interesting facts about the uninsured deposits that arise after finalizing the uninsured estimate which are worthy of mention. Some examples are:

- 15 of the 110 uninsured depositors have 90% of the uninsured amount

- Over 82% of the uninsured depositors are businesses
- A majority of the uninsured depositors reside outside the state where the financial institution conducts business
- 9 depositors have uninsured deposits exceeding $1 million

The above are just examples of observations made on previous Uninsured Deposit Estimate Memos. Not every failing institution will have "unique observations." Also, neither these observations nor the sensitive depositor information affect the least cost test.

Lastly, the Uninsured Deposit Estimate Memo should emphasize that the information contained in the memo is an estimate based on deposit information as of a specific date. The uninsured deposit estimate is just that – an estimate – which may change for various reasons. Transactional activity, reviews of signature cards or other account documentation, and customer interviews after the institution fails are just some of those reasons.

Procedures

Please refer to the following documents located in PPM for detailed procedures:

- Uninsured Estimate Memo Job Aid
- Uninsured Deposit Estimate Memo Guide and
- Uninsured Deposit Estimate Memo Template

C. *Preparation of Claims Strategic Resolution Plan*

Contents

This chapter contains the following information regarding the Preparation of Claims Strategic Resolution Plan:

Topic Title	Page Number
Overview	III-C-1
Policy Statement	III-C-2
Procedures	III-C-2

Overview

Planning for the failure of an FDIC insured depository institution is vital to the efficient handling of the many facets of a closing. This is true whether the transaction is a Purchase and Assumption, Insured Deposit Transfer, DINB or a Payout.

DRR develops a Strategic Resolution Plan (the "DRR SRP") for each failure. This DRR SRP includes the important issues which each FDIC Closing Program Area anticipates encountering for the particular failure and a course of action which addresses those issues. The DRR SRP is designed to facilitate a timely and cost-effective closing. Much of the information which Claims inserts into the Claims Strategic Resolution Plan (the "Claims SRP") will end up being directly incorporated into the DRR SRP.

Claims' role in planning for a financial institution failure starts even before the formal development of the DRR SRP, with the preparation of the Uninsured Deposit Estimate Memo, as noted in Section III, Chapter B – Preparation of Uninsured Deposit Estimate Memo.

The Claims SRP is based on the unique set of circumstances of the particular failing institution, including the type of resolution anticipated. For myriad reasons, the information relating to the institution and the type of resolution can and will change. New facts will be uncovered which will require analysis and planning. Some components will be modified numerous times prior to the actual closing. The focus is on those activities which typically occur during the closing weekend and immediately thereafter.

The objective of this planning process is a closing which proceeds smoothly, leads to correct and timely insurance determinations and minimizes FDIC resources consistent with other, equally important objectives, and anticipates

unforeseen eventualities. If there are issues outside of the Claims area which will impact Claims, discuss them in the Claims SRP as other program areas need to recognize the impact on Claims.

Policy Statement

It is the policy of the FDIC to prepare a Claims SRP for each FDIC insured depository institution failure as requested by FDIC management. Each Claims SRP should be prepared with the appropriate detail and in the appropriate timeframe, as required by the circumstances. The SRP should also comply with DRR Pre-Closing Strategic Resolution Plan requirements for the overall DRR SRP.

Procedures

The Claims SRP changes with the requirements of the Receiver In Charge, Closing Manager and Strategic Operations. Please refer any questions on preparing the SRP to the Resolutions and Closings Manger responsible for Bank Closings.

D. Account Holds

Contents

This chapter contains the following information on Account Holds:

Topic Title	Page Number
Overview	1
Policy Statement	2
Procedures	2

Overview

Holds placed upon deposit accounts of the failed institution assist the FDIC in maintaining control of all or part of a depositor's account until the issue(s) regarding the account is resolved. The system of record is the Claims Administration System (CAS).

12 U.S.C. 1822 (d) states:

"The Corporation may withhold payment of such portion of the insured deposit of any depositor in a depository institution in default as may be required to provide for the payment of any liability of such depositor to the depository institution in default or its receiver, which is not offset against a claim due from such depository institution, pending the determination and payment of such liability by such depositor or any other person liable therefore."

Account holds assist the FDIC in retaining control of all or part of a deposit account until the post-closing phase where issues involving the account can be resolved. CAS allows for the placement of multiple holds or the stacking of holds on an account. An account may have a Pass with Hold (PH), Credit (CR), Investigations (INV) and/or an OFAC hold.

CR and INV holds on deposit accounts are to be placed by the requesting department (Asset or Investigations). PH and OFAC holds are placed by the Claims Department.

Policy Statement

It is the policy of the FDIC to place holds on deposit accounts for the portion of a deposit liability that exceeds the deposit insurance limit or when an account requires additional documentation or research to determine if the deposit liability is fully insured. In addition, a hold may be placed on deposit accounts which may have related credit, investigations or legal issues.

Procedures

For insured transactions, all account holds must be placed on the respective deposit accounts in CAS ***prior to*** initiating transactions.

Please refer to the following documents for detailed procedures regarding placing and managing account holds:

- The "Holds Management" and "Non Claims Holds Management" chapters of the CAS Participant Guide.
- Account Hold Procedures "Pre-Closing"
- Circular 7210.5 Deposit Account Holds Placed in the Claims Administration System (CAS)

A. Building General Files

Contents

This chapter contains the following information on Building General Files:

Topic Title	Page Number
Overview	IV-A-1
Policy Statement	IV-A-1
Procedures	IV-A-1

Overview

File folders are created and maintained to help the Claims Specialist organize correspondence and reports during the closing and post-closing phases of the Claims process. Organized files enable the Claims staff to efficiently perform the Claims function, and they reduce the amount of time needed to research questions and issues.

File folders do not necessarily have to be "paper" files. When appropriate and feasible, such files can be maintained electronically or through the use of appropriate media.

Policy Statement

It is the policy of the FDIC for the Claims Specialist to create and maintain general files appropriate to each receivership.

Procedures

Please refer to the Building General Files Job Aid located in PPM for detailed procedures concerning general files.

B. CAS UNINUM & Bank Case Setup

Contents

This chapter contains the following information on CAS UNINUM & Bank Case Setup:

Topic Title	Page Number
Overview	IV-B-1
Policy Statement	IV-B-1
Procedures	IV-B-2

Overview

The Claims Administration System (CAS) is an owner-based system which provides a central repository or database for claims data. CAS assists DRR staff in, among other things, calculating estimates of the uninsured depositors pre-closing, in performing the exceptions processing pre-closing and at the closing, and in performing claims processing and tracking post-closing.

Policy Statement

The FDIC, as deposit insurer in its Corporate capacity and as receiver, has the dual responsibility to discharge deposit and non-deposit liability claims that result following the closure of a failed institution. CAS supports the following primary business and information functions:

- The grouping of deposit accounts by account owner, including brokered accounts, and the determination of claims that are in excess of the insurance limit.
- The maintenance, tracking, processing and discharge of uninsured depositor, general creditor, preferred, and secured claims.
- The placement and release of deposit account holds.
  - The calculation, recording, and execution of adjustments and offsets to deposit accounts.

Procedures

Please refer to the CAS Participant Guide for the following information regarding establishing a Bank Case in CAS:

- Creating the Bank Case
- Bank Case Screen
- Establishing the Closing Team

C. Publications and Notices

Contents

This chapter contains the following information on Publications and Notices:

Topic Title	Page Number
Overview	IV-C-1
Policy Statement	IV-C-1
Procedures	IV-C-2

Overview

The Federal Deposit Insurance Act contains provisions requiring that the FDIC give notice to the failed institution's creditors and depositors. The purpose of the creditor notification is to notify creditors to present their claim(s) to the FDIC before the BAR DATE. The BAR DATE is the date, usually 90 days after the receiver's initial publication of the notice to creditors to present their claims, after which further rights of creditors to make claims against the Receivership may be disallowed or barred. The purpose of the depositor notification is to inform depositors about how and when they must "claim" their insured deposits. These notices are typically combined into one document. The notices are a priority and should be completed as soon as possible after closing. Although this is primarily a closing function, some duties may be accomplished during the pre-closing phase. Some of the duties may be accomplished during the pre-closing and post-closing phases.

Notices are also mailed to subordinated debt holders and stockholders advising them the financial institution has been closed and that pursuant to applicable law depositors, creditors, other claimants and administrative expenses must be paid in full before any distribution is made to their priority class.

Policy Statement

It is the policy of the FDIC to publish and to mail proper notices to creditors and depositors following the closing of a financial institution in accordance with federal law and regulation.

Procedures

Detailed procedures for publication and creditor notice mailings may be found in the Publications and Notices Job Aid located in PPM.

D. Download & Reconciliation of Official Items

Contents

This chapter contains the following information on Download & Reconciliation of Official Items:

Topic Title	Page Number
Overview	IV-D-1
Policy Statement	IV-D-2
Procedures	IV-D-2

Overview

All types of deposits received by a financial institution in its usual course of business are subject to insurance coverage. Cashier's checks, officers' checks, expense checks, dividend checks, loan disbursement checks, interest checks, gift checks, Christmas Club checks, and money orders drawn on the institution (collectively referred to as "Official Items") are also considered deposits subject to insurance coverage. Official Items drawn on other financial institutions are not considered deposits of the failed institution. Examples could be American Express Travelers Checks or Money Orders, or bank drafts sold by the institution to their customers, but drawn on a Correspondent Bank.

There may be special circumstances when the official checks are drawn on an account of the failed institution at another financial institution. These items might be considered to be deposits of the failed institution. Consult FDIC Legal and Claims Management for guidance.

All of the Official Items that have not been paid as of the date of closing are considered as outstanding and are to be identified and reconciled to the failed institution General Ledger by Claims personnel.

Policy Statement

It is the policy of the FDIC, at a financial institution closing, to extract, transform and load outstanding Official Items into the deposit database prior to exceptions processing, to ensure that they are included as deposit liabilities

subject to insurance coverage.

Procedures

Please refer to the Official Items Reconciliation Spreadsheet and the "Outstanding Official Items (OOI)" chapter of the CAS Participant Guide located in PPM for detailed procedures concerning the download and reconciliation of Official Items.

E. Verification of Deposit Download

Contents

This chapter contains the following information on the Verification of Deposit Download:

Topic Title	Page Number
Overview	IV-E-1
Policy Statement	IV-E-2
Procedures	IV-E-2

Overview

A financial institution maintains its financial records on various systems and subsystems. While the institution is open, employees of the institution should be reconciling these systems on a regular basis, to ensure that the systems are in balance and properly reflect the accounts of the institution. These systems and subsystems include, but are not limited to, the general ledger and one or more deposit account systems.

During the closing of a financial institution, DRR Claims and DRR Business Operations Support (DRR BOS) (typically called “Pro Forma staff” at closing) verify the failed institution’s deposit download (including Official Items) to the failed institution’s deposit trial balances. This verification is done with the assistance of DRR Business Information Systems (DRR BIS) staff and should be done prior to performing the exceptions processing function.

The financial institution’s deposit download is entered into CAS, which is maintained by DRR Claims. The financial institution’s general ledger is maintained by DRR BOS (Pro Forma staff) and is ultimately transferred to the Division of Finance’s New Financial Environment (NFE).

Subsequent to the closing a more detailed reconciliation will be performed by DRR BOS, typically back in an FDIC office. (At larger or more complex closings, staff may still be in the field when this more detailed reconciliation is done.) This reconciliation incorporates information discovered after the initial verification and ensures that CAS, NFE, and Pro Forma continue to be in balance.

Policy Statement

It is the policy of DRR Claims to verify that the failed institution's deposit download (including Official Items), as loaded into CAS, balances to the failed institution's deposit account trial balance reports prior to performing the exceptions processing function during the closing of a failed financial institution. It is also the policy of DRR Claims to assist in the ongoing post-closing reconciliations performed by DRR BOS, so that CAS and NFE remain in balance.

Procedures

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The Reconciliation of Deposit Download is performed by the NFE, Dallas Regional Office prior to performing the exceptions processing function during the closing of a failed financial institution. Claims should also assist in the resolution of any discrepancies which may arise, so that CAS and NFE remain in balance.

Please refer to the Reconciliation (Verification) of Deposit Download to Deposit Trial Balances Job Aid located in PPM for detailed procedures concerning closing and post closing reconciliation

F. Performing the Exceptions Processing Function

Contents

This chapter contains the following information on Performing the Exceptions Processing Function:

Topic Title	Page Number
Overview	IV-F-1
Policy Statement	IV-F-2
Procedures	IV-F-2

Overview

Exceptions' processing in the Claims Administration System (CAS) includes all of the activities Claims Agents use to review and correct errors in ownership identification, matching and categorization of the deposit accounts during the insurance determination process. These activities may include correcting the parsing of owner and/or beneficiary names. Occasionally, parsing correction may involve creating new case files for owners and/or beneficiaries either not previously indentified or correctly parsed.

Exceptions processing is performed during the pre-closing phase in preparation of the Uninsured Deposit Estimate Memo and also during the closing and post-closing phases for transactions requiring insurance determinations.

CAS reports are used for the completion of the Uninsured Deposit Estimate Memo. Once the institution has failed, these reports are used to determine the accounts that are uninsured and the accounts that need further documentation to make a determination. If the insured deposits have been transferred to an Acquiring Institution (AI), the reports will be used by the AI to place holds and debit accounts for uninsured funds. In a payout, the reports are used to calculate the amount of the deposit insurance checks.

Policy Statement

It is the policy of DRR Claims to perform the exceptions processing function to complete the Uninsured Deposit Estimate Memo during the pre-closing process and to determine the actual insured and uninsured once the institution is closed.

Procedures

Please refer to the CAS Participant Guide located in PPM for detailed procedures in performing the exceptions processing function.

G. *Account Holds*

Contents

This chapter contains the following information on Account Holds:

Topic Title	Page Number
Overview	IV-G-1
Policy Statement	IV-G-2
Procedures	IV-G-2

Overview

Holds placed upon deposit accounts of the failed institution assist the FDIC in maintaining control of all or part of a depositor's account until the issue(s) regarding the account is resolved. The system of record is the Claims Administration System (CAS).

12 U.S.C. 1822 (d) states:

"The Corporation may withhold payment of such portion of the insured deposit of any depositor in a depository institution in default as may be required to provide for the payment of any liability of such depositor to the depository institution in default or its receiver, which is not offset against a claim due from such depository institution, pending the determination and payment of such liability by such depositor or any other person liable therefore."

Account holds assist the FDIC in retaining control of all or part of a deposit account until the post-closing phase where issues involving the account can be resolved. CAS allows for the placement of multiple holds or the stacking of holds on an account. An account may have a Pass with Hold (PH), Credit (CR), Investigations (INV) and/or an OFAC hold.

CR and INV holds on deposit accounts are to be placed by the requesting department (Asset or Investigations). PH and OFAC holds are placed by the Claims Department.

Policy Statement

It is the policy of the FDIC to place holds on deposit accounts for the portion of a deposit liability that exceeds the deposit insurance limit or when an account requires additional documentation or research to determine if the deposit liability is fully insured. In addition, a hold may be placed on deposit accounts which may have related credit, investigations or legal issues.

Procedures

For insured transactions, all account holds must be placed on the respective deposit accounts in CAS ***prior to*** initiating transactions.

Please refer to the following documents located in PPM for detailed procedures regarding placing and managing account holds:

- The “Holds Management” and “Non Claims Holds Management” chapters of the CAS Participant Guide - Account Hold Procedures "Closing"
- Circular 7210.5 Deposit Account Holds Placed in the Claims Administration System (CAS)

EXHIBIT IV-G-2
DEPOSIT ACCOUNT HOLD(S) AND DEBIT RECEIPT NOTICE

«CORRESPONDENCE_DATE»

«ACQUIRING_INSTITUTION_NAME»
«ACQUIRING_INSTITUTION_CONTACT_NAME»
«ACQUIRING_INSTITUTION_ADDRESS1»
«ACQUIRING_INSTITUTION_ADDRESS2»
«ACQUIRING_INSTITUTION_CITY_STATE»

SUBJECT: **«FAILED_INSTITUTION_FUND_NO» - «FAILED_INSTITUTION_NAME»**
«FAILED_INSTITUTION_CITY_STATE» - In Receivership
DEPOSIT ACCOUNT HOLD(S) AND DEBIT(S)

Dear **«ACQUIRING_INSTITUTION_CONTACT_NAME»**:

As you know, the **«CLOSING_AUTHORITY»** closed **«FAILED_INSTITUTION_NAME»** and appointed the FDIC as Receiver. In its corporate capacity, the FDIC has arranged for the transfer of **insured deposits** to your institution. Pursuant to the governing agreement, the FDIC, as Receiver or in its Corporate Capacity, may direct **«ACQUIRING_INSTITUTION_NAME»** to withhold payment of all or a portion of any deposit by placing a hold on the account or debiting the account for a specific amount ***(a hold or debit).*** Upon such direction, **«ACQUIRING_INSTITUTION_NAME»** not to make payment of any withheld deposit, unless instructed to do so by the FDIC. If such deposit is released without proper written authorization from FDIC, **«ACQUIRING_INSTITUTION_NAME»** may be obligated to repay the FDIC.

FDIC has aggregated the deposit accounts of the **«FAILED_INSTITUTION_NAME»** based on ownership rights and capacities, has applied the appropriate insurance limits to the ownership categories, and has made preliminary insurance determinations on the **«FAILED_INSTITUTION_NAME»** 's deposit accounts. The results of that work have produced a Debit File and a Hold File. The **Debit File** lists the uninsured amount for each account. This uninsured amount must be debited from the applicable account.

The **Hold File** lists the amount(s) for each account that must be held until the FDIC notifies **«ACQUIRING_INSTITUTION_NAME»** to release those funds.

In addition to deposit insurance holds, the FDIC Hold File may include holds for delinquent loans, collateral, guarantees, litigation or other reasons (also reflected as "FDIC Hold" on the report).

Enclosed are copies of the following reports (or provided to you electronically) which should be used to place FDIC holds and debits on the deposit accounts of **«FAILED_INSTITUTION_NAME»**

Debit File [type as of date]
Hold File [type as of date]

The FDIC signatories authorized to "**release**" these holds are indicated below. Under no circumstances should funds be released or submitted to FDIC without prior written authorization from one of these individuals.

If you have any questions regarding these reports please contact me immediately at [PHONE NUMBER TO BE MANUALLY INPUT BY CAIC].

Sincerely,

[CAIC NAME TYPED]
Claims Department

Enclosures: **{LIST REPORTS ENCLOSED}**

«ACQUIRING_INSTITUTION_NAME» hereby acknowledges receipt of this letter and the above-mentioned reports:

_____ _____
Signature [Acquiring Institution Representative] Date

FDIC Authorized Hold Release Signatures:

_____ _____
[Claims Agent In Charge Signature] Date
Claims Agent in Charge
Claims Department

_____ _____
[Authorized Designee Signature] Date
(Title)

H. Initiate Transaction – "IT"

Contents

This chapter contains the following information on Initiate Transaction – "IT":

Topic Title	Page Number
Overview	IV-H-1
Policy Statement	IV-H-2
Procedures	IV-H-2

Overview

Once all of the Closing phase activities have been completed, it is time to "Initiate Transactions" (IT) in the Claims Administration System (CAS). The IT process involves the finalization of any closing phase insurance determinations and account holds, the assignment of the deposit liabilities to the FDIC or the Acquiring Institution, and the generation and posting of a payment transaction to each account.

CAS will write transactions based on the resolution agreement. A beginning balance (BB +) transaction will be written for each deposit. After the beginning balance is created, CAS will automatically process the monetary transaction required to pay insured deposits. If the resolution is a Payout (PO), the written transaction code will be an Insurance Payment (IPPO (-)) for the insured portion of the deposit when the deposit insurance checks have been sent to DRR Accounting's Dividend Processing System (DPS). For additional information on check printing refer to Section IV, Chapter R, Printing of Deposit Insurance Checks (Payout Only). For non-payout resolution types, the written transaction code will be a Transfer (IPTR (-)) for the amount which is transferred to the Acquiring Institution.

Prior to IT, the following Closing tasks must be completed:

- Bank Case updated
- Exceptions processed
- Official Items loaded
- Holds placed
- Pro Forma Adjustments made
- Acquirers added

- Liabilities assigned
- Rejected Cases resolved

Policy Statement

It is the policy of DRR Claims to complete IT as part of the closing phase of a financial institution failure.

Procedures

Please refer to the "Initiate Transactions" chapter in the CAS Participant Guide located in PPM for detailed procedures.

I. Corporate Funding

Contents

This chapter contains the following information on Corporate Funding:

Topic Title	Page Number
Overview	IV-I-1
Policy Statement	IV-I-2
Procedures	IV-I-3

Overview

DRR Claims has a small, but important, role in the Corporate Funding process. Except in a Payout, there are three legal entities involved in a closing agreement. The Acquiring Institution, the FDIC in its Corporate capacity (insurance fund), and the FDIC in its Receivership capacity.

- The Acquiring Institution is responsible for maintaining the insured deposits and may purchase certain assets from the Receivership as specified in the closing agreement.
- In its Corporate capacity, the FDIC is responsible for funding the insured deposits to the Acquiring Institution from the insurance fund, and in turn receives subrogated claims against the Receivership.
- In its Receivership capacity, the FDIC owns the assets of the failed institution and pays a distribution of any liquidated assets to proven claimants as dividends.

At the time of closing, two wires or Wire Authorization Vouchers (WAVs) are prepared, unless the transaction is a Payout and there is no Acquiring Institution.

The first wire from Corporate is remitted to the Acquiring Institution representing the net of the assets purchased, less liabilities assumed, plus any premium paid or minus any negative bid.

The second wire from Corporate is to the Receivership representing the assets purchased by the Acquiring Institution, plus any premium paid or minus any negative bid to the Acquiring Institution.

Both wires are funded by the appropriate Corporation insurance fund.

In a Payout situation, there will be no wire to the Receiver or an Acquiring Institution. However, there will be a wire or WAV prepared to transfer funds from the Corporate account at the U.S. Treasury to the appropriate Payout account at the Federal Home Loan Bank (FHLB).

Policy Statement

The FDIC in its Corporate capacity is responsible for funding insured deposits when an FDIC insured institution has failed. After the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), the "net wire" process was implemented for the Corporation's initial cash outlays when funding the deposit liabilities of a closed financial institution.

Procedures

Please refer to the Claims' Role In Corporate Funding Job Aid located in PPM for detailed procedures.

Steps in the Corporate Funding Process

Contents

This exhibit contains the following information:

Topic Title	Page Number
Overview	Exhibit IV-I-1-1
Funding Process Steps	Exhibit IV-I-1-1
Attachment IV-I-1: Initial Wire Calculation Worksheet (WIRE4651)	
Attachment IV-I-2: Initial Dividend Calculation Worksheet (INITIALDIV4651)	
Attachment IV-I-3: Initial Closing Wire Request to Assuming Institution	
Attachment IV-I-4: Initial WAV to Assuming Institution	
Attachment IV-I-5: Initial Closing Wire Request to Receivership	
Attachment IV-I-6: Initial WAV to Receivership	
Attachment IV-I-7: Initial Wire Adjustment Worksheet	

Overview

This exhibit provides greater detail concerning the Corporate Funding Process.

Funding Process Steps

DRR Accounting Operations

Prepare the initial dividend calculation worksheet by:

- Calculating the percentage of assets sold (**must be 50% or more**).
- Calculating 75% of available cash for dividends (less negative bid, borrowings and reserves).
- Calculating the dividend percentage to be paid to Corporate and others (excess depositors are paid their percentage of the initial dividend as their claims are proven).
- *Calculating the initial dividend to Corporate.

*NOTE**:** The initial dividend to Corporate would, in turn, reduce the initial wire (for the assets/premium) to the Receiver. The wire to the Acquirer is not adjusted.

See: Attachment IV-I-1: Initial Wire Calculation Worksheet (WIRE4651) and Attachment IV-I-2: Initial Dividend Calculation Worksheet (INITIALDIV4651)

Wire to the Acquirer

Equals the amount of assets purchased, less liabilities assumed, plus the premium paid or minus negative bid or the net wire.

DRR Accounting Operations will:

- Review the closing agreement for familiarity of the transaction and division (split) of the assets between FDIC and the Acquirer.
- Obtain the Acquirer's wiring instructions and EIN (Employer Identification Number).
- Obtain the FDIC's wiring instructions from the Cashiers Unit/DRR Accounting Operations.
- Verify interest accruals for the deposit accounts. It is FDIC's policy to pay interest through the date of closing. Determine whether or not interest has accrued through the weekend if a Friday closing occurs. Coordinate the interest accrual testing with **DRR Claims** and/or BIS.
- Obtain the estimated value of the loan splits from the DRR Asset Manager, i.e., the estimate of the value of the loans that will be retained by FDIC and discount the loans split to the Acquirer (per the closing agreement).
- Obtain the amount of uninsured deposits to be split to FDIC from **DRR Claims**. If the closing occurs on Friday, **DRR Claims** will obtain this information from the final page of the Final Excess Register generated by RLS under 'Reports'. If the closing occurs Monday through Thursday, the pre-closing RLS Estimation database figures will be used.

See: Attachment IV-I-3: Initial Closing Wire Request to Assuming Institution
See: Attachment IV-I-4: Initial WAV to Assuming Institution

Wire to the Receiver

Equals the amount of assets purchased, plus the premium paid or minus the negative bid.

NOTE: See the **Initial Dividend (At Closing)** on page IV-I-5 of Section IV, Chapter I (if applicable).

See: Attachment IV-I-5: Initial Closing Wire Request to Receivership
See: Attachment IV-I-6: Initial WAV to Receivership

Wire in a Payout (to FHLB)

DRR Accounting Operations will:

- Obtain the dollar amount of estimated insured deposits to be funded from **DRR Claims**. This is found on the final page of the Subrogation Check Register Report generated by RLS under 'Subrogation'.
- Verify interest accruals for the deposit accounts. It is FDIC's policy to pay interest through the date of closing. Determine whether or not interest has accrued through the weekend if a Friday closing occurs. Coordinate the interest accrual testing with **DRR Claims** and/or BIS.
- Notify Washington of the potential Payout and the dollar amount of the funds transfer estimate.

The Washington Fund Accounting Section (FAS) subsequently processes the WAV's and transfers funds.

Adjustment to Initial Wire (Post-Closing)

When the finalized Pro Forma Statements are complete, additional amounts may be due to either the Receivership or the Acquiring Institution for the difference between the initial wires and the pro forma. These items will be handled through the normal Receiver Settlement process with the Acquiring Institution.

See: Attachment IV-I-7: Initial Wire Adjustment Worksheet

INITIAL WIRE CALCULATION

Bank of Sierra Blanca 4651
Sierra Blanca, Texas 18-Jan-02

ASSETS: dr or (cr)	TOTAL	ASSUMING INSTITUTION	FDIC	
CASH	129,625.38	129,625.38	0.00	
CASH ITEMS	0.00	0.00	0.00	
DUE FROM /CORRESPONDENT	635,493.44	635,493.44	0.00	
SECURITIES & INTEREST	1,164,009.77	1,104,359.77	59,650.00	
CASH SURRENDER VALUE		0.00	0.00	
LOANS	7,141,722.83	1,719,439.12	5,422,283.71	
FEDERAL FUNDS SOLD	100,000.00	100,000.00	0.00	
ACCRUED INT LOANS	119,784.20	34,659.04	85,125.16	
FIXED ASSETS	352,850.74	0.00	352,850.74	
OTHER REAL ESTATE OWNED	735,732.65	0.00	735,732.65	
DEFERRED TAX ASSET	168,000.00	0.00	168,000.00	
PREPAID EXPENSES	15,518.27	2,554.00	12,964.27	
TOTAL OTHER ASSETS	28,882.20	0.00	28,882.20	
TOTAL	10,591,619.48	3,726,130.75	6,865,488.73	0.00

LIABILITIES: (dr) or cr	TOTAL	ASSUMING INSTITUTION	FDIC	
DEPOSITS	10,669,879.14	10,579,503.83	90,375.31	
ACCRUED INT. DEPOSITS	80,059.97	72,500.87	7,559.10	
OFFICIAL CHECKS		0.00	0.00	
ESCROW		0.00	0.00	
FED OR FHLB BORROWINGS		0.00	0.00	
TAXES PAYABLE	(561.44)	1,876.34	(2,437.78)	
ACCRUED EXPENSES	(2,381.60)	455.00	(2,836.60)	
FEES & UNPOSTED SUSPENSE		0.00	0.00	
RESERVE FOR BAD DEBT	430,454.46	0.00	430,454.46	
COMMON STOCK	850,000.00	0.00	850,000.00	
SURPLUS	1,100,000.00	0.00	1,100,000.00	
UNDIVIDED PROFITS	(2,535,831.05)	0.00	(2,535,831.05)	
TOTAL	10,591,619.48	10,654,336.04	(62,716.56)	0.00

	0.00		
Plus Premium/Positive or Minus (NEGATIVE BID)		137,000.00	137,000.00
ASSETS PURCHASED BY ASSUMING INSTITUTION		3,726,130.75	3,726,130.75
Total wire for assets purchased		3,863,130.75	3,863,130.75
LIABILITIES FUNDED TO ASSUMING INSTITUTION		10,654,336.04	
WIRE TO THE ASSUMING IF $ AMOUNT IS NEGATIVE		**(6,791,205.29)**	
WIRE FROM THE ASSUMING IF $ AMOUNT IS POSITIVE			
WIRE TO FDIC AS RECEIVER for assets purchased			3,863,130.75
LESS: BORROWINGS SPLIT TO ASSUMING INSTITUTION:			0.00
Subtotal wire amount to FDIC as Receiver			3,863,130.75 Wire Amount
LESS: INITIAL DIVIDEND TO CORPORATE (from initial dividend wksht)			0.00 **DOESN'T QUAIIFY**
ADJUSTED WIRE TO RECEIVER FROM CORPORATE			**3,863,130.75**

Wire Worksheet Instructions

Determine the preliminary split of assets and liabilities based on the terms and conditions of the Purchase & Assumption Agreement (P&A). The initial wire is calculated from the most recent General Ledger available. Adjustments for the initial over or under wire will be cleared through the settlement process.

USE THE WIRE.XLS FORM TO CALCULATE THE INITIAL DIVIDEND, THIS IS JUST AN EXAMPLE

THIS CLOSING DID NOT MEET THE INITIAL DIVIDEND QUALIFICATIONS

INITIAL DIVIDEND CALCULATION WORKSHEET

4651
Bank of Sierra Blanca
Sierra Blanca, Texas
1/18/2002

* The initial dividend is calculated at closing
* The initial dividend is not calculated where fraud or other significant uncertainties exist
* Complete the initial wire calculation worksheet using the most recent GL, before calculating the initial dividend
* The resolution transaction or receiver **must sell 50% or more of the total assets @ closing**
* Adjust the wire to Receiver (initial wire worksheet) for the amount of the dividend calculated below
* Only the Receiver wire is adjusted for the initial dividend, DO NOT adjust the Assuming Institution wire
* Excess depositors are paid their percentage of the initial dividend as their claims are proven

		Formula	Amount	
1	**Calculate the Percentage of Assets sold to Assuming Institution (initial dividend requires 50% or more)**			
a.	Enter the total Assets @ closing per the initial wire calculation		10,591,619.48	
b.	Enter the total Assets sold to the Assuming Institution per the wire calculation		3,726,130.75	
c.	Percent of Assets Sold to Assuming Inst. @ close (1b/1a) must be 50% or more **DOES NOT QUALIFY FOR INITIAL**	(1b/1a)	0.35	
	IN THIS INSTANCE…..NOT 50% SOLD…DO NOT CONTINUE			
2	**Calculate 75% of available cash for dividend (IF ASSETS SOLD ARE 50% or MORE, continue calculation)**			
a.	Enter the total Assets sold to the Assuming Institution per the initial wire calculation(from 1b above)	plus	3,726,130.75	
b.	Enter the amount of the Premium paid by Assuming Institution per initial wire calculation and closing agreement	plus	137,000.00	EITHER/
c.	Less: The amount of the Negative Bid paid to Assuming Institution per initial wire calculation and closing agreement	minus		OR
c.	Less: Preferred and Secured Borrowings (obtain from FDIC Claims)	minus	0.00	INPUT
d.	Less: FHLB or Fed Borrowings (include those borrowings passed to Assuming Inst. and/or retained by Receiver)	minus	0.00	
e.	Less: Other Reserves, litigation, etc.(obtain from FDIC Legal, etc.)	minus	0.00	INPUT
f.	Estimated Cash before calculating the 25% reserve	@(sum)	3,863,130.75	
g.	Cash Available for Dividend Distribution (75% of remaining estimated cash from 2fabove)	(2f *.75)	2,897,348.06	
3	**Calculate Dividend Percent to be paid to Corporate and Others**			
a.	Enter the amount of Excess Deposits retained by Receiver (obtain from FDIC Claims)	plus	0.00	INPUT
b.	Enter the amount of Liabilities funded to Assuming Inst. per initial wire calculation	plus	10654336.04	
c.	Total Deposits	@(sum)	10,654,336.04	
d.	Dividend Percentage calculation: Cash Available for Divided by Total Deposits or 2g/3c	(2g/3c)	0.271941	
		or	27.19%	
4	**Calculate Initial Dividend to Corporate**			
a.	Amount of Liabilities funded to Assuming Inst. per initial wire calculation (from 3b above)		10,654,336.04	
b.	Dividend Percentage (from 3d above)		0.271941	
c.	Amount of Dividend to Corporate (remember to reduce the initial wire to Receiver from Corporate for this amount)	(4a*4b)	2,897,348.06	AMT OF DIV IF QUALIFICATIONS ABOVE ARE MET…NOT IN THIS CASE

INITIAL CLOSING WIRE REQUEST
TO ASSUMING INSTITUTION

DATE PREPARED	21-Jan-02
NAME OF PREPARER	Sharon Kelley

WIRING INSTRUCTIONS:

FAILED FINANCIAL INSTITUTION NAME	Bank of Sierra Blanca, Sierra Blanca, Texas
FINANCIAL INSTITUTION NUMBER (FIN)	4651
DATE OF WIRE	1/22/2002
AMOUNT OF WIRE	6,791,000.00
BANK RECEIVING WIRE	ABC Bank, N.A.
SHORT NAME	
ASSUMING INSTITUTIONS EIN	11-2233445
ADDRESS OF BANK RECEIVING WIRE	
9 DIGIT ABA ROUTING NUMBER	0000 1111 2
ACCOUNT NUMBER	99 888 7777
NAME OF ACCOUNT	Name of Acquiring Institution
ATTENTION TO WHOM	Acquiring Institution Contact
PURPOSE OF WIRE	Initial Net Wire to Assuming Institution
GENERAL LEDGER ACCOUNTS	From Corporate Acct # 06XXXX

Susan Lowe Mitchell		Susan Brown	
Fax	202-416-4694	Fax	972-761-8569
Voice mail	202-416-7531	Voice mail	972-761-8607

APPROVALS:

CLOSING MGR OR RECEIVER IN CHARGE

FINANCIAL MGR OR PROFORMA TEAM LDR

Federal Deposit Insurance Corporation

Wire Authorization Voucher

1. Date: January 21, 2002

2. TYPE OF WIRE (Check One)	3. FINANCIAL INSTITUTION NAME/FUND	4. FIN / FUND	5. LOC CODE	6. INVOICE NUMBER	7. INVOICE DATE
[x] CORPORATE (USD) [ ] FIELD (RCV)		9999			01/22/02

8. EFFECTIVE DATE OF WIRE	9. AMOUNT
01/22/02	6,791,000.00

10 RECEIVING FINANCIAL INSTITUTION NAME AND LOCATION: ABC Bank, N.A.

11. 9-DIGIT ABA NUMBER	12. SHORT NAME
0000 1111 2	

13. ACCOUNT NAME	14. ACCOUNT NUMBER
Name of Acquiring Institution	99 888 7777

15. FOR FURTHER CREDIT TO	16. ACCOUNT NUMBER

21. DESCRIPTION / PURPOSE OF WIRE: Initial Closing Wire to Assuming Institution/inser Name of Acquiring Institution

17. OTHER INSTRUCTIONS: Acquiring Institution Contact

22. VENDOR ID (Accounts Payable Group / Unit Use Only): 11-2233445 -

18. REQUESTED BY (Print and Sign)	DATE	23. DEBTOR OR ASSET NAME	24. LAMIS ASSET/LOAN NUMBER

19. APPROVED BY (Print and Sign)	DATE	25. CONTRACT/PURCHASE ORDER NUMBER	26 ADVANCE	27. PARTICIPATED
			[ ] YES [X] NO	[ ] YES [X] NO

20. APPROVED BY (Print and Sign)	DATE	28. COMMITTEE/BUDGET CASE NUMBER	DATE

29. ACCOUNTING INFORMATION

ORG	LOC	FIN/FND	ACCT	AT	MISC ID	BY	AMOUNT	PROJ NO.	LAMIS ASSET/LN #	PC
		9999	06XXXX		4651		6,791,000.00			

30. TOTAL FROM CONTINUATION SHEET(S): 0.00

31. Grand Total: 6,791,000.00

32. CONTINUATION SHEET ATTACHED (If yes, check box) [ ]

ACCOUNTING USE ONLY

33. WIRE TRACKING NUMBER	34. INPUT VERIFIED BY Date	35. REVIEWED BY Date	36 APPROVED BY Date	Telephone Number

37. THIRD-PARTY WIRE APPROVED BY	DATE	TELEPHONE NUMBER	38. AUTHORIZED BY Date	39. INPUT TO ECS/FHLB CDA BY Date	Telephone Number

40. FDIC FIELD CONTACT PERSON	DATE	TELEPHONE NUMBER	42 REMARKS/COMMENTS

41. "CALL BACK" CONFIRMED BY	DATE	TIME

A REASONABLE FACSIMILE OF "FDIC 4531/08 (9-94)

INITIAL CLOSING WIRE REQUEST
TO RECEIVERSHIP

DATE PREPARED	**21-Jan-02**
NAME OF PREPARER	**Sharon Kelley**

WIRING INSTRUCTIONS:

FAILED FINANCIAL INSTITUTION NAME	**Bank of Sierra Blanca, Sierra Blanca, Texas**
EIN of FAILED INSTITUTION	**66-5554444**
FINANCIAL INSTITUTION NUMBER (FIN)	**4651**
DATE OF WIRE	**21-Jan-02**
AMOUNT OF WIRE	**3,863,000.00**
BANK RECEIVING WIRE	Federal Home Loan Bank of Chicago
SHORT NAME	FED HOME LN CHGO
ADDRESS OF BANK RECEIVING WIRE	Chicago, Illinois
9 DIGIT ABA ROUTING NUMBER	7775 5533 3
ACCOUNT NUMBER	#2222-1
NAME OF ACCOUNT	FDIC National Liquidation Account
ATTENTION TO WHOM	Cashiering Unit/Apply to GL Acct 169XXX
PURPOSE OF WIRE	Wire For Assets Purchased (Plus/Minus Premium)
GENERAL LEDGER ACCOUNTS	Field Acct #169XXX From Corporate Acct #06XXXX

Susan Lowe Mitchell		**Susan Brown**	
Fax	**202-416-4694**	**Fax**	**972-761-8569**
Voice mail	**202-416-7531**	**Voice mail**	**972-761-8607**

APPROVALS:

CLOSING MGR OR RECEIVER IN CHARGE

FINANCIAL MGR OR PROFORMA TEAM LDR

Federal Deposit Insurance Corporation

Wire Authorization Voucher

1. Date: January 21, 2002

2. TYPE OF WIRE (Check One)	3. FINANCIAL INSTITUTION NAME/FUND	4. FIN / FUND	5. LOC CODE	6. INVOICE NUMBER	7. INVOICE DATE
[x] CORPORATE (USD) [ ] FIELD (RCV)		9999			01/22/02

8. EFFECTIVE DATE OF WIRE	9. AMOUNT
01/22/02	3,863,000.00

10 RECEIVING FINANCIAL INSTITUTION NAME AND LOCATION: Federal Home Loan Bank of Chicago

11. 9-DIGIT ABA NUMBER	12. SHORT NAME
7775 5533 3	Fed Home LN CHGO

13. ACCOUNT NAME	14. ACCOUNT NUMBER
FDIC Nat'l Liquidation	2222-1

15. FOR FURTHER CREDIT TO	16. ACCOUNT NUMBER

21. DESCRIPTION / PURPOSE OF WIRE: Initial Closing Wire to FDIC as Receiver for Bank of Sierra Blanca FIN 4651

17. OTHER INSTRUCTIONS: Attn: Cashiering Unit/Apply to GL Acct. 169102

22. VENDOR ID (Accounts Payable Group / Unit Use Only): 66-5554444 -

18. REQUESTED BY (Print and Sign)	DATE	23. DEBTOR OR ASSET NAME	24. LAMIS ASSET/LOAN NUMBER

19. APPROVED BY (Print and Sign)	DATE	25. CONTRACT/PURCHASE ORDER NUMBER	26 ADVANCE	27. PARTICIPATED
			[ ] YES [X] NO	[ ] YES [X] NO

20. APPROVED BY (Print and Sign)	DATE	28. COMMITTEE/BUDGET CASE NUMBER	DATE

29. ACCOUNTING INFORMATION

ORG	LOC	FIN/FND	ACCT	AT	MISC ID	BY	AMOUNT	PROJ NO.	LAMIS ASSET/LN #	PC
		9999	06XXXX		4651		3,863,000.00			

30. TOTAL FROM CONTINUATION SHEET(S): 0.00

31. Grand Total: 3,863,000.00

32. CONTINUATION SHEET ATTACHED (If yes, check box) [ ]

ACCOUNTING USE ONLY

33. WIRE TRACKING NUMBER	34. INPUT VERIFIED BY Date	35. REVIEWED BY Date	36 APPROVED BY Date	Telephone Number

37. THIRD-PARTY WIRE APPROVED BY	DATE	TELEPHONE NUMBER	38. AUTHORIZED BY Date	39. INPUT TO ECS/FHLB CDA BY Date	Telephone Number

40. FDIC FIELD CONTACT PERSON	DATE	TELEPHONE NUMBER	42 REMARKS/COMMENTS

41. "CALL BACK" CONFIRMED BY	DATE	TIME

A REASONABLE FACSIMILE OF "FDIC 4531/08 (9-94)

Sierra Blanca
4651

Adjustment to Insurance Fund

Total Deposits Roll-up ProForma Assuming Institution	10,573,330.91	
Accrued Interest Deposits	70,874.47	
Safe Deposit Key Deposits	455.00	
Total Deposits to be Funded		10,644,660.38
Initial Wire to Receiver	3,863,000.00	
Initial Wire to Assuming Bank	6,791,000.00	
Total Amount Wired		10,654,000.00
Adjustment to the Corporation		(9,339.62)

J. Meeting With Customers of a Failed Institution

Contents

This chapter contains the following information on Meeting With Uninsured Depositors:

Topic Title	Page Number
Overview	IV-J-1
Policy Statement	IV-J-2
Procedures	IV-J-2

Overview

Meeting with uninsured depositors, either in person or via phone, is a vital part of the insurance determination process and a primary DRR Claims closing function. This chapter will discuss how Claims staff prepares for such meetings and how the meeting itself is to be conducted. Claims may also meet with insured depositors and creditors of a failed financial institution.

The purpose of the meetings is to obtain information which is not already in the records of the failed financial institution and to verify some information which may already be known. With the new and/or verified information, insurance determinations can be finalized and depositors can be advised of the decision.

While the actual meeting with uninsured depositors occurs after the institution closes as part of the closing phase, some of the preparation for the meeting will generally be initiated during the pre-closing phase. However, if there is little or no notice of the potential closing, advance preparation may be minimal.

Claims personnel often have to respond to depositors who are fully insured or other customers who have concerns regarding their banking business. Claims personnel should make every effort to obtain answers for the customer or put the customer in contact with someone within the FDIC who can properly respond to the inquiry.

As might be expected, in order for the customer meeting to be effective, communicating with the depositor is vital.

Policy Statement

It is the FDIC's policy to make accurate deposit insurance determinations, pay deposit insurance promptly and respond to customer inquiries expeditiously.

Procedures

Please refer to the Meeting With Customers of a Failed Institution Job Aid located in PPM for detailed procedures.

DEPOSITOR INTERVIEW FORM

Federal Deposit Insurance Corporation
Claims Department
Revised 02/2010

INSTITUTION NAME:	**FUND #:**	**CUSTOMER ID #:**
DEPOSITOR NAME:		
DEPOSITOR TELEPHONE NUMBER:		

1. **Verify the ADDRESS and the LAST FOUR digits of the TAXPAYER IDENTIFICATION NUMBER (TIN/SSN) on the account.** If the person does not sign on the account, you may need a power of attorney from the account owner.

Address:	TIN:

2. **Confirm the depositor's ownership in all deposit accounts held at the failed institution. Ask depositor about all accounts owned and in what capacity.**

   The account(s) must be reviewed to determine if they need to be aggregated with the rest of the deposit account(s) for insurance coverage.

3. **Ask the depositor if all account owners living.** If any of the account holders are deceased, indicate their name(s) and date(s) of death:

4. **Determine if any accounts are titled as "Depositor ITF…," "Depositor ATF…," "Depositor AAF…," "Depositor FBO…," "Depositor's Custodian Account" or "Depositor's Benefit Plan."** Ask the depositor to provide documentation. (*NOTE: Depositor will need to complete the appropriate declaration.)*
   Has documentation been provided?

   ☐ Yes

   ☐ No (If not, have depositor mail or fax the information as soon as possible.)

5. **Ask if the depositor has an active loan with the bank.**

   ☐ Yes Obtain list of obligations from the Asset Team or Asset Disposition Department to determine mutuality.
   - If mutuality exists, the depositor may elect to offset insured and/or uninsured funds against the deposit. Put the depositor in contact with the Asset Disposition Department to discuss this matter in detail. (Explain to the depositor the advantages of selecting an offset versus accepting an Uninsured Determination Letter and dividends.)
   - If mutuality *does not* exist or if the depositor elects not to offset, an Uninsured Determination Letter will be issued.

   ☐ No

   Ask if the depositor is a guarantor on a loan held by the failed bank. If so, put the depositor in contact with the Asset Team or the Asset Disposition Department to discuss this matter in detail.

6. **Describe to the depositor the issuance of an Uninsured Determination Letter (UDL).**
   Explain that the UDL represents an approved claim for uninsured funds. The depositor *may* receive periodic dividend distributions on a pro-rata basis along with other approved deposit claimants.

7. **Discuss with the depositor any holds on, or debits to, their accounts and the impact on their ability to transact business on these accounts.**

8. **Record the insurance determination in the comments section.**

(OVER)

DEPOSITOR INTERVIEW FORM

Federal Deposit Insurance Corporation
Claims Department
Revised 02/2010

Name of Claims Agent: (print)	Date of Interview:
Signature of Claims Agent:	

DETERMINATION: **FULLY INSURED:** ☐ **PARTIALLY INSURED:** ☐ **UNINSURED:** ☐

EXPLAIN INSURANCE DETERMINATION:

COMMENTS AND NOTES (date and initial):

Overview - Meeting with Depositors/Customers

Before the FDIC is able to process insurance payments on some types of deposits at the closed financial institution, additional documents and forms may be required. The purpose for having the depositor complete the form(s) is to allow them to identify the ownership type(s) of the accounts appearing on the XX/PH register. If the account ownership is different than originally determined by the FDIC, a depositor may be entitled to receive additional deposit insurance:

The following **Affidavits And Declarations** forms may be required to assist the FDIC in its deposit insurance determination:

Affidavit Of Agency Account

A document required from every broker, i.e., first tier, second tier, etc. to identify their capacity to act on their client's behalf.

Power Of Attorney

Not a required document, unless someone wishes to have another party represent them in discussions with the FDIC.

Declaration For Power Of Attorney

Required only if submitting a Power of Attorney not utilizing FDIC's form. A copy of the Power of Attorney document must be attached.

Declaration For Custodian Deposit

Required when the broker's investor is acting as custodian for others and the account totals $100,000 or greater in the aggregate.

Declaration For Joint Ownership Deposit

Required for all joint ownership deposits $100,000.00 or greater, in the aggregate, when the account setup sheet is not provided.

Declaration For Testamentary Deposit (Single Trustee)
Declaration For Testamentary Deposit (Mulitiple Trustee)

One of these forms is required for all testamentary deposits that are also known as payable on death (POD) accounts, revocable trusts and in trust for (ITF) accounts. Submit for all deposits $100,000.00 or greater in the aggregate.

Declaration For Trust

Required for all deposits in the name of a trust totaling $100,000.00 or greater in the aggregate.

Declaration For Independent Activity
Declaration Of Independent Activity For Unincorporated Association

Required of corporations, partnerships or unincorporated associations when the depositor states that the funds in two or more accounts are owned by separate entities.

Declaration For Public Unit Deposit

Required for all public unit deposits $100,000.00 or greater in the aggregate.

Declaration For Ira/Keough Deposit

For all IRA and KEOUGH deposit accounts $100,000.00 or greater in the aggregate, the FDIC requires that the standard IRA agreement between the broker and the IRA owner be submitted. If there is not one, complete and submit this form.

Declaration For Plan And Trust
Declaration For Defined Benefit Plan
Declaration For Defined Contribution Plan
Declaration For Health And Welfare Plan

Employee Benefit Plan Deposits may be identified in any of the above plans. Thus, the type of plan must be determined and the appropriate form submitted for review. As noted in the instructions for employee benefit deposits, additional documents will have to be submitted by the depositor to determine the insurance amount of each type of account.

A copy of the above forms may be found on the FDIC's website at:
http://www.fdic.gov/regulations/laws/FORMS/claims.html

K. (Intentionally Reserved)

L. Overview of Deposit Broker Processing and Other Agency Accounts

Contents

This chapter contains the following information on Deposit Broker Processing:

Topic Title	Page Number
Overview	IV-L-1
Policy Statement	IV-L-2
Procedures	IV-L-3
Exhibit IV-L-1: Illustration of Brokered Deposits	

Overview

A deposit broker is defined as (i) any person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties with insured depository institutions, (ii) any person engaged in the business of placing deposits with insured depository institutions for the purpose of selling interests in those deposits to third parties, or (iii) an agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured depository institution to use the proceeds of the account to fund a pre-arranged loan. Brokered deposits are accounts held at an institution in the name of the broker as custodian for others.

There are two types of brokered deposits, as shown in Exhibit IV-L-1: Illustration of Brokered Deposits.

1) A Depository Organization (DO) - **Brokers** can place funds with the clearinghouse for the securities industry. This clearinghouse is known as the Depository Trust Company (DTC), which in turn places the funds with an institution. DTC uses the nominee name of Cede & Co.
2) A Non-Depository Organization (Non-DO) - **Individual investors** place funds directly with a broker, which in turn places the funds directly with an institution (e.g., Primary Financial Frost, National Bank, The Entrust Group Trust, Treynor State Bank).

NOTE: Many of the brokers invest in *BOTH the DO and Non-DO* categories (e.g., City National Bank, Comerica Bank, JPMorgan Chase, etc).

Custodial deposits held in the name of a broker **on behalf** of their investors and deposited in an FDIC insured financial institution are covered by federal deposit insurance, the same as if the funds had been deposited directly by the broker's clients in the same institution. Therefore, federal deposit insurance coverage applies to **each** of the broker's clients (pass-through insurance coverage), up to the deposit insurance limit.

As mentioned above, brokered accounts are afforded "pass-through" insurance, whereby the deposit insurance passes through from the broker to the account owner(s). However, some institutions become ineligible to accept brokered deposits based on their capital requirement ranking. If this occurs, retirement plan deposits are affected. An insured depository institution that is not well capitalized or adequately capitalized may not accept employee benefit plan deposits. Previously the pass-through insurance would have stopped at the plan level, although due to a recent change in the law, the pass-through coverage is now afforded, based on the interest of each participant.

Brokered deposits pose a unique challenge for DRR when a financial institution fails, in that DRR must determine investor ownership before insurance coverage can be determined and payment made. Brokered deposits are **not** a separate category of insurance, but rather are covered under Title 12, of the CFR (Code of Federal Regulations), Section 330.7 Accounts Held By an Agent, Nominee, Guardian, Custodian or Conservator (http://www.fdic.gov/regulations/laws/rules/2000-5400.html). Thus, the interest of each principal/owner in a brokered account is aggregated with other accounts held in the same ownership rights and capacity at the institution and insured up to the insurance limit, as shown in Exhibit IV-L-1: Illustration of Brokered Deposits.

Any questions regarding what constitutes a deposit broker or a brokered deposit should be referred to the Legal Division.

Policy Statement

The FDIC is charged with the responsibility of paying federal deposit insurance up to the insured limit to the depositors of a failed insured institution. In many cases, the failed institution's account records may not reveal the actual owner(s) of a particular deposit account. Rather, the records simply indicate that a clearinghouse or deposit broker on behalf of one or more third parties placed the deposit at the institution. The FDIC is required to identify the actual owner(s) and pay insurance in an accurate and timely manner.

FDIC will payout the insured brokered deposits separately from any other insured deposits transferred to an acquirer.

Procedures

Please refer to the Deposit Broker Processing Job Aid located in PPM for detailed procedures.

Illustration of Brokered Deposits

Brokered Deposits

Not a separate category of insurance; however must determine who owns funds to group them with other deposits.

Interest of each principal owner of account aggregated with other accounts held in same ownership right and capacity and insured up to the insurance limit.

Two Types of Brokered Deposits

Intermediary and Broker

Two types of brokered deposits:

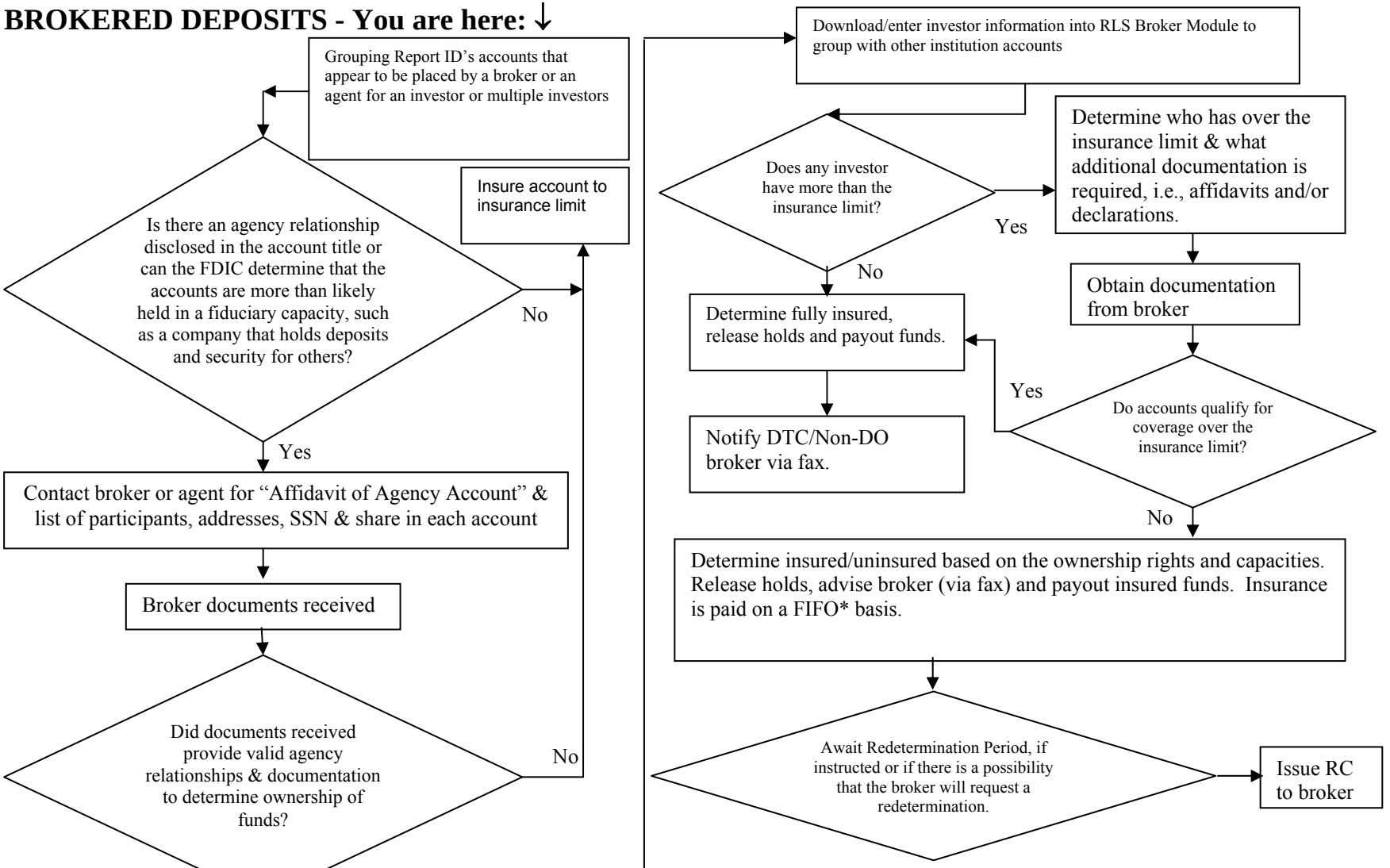
- **DO (Depository Organization):** Deposits placed by intermediary/clearinghouse which is in business of placing funds for others (e.g., DTC/Cede & Co.).

- **Non-DO (Non-Depository Organization):** Deposits placed directly by a broker and listed under the broker's name (e.g., Delta National Bank, Financial Northeastern Co., Marshall & Ilsley Trust Co.)

Funds placed through a clearinghouse (Depository Trust Company)

Individual customers' funds placed directly by broker

BROKERED DEPOSITS - You are here: ↓



*FIFO – First In, First Out. This theory would apply if a depositor had a deposit through a broker as well as direct with the institution or a deposit with another broker that puts them in excess of the insurance limit. We will insure accounts transferred/identified first, then accounts within any subsequent broker packages received on a FIFO basis.

E-mail from Claims to Depository Trust Company (DTC)

To: **DTC Contact**
Cc: DTC Contact
Subject: Failed Institution Name/Location

This E-mail will serve to document our telephone conversation of **[Date of conversation]** in which I advised that on **[Date of Closing]** the **[Name of closing authority]** closed the **[Name of failed institution]**, and appointed the FDIC as receiver. Brokered deposits were not assumed by the acquiring institution. Therefore, once deposit insurance determinations are made by FDIC, we will wire funds representing your participant broker's insured deposits directly to you on their behalf.

Information relating to the failure of **[Name of failed institution]** may be distributed to your participant broker's along with the following FDIC web site.

http://www.fdic.gov/deposit/deposits/brokers

This site will provide them with additional information regarding our requirements for processing deposit insurance claims and providing pass-through insurance coverage to their investors. Thank you for your assistance and please do not hesitate to contact me should you have any questions regarding this matter.

{{2-28-93 p.1359}}

SEC. 29. BROKERED DEPOSITS.[{*}]

{*Editor's Note:* Section 301(d) of title III of the Act of December 19, 1991 (Pub. L. No. 102--242; 105 Stat. 2345) provides as follows:
"(d) DEADLINE FOR REGULATIONS.--The Corporation shall promulgate final regulations to carry out the amendments made under subsections (a), (b), and (c) not later than 150 days after the date of enactment of this Act, and those regulations shall become effective not later than 180 days after that date of enactment, except that such regulations shall not apply to any specfic time deposit made before that date of enactment until the slated maturity of the time deposit."}

(a) IN GENERAL.--An insured depository institution that is not well capitalized may not accept funds obtained, directly or indirectly, by or through any deposit broker for deposit into 1 or more deposit accounts.

[Codified to 12 U.S.C. 1831f(a)]

[Source: Section 2[29(a)] of the Act of September 21, 1950 (Pub. L. No. 797), effective September 21, 1950, as added by section 224(a) of title II of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 273), effective August 9, 1989; as amended by section 301(a)(1) of title III of the Act of December 19, 1991 (Pub. L. No. 102--242; 105 Stat. 2343), effective December 19, 1991; section 1605(a)(1)(A) of title XVI of the Act of October 28, 1992 (Pub. L. No. 102--550; 106 Stat. 4085), effective December 19, 1991]

(b) Renewals and Rollovers Treated as Acceptance of Funds.--Any renewal of an account in any troubled institution and any rollover of any amount on deposit in any such account shall be treated as an acceptance of funds by such troubled institution for purposes of subsection (a).

[Codified to 12 U.S.C. 1831f(b)]

[Source: Section 2[29(b)] of the Act of September 21, 1950 (Pub. L. No. 797), effective September 21, 1950, as added by section 224(a) of title II of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 273), effective August 9, 1989]

(c) WAIVER AUTHORITY.--The Corporation may, on a case-by-case basis and upon application by an insured depository institution which is adequately capitalized (but not well capitalized), waive the applicability of subsection (a) upon a finding that the acceptance of such deposits does not constitute an unsafe or unsound practice with respect to such institution.

[Codified to 12 U.S.C. 1831f(c)]

[Source: Section 2[29(c)] of the Act of September 21, 1950 (Pub. L. No. 797), effective September 21, 1950, as added by section 224(a) of title II of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat.

273), effective August 9, 1989; as amended by section 301(a)(2) of title III of the Act of December 19, 1991 (Pub. L. No. 102--242; 105 Stat. 2343), effective December 19, 1991; section 1605(a)(1)(B) of title XVI of the Act of October 28, 1992 (Pub. L. No. 102--550; 106 Stat. 4085), effective December 19, 1991]

(d) LIMITED EXCEPTION FOR CERTAIN CONSERVATORSHIPS.--In the case of any insured depository institution for which the Corporation has been appointed as conservator, subsection (a) shall not apply to the acceptance of deposits (described in such subsection) by such institution if the Corporation determines that the acceptance of such deposits--

(1) is not an unsafe or unsound practice;

(2) is necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business; and

(3) is consistent with the conservator's fiduciary duty to minimize the institution's losses.

Effective 90 days after the date on which the institution was placed in conservatorship, the institution may not accept such deposits.

[Codified to 12 U.S.C. 1831f(d)]

{{2-28-93 p.1360}}

[Source: Section 2[29(d)] of the Act of September 21, 1950 (Pub. L. No. 797), effective September 21, 1950, as added by section 224(a) of title II of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 273), effective August 9, 1989; as amended by section 301(a)(3) of title III of the Act of December 19, 1991 (Pub. L. No. 102--242; 105 Stat. 2343), effective December 19, 1991]

(e) RESTRICTION ON INTEREST RATE PAID.--Any insured depository institution which, under subsection (c) or (d), accepts funds obtained, directly or indirectly, by or through a deposit broker, may not pay a rate of interest on such funds which, at the time that such funds are accepted, significantly exceeds--

(1) the rate paid on deposits of similar maturity in such institution's normal market area for deposits accepted in the institution's normal market area; or

(2) the national rate paid on deposits of comparable maturity, as established by the Corporation, for deposits accepted outside the institution's normal market area.

[Codified to 12 U.S.C. 1831f(e)]

[Source: Section 2[29(e)] of the Act of September 21, 1950 (Pub. L. No. 797; 64 Stat. 882), effective September 21, 1950, as added by section 301(a)(4) of title III of the Act of December 19, 1991 (Pub. L. No. 102--242; 105 Stat. 2343), effective December 19, 1991]

(f) ADDITIONAL RESTRICTIONS.--The Corporation may impose, by regulation or order, such additional restrictions on the acceptance of brokered deposits by any institution as the Corporation may determine to be appropriate.

[Codified to 12 U.S.C. 1831f(f)]

[Source: Section 2[29(e)] of the Act of September 21, 1950 (Pub. L. No. 797), effective September 21, 1950, as added by section 224(a) of title II of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 274), effective August 9, 1989; as redesignated by section 301(a)(5) of title III of the Act of December 19, 1991 (Pub. L. No. 102--242; 105 Stat. 2344), effective December 19, 1991]

(g) DEFINITIONS RELATING TO DEPOSIT BROKER.--

(1) DEPOSIT BROKER.--The term "deposit broker" means--

(A) any person engaged in the business of placing deposits, or facilitating the placement of

deposits, of third parties with insured depository institutions or the business of placing deposits with insured depository institutions for the purpose of selling interests in those deposits to third parties; and

(B) an agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured depository institution to use the proceeds of the account to fund a prearranged loan.

(2) EXCLUSIONS.--The term "deposit broker" does not include--

(A) an insured depository institution, with respect to funds placed with that depository institution;

(B) an employee of an insured depository institution, with respect to funds placed with the employing depository institution;

(C) a trust department of an insured depository institution, if the trust in question has not been established for the primary purpose of placing funds with insured depository institutions;

(D) the trustee of a pension or other employee benefit plan, with respect to funds of the plan;

(E) a person acting as a plan administrator or an investment adviser in connection with a pension plan or other employee benefit plan provided that that person is performing managerial functions with respect to the plan;

(F) the trustee of a testamentary account;

(G) the trustee of an irrevocable trust (other than one described in paragraph (1)(B)), as long as the trust in question has not been established for the primary purpose of placing funds with insured depository institutions;

{{4-30-01 p.1361}}

(H) a trustee or custodian of a pension or profitsharing plan qualified under section 401(d) or 430(a) of the Internal Revenue Code of 1986; or

(I) an agent or nominee whose primary purpose is not the placement of funds with depository institutions.

(3) Inclusion of depository institutions engaging in certain activities.--Notwithstanding paragraph (2), the term "deposit broker" includes any insured depository institution that is not well capitalized (as defined in section 38), and any employee of such institution, which engages, directly or indirectly, in the solicitation of deposits by offering rates of interest which are significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions in such depository institution's normal market area.

(4) EMPLOYEE.--For purposes of this subsection, the term "employee" means any employee--

(A) who is employed exclusively by the insured depository institution;

(B) whose compensation is primarily in the form of a salary;

(C) who does not share such employee's compensation with a deposit broker; and

(D) whose office space or place of business is used exclusively for the benefit of the insured depository institution which employs such individual.

[Codified to 12 U.S.C. 1831f(g)]

[Source: Section 2[29(f)] of the Act of September 21, 1950 (Pub. L. No. 797), effective September 21, 1950, as added by section 224(a) of title II of the Act of August 9, 1989 (Pub. L. No. 101--73; 103 Stat. 274), effective August 9, 1989; as redesignated by section 301(a)(4) of title III of the Act of December 19, 1991 (Pub. L. No. 102--242; 105 Stat. 2344), effective December 19, 1991; as amended by section 337 of title III of the Act of September 23, 1994 (Pub. L. No. 103--325; 108 Stat. 2235), effective September 23, 1994]

(h) DEPOSIT SOLICITATION RESTRICTED.--An insured depository institution that is undercapitalized, as defined in section 38, shall not solicit deposits by offering rates of interest that are significantly higher than the prevailing rates of interest on insured deposits--

(1) in such institution's normal market areas; or

(2) in the market area in which such deposits would otherwise be accepted.

[Codified to 12 U.S.C. 1831f(h)]

[Source: Section 2[29(h)] of the Act of September 21, 1950 (Pub. L. No. 797; 64 Stat. 882), effective September 21, 1950, as added by section 301(c) of title III of the Act of December 19, 1991 (Pub. L.

No. 102--242; 105 Stat. 2345), effective December 19, 1991]

[The page following this is 1371.]

M. (Intentionally Reserved)

N. Overview of Offsets

Contents

This chapter contains the following information on Overview of Offsets:

Topic Title	Page Number
Overview	IV-N-1
Policy Statement	IV-N-4
Procedures	IV-N-4

Overview

"Offset" (also referred to as "setoff") is the adjustment of **mutual** debts or obligations between two parties, in which the debts are allowed to cancel each other up to the amount of the smaller debt. The typical situation encountered by the FDIC involves a depositor (the deposit being the debt or obligation of the depository institution to the depositor) who is also an obligor of a loan or other asset owned by the same depository institution.

An offset may be of benefit to both the depositor/obligor and the FDIC. The Federal Deposit Insurance Act (FDI Act) defines "insured deposit" as the **net** amount due to a depositor. Because of this definition an offset occurs before the determination of deposit insurance. Thus, in the situation where the depositor/obligor may have uninsured funds, allowing the depositor/obligor to receive "dollar for dollar" value for the entire deposit (up to the amount of the offset) may maximize the effect of the depositor's/obligor's insurance coverage because the amount of insurance coverage is established by the *net* due to the depositor/obligor. In the absence of the offset, the depositor/obligor receives a Receiver's Certificate (RC) for the amount of the uninsured funds and will only receive value to the extent that dividends are paid by the Receiver.

Offset benefits the FDIC because the FDIC will only need to fund deposit insurance for the net amount of the deposit after offset.

Voluntary and Involuntary Offsets

An offset may be "**voluntary**" or "**involuntary**". When the depositor/obligor asserts his right to offset, it is "voluntary." The obligation owed by the depositor/obligor can be current or past due. This right of the depositor/obligor of an insolvent depository institution to offset a deposit against an obligation owed to the same institution has been recognized by the courts for over 100 years, beginning with the U.S. Supreme Court case of

Scott v. Armstrong, 146 U.S. 499 (1892).

When the FDIC asserts its right to offset, the offset is "involuntary." The FDIC may assert its right when the obligation is due and owing as of the closing date because the obligation has matured or it is in default. A default might include the obligor's insolvency or the existence of fraud. In any event, the FDIC's right of offset arises from a statutory, contractual or equitable right of the failed institution to exercise offset.

Mutuality

The key element of offset is **mutuality**. Mutuality consists of two parts – (i) "**mutuality of parties,**" and (ii) "**mutuality of obligation.**" **Both parts must be present in order to do an offset.**

Mutuality of parties exists when the mutual debts (typically, the deposit and the loan) are owed between the same two parties. This means that the owner of the deposit account must be the same party that is obligated to the institution for the loan. General rules concerning "mutuality of parties" are as follows:

- Single name deposit account(s) can be offset against the same single name loan(s) or debt(s) to the financial institution.

- Joint name deposit accounts can be offset against the same joint name loans or debts to the financial institution.

- If <u>all</u> of the names on a joint name deposit account do not exactly match <u>all</u> of the names on a joint name loan or debt, offset will depend on the law of the jurisdiction of the failed financial institution. FDIC Legal should be consulted in such a situation.

- Single name deposit accounts may be offset against joint indebtedness provided the party named on the deposit account is also one of the obligors on the loan or debt.

- Deposit accounts in trade names (e.g. John Doe dba Doe's Tree Service or John and Mary Doe dba Doe's Bakery) can be offset against indebtedness of the owner(s). However, an affidavit attesting to the ownership of the deposit account must be obtained if this is a voluntary offset.

- Municipal bonds of public units held as unpledged assets of failed institutions can be offset against deposit accounts of those same public units if there is a **direct** debtor-creditor relationship. Thus, if there is a trustee for the bond, there is no direct debtor-creditor relationship and FDIC Legal should be consulted before doing an offset.

- Deposit accounts held as loan collateral where no mutuality exists cannot be offset. Instead, a cash application will be processed where the contractual right to do so exists.

Mutuality of obligation means that the debts must be owed in the same right or priority. Under the national depositor preference priority scheme in effect since 1993, a deposit account can be offset against an obligation (loan or debt) owed to the institution. However, a general creditor claim cannot be offset against an obligation (loan or debt) owed to the institution because the general creditor claim is not owed in the same right or priority between the creditor and the receiver. This is because general creditor claims are subordinate to depositor liabilities under the national depositor preference statute.

Guarantees

Issues of mutuality and the details of the loan documentation make it difficult to provide standard guidance concerning offset when a guarantor of an obligation of the failed institution has deposit funds at the same institution.

Legal Opinions

A legal opinion should be obtained for involuntary offsets. A legal opinion should also be obtained for voluntary offsets where the parties are not identical or in voluntary offset situations involving non deposit bank obligations, guarantees, or cash applications. A legal opinion need not be obtained for voluntary offsets when the party or parties on the deposit are identical to those on the loan.

Cash Application

A concept related to, but distinct from offset, is **cash application**. A cash application refers to the application of **insured** deposit funds to reduce a debt when no mutuality exists. A cash application occurs after the deposit insurance determination has been made. A cash application **cannot** involve uninsured funds.

An example of a cash application is a deposit account whose owner has pledged the funds to collateralize the loan of another party (sometimes called a third party pledge). Since mutuality of parties is absent, an offset cannot be processed. However, the deposit may be applied to reduce the loan if there is a contractual right to do so, or if the FDIC exercises its authority under the FDI Act to withhold payment of an insured deposit to provide for the payment of any liability of the depositor to the institution.

Policy Statement

It is the policy of the FDIC to process offsets, whether voluntary or involuntary, in a timely manner.

Procedures

Please refer to the Offset Procedures Job Aid located in PPM.

FDIC VOLUNTARY DEPOSIT OFFSET FORM

Failed Institution FIN

Section I - Depositor/Debtor Information

Depositor (as appears on signature card/CD)	Debtor (as appears on loan document)

Section II - Completed by Depositor/Debtor/Witness

I/we am/are the owner/s of the deposit account/s listed below and am/are indebted to the aforesaid institution by virtue of certain notes. Therefore, I/we request that a voluntary payment/credit as set forth above be applied to the note/s. The depositor/s and debtor/s acknowledge that this offset does not in any way prejudice or otherwise waive any rights of the FDIC as Receiver of the failed institution to pursue collection of any remaining balance/s under the note/s.

Depositor 1:

Printed Name Signature Date

Depositor 2:

Printed Name Signature Date

Witness:

Printed Name Signature Date

Debtor 1:

Printed Name Signature Date

Debtor 2:

Printed Name Signature Date

Witness:

Printed Name Signature Date

Section III- Deposit Account/s as of Closing

					Offset Amounts	
Account Number	Insured Principal	Insured Interest	Uninsured Principal	Uninsured Interest	Principal	Interest
Total					$	$

Section IV - Loan Balance and Offset Application as of Closing

				Offset Amounts	
Loan Number	Principal	Interest	Total	Principal	Interest
Total				$	$

Section V - Balance After Offset

Uninsured after Offset (issue RC to depositor)	$
Insured after Offset (funds due to depositor)	$

Section VI - Completion of Process

Requested by Credit Specialist:

Printed Name Signature Date

Concurred by Claim Agent: Claims determined that offset requirements are satisfied.

Printed Name Signature Date

Booked by Accounting:

Printed Name Signature Date

JOB AID – PROCEDURES FOR OFFSET DETERMINATION

The following steps should be followed to determine if an offset might be processed:

1. Verify that all documentation required for a potential offset is included in the offset file for the debtor/depositor. (Offset Documentation Check List Job Aid). The following is a list of documents that may be required to complete a voluntary offset; however, not all documents apply to every offset:

    a. Offset request form
    b. All account owners have signed the offset request form
    c. Copy of note(s)
    d. Security agreement(s)
    e. Guarantor agreements(s)
    f. Pledge agreements(s)
    g. Signature card(s)
    h. Copy of institution record of CD, or other account agreement(s), etc.
    i. Copy of loan trial balance as of closing date
    j. Copy of deposit trial balance as of closing date
    k. Copy of demand letter, if required by legal
    l. Copy of financial institution account statement, if available
    m. Copy of legal opinion (if necessary)

2. Review the offset request
3. Locate legal opinions on general issues and/or specific cases regarding offsets (applicable to the state where the closed financial institution is located) and place copy in the offset file.
4. Determine if the offset request may be processed. Use the general rules of offset as well as any legal opinions applicable. If an offset may not be processed, notify the person who made the original request.
5. If the depositor has more than one debt that may be offset, the debtor/depositor's wishes for offset should be adhered to. If the debtor/depositor does not provide specific instructions for offset, the following guidelines should be followed:

    a. If any of the debts were due and owing or matured at the time of the financial institution's closing, the offset can be made against any or all of them. This is not affected by the fact that the debtor may have signed a request for voluntary offset against a different debt.
    b. Only debts that are due and owing or matured as of the closing date can be offset involuntarily.
    c. If all debts are current, the debtor can request offset and specify which debt the offset should be applied; only the particular debt requested by the debtor can be offset. Be sure there is concurrence by the asset group, paying particular attention to applicable pledge and/or security agreement.

d. If the offset is voluntary and the debtor does not specify which debt it should be applied, the offset can be applied to any one debt or split among several.

e. The debtor's decision to offset must be honored in a voluntary offset structure; however, the FDIC may suggest a change in how the offset is applied if there are considerations of collateral or participation loans.

6. If the offset involves a guarantor of debt, guarantor of payment, or other person secondarily involved, a legal opinion must be obtained and a demand letter mailed when instructed by Legal. A copy of the demand letter (if applicable) and legal opinion should be included in the offset file.

JOB AID (PROCESSING OFFSET APPLICATION)

Procedures For Processing Offset Applications

1. After receiving loan and deposit balances (as of closing date), determine if an offset is permissible. If permissible, complete the voluntary/involuntary offset form to determine the amount to be applied to the loan(s).

2. If the offset involves deposits transferred to an acquiring institution, process an "offset" and a Due To (DT) entry in RLS. The CAIC, or designee, should generate a DT letter in RLS to notify the Acquiring Institution of the offset decision. The letter should be faxed or emailed to the Acquiring Institution.

3. If the closing transaction is a pay out, determine if the credit hold balance is equal to the deposit balance.
   a. If the credit hold amount equals the deposit balance, no check will print and no funds will be due the depositor.
   b. If the credit hold for the loan balance does not equal the deposit balance, RLS will print a pay out check for the deposit, net of the loan amount.

4. Whenever a deposit balance exceeds the maximum insurance coverage after offsetting a debt obligation, issue a RC to the depositor in the amount of the uninsured funds.

5. Place a copy of the offset log in the General file and place a copy in the depositor's file.

6. Provide copy of the offset form and supporting documents to DRR Accounting Operations.

7. If the loan(s) is participated, contact DRR Financial Accounting/Asset Marketing for the following information for each participant: name, address, and percentage of participation. Enter the participants into RLS as general creditor claimants, determine each participant's share of the offset, and process the RC(s).

FDIC INVOLUNTARY DEPOSIT OFFSET FORM

The Federal Deposit Insurance Corporation as Receiver for the failed financial institution is entitled to offset a deposit account against a loan obligation provided the loan obligation was matured or in default at the time of Receivership. The Receiver has elected to exercise such offset rights as evidenced by the Involuntary Offset Form. The effect on the respective account balances of the deposit and loan is described below, and the books and records of the Receiver will be adjusted accordingly.

Failed Institution FIN

Section I - Depositor/Debtor Information

Depositor (as appears on signature card/CD)	Debtor (as appears on loan document)

Section II - Deposit Account/s as of Closing

				Offset Amounts	
Account Number	Insured Principal	Insured Interest	Total	Principal	Interest
Total				$	$

Section III - Loan Balance and Offset Application as of Closing

				Offset Amounts	
Loan Number	Delinquent Principal	Delinquent Interest	Total	Principal	Interest
Total				$	$

Section IV - Deposit Balance After Offset

Insured after Offset (funds due to depositor)	$

Section V - Completion of Process

Requested by Credit Specialist:

Printed Name Signature Date

Concurred by Claim Agent: Claims determined that offset requirements are satisfied.

Printed Name Signature Date

Booked by Accounting:

Printed Name Signature Date

RLS71261B

Print Date: 04/11/2003
Print Time: ############

XX/PH WORKSHEET
INSTITUTION: 4649 - SINCLAIR NATIONAL BANK

EXTENDED FAMILY:

GROUP # 320

OWNERSHIP TYPE:
HOLD FLAGS:

STATE AGENCIES - JOHNNY APPLESEED, TREAS.
123 ROUND ROCK ROAD
SOMEWHERE, USA

ACCOUNT NAME	BRANCH NUMBER	ACCOUNT NUMBER	CLAIM TYPE	ORIGINAL BALANCE	INSURED FUNDS PRINCIPAL	INSURED FUNDS INTEREST	INSURED FUNDS BALANCE	UNINSURED/FUNDS ON HOLD PRINCIPAL	UNINSURED/FUNDS ON HOLD INTEREST	UNINSURED/FUNDS ON HOLD BALANCE
STATE AGENCIES - J. APPLESEED, TREAS	102	1025006063	CDS	$198,341.27	$0.00	$0.00	$0.00	$197,069.66	$1,271.61	$198,341.27
JOHNNY APPLESEED POD ALEX ROY & ADAM	102	1025005982	CDS	$195,556.84	$0.00	$0.00	$0.00	$194,861.74	$695.10	$195,556.84
JOHNNY APPLESEED	102	1025006089	CDS	$621,939.22	$0.00	$0.00	$0.00	$618,845.00	$3,094.22	$621,939.22
JOHNNY APPLESEED & ADAM JOE	102	1025006220	CDS	$191,234.75	$100,000.00	$0.00	$100,000.00	$91,180.22	$54.53	$91,234.75
TOTAL:				$1,207,072.08	$100,000.00	$0.00	$100,000.00	$1,101,956.62	$5,115.46	$1,107,072.08

_____ ALL "DI" _____ ALL "XS" _____ New Group

OWNERSHIP TYPE	PROCESSING CODES	ACCOUNT NUMBER	PRINCIPAL	INTEREST	TOTAL INSURED	TOTAL UNINSURED	
	OS	1025006063	$1,136.20	$0.00	$1,136.20		
	DI	1025006063	$100,000.00	$0.00	$98,863.80		
	SD	1025006063	$95,933.46	$1,271.61	$98,341.27		
	DI	1025005982	$194,861.74	$695.10	$195,556.84		Determination Made By/ Date:
	DI	1005006089	$100,000.00	$0.00	$100,000.00		Concurred By/Date:
	XS	1025006089	$518,845.00	$3,094.22		$521,939.22	Input Into RLS By/Date:
	DI	1025006220	$91,180.22	$54.53	$91,234.75		
				TOTALS:	$585,132.86	$521,939.22	

Name on RC: _____

Tax ID: _____

New Address: _____

_____

City, State, ZIP, Country

RLS Processing Codes:

AH - Add Hold	RI - Returned items
BK - Bookkeeping Adjustment	OS - Offset
CA - Cash Application	SD - Secured Deposits
DI - Determined Insured	TF - Transfer From
DF - Due From FDIC	TT - Transfer To
DT - Due To FDIC	UF - Uncollected Funds (CAC)
RH - Release Hold	XS - Determined Excess

Page 1

Account #1025006063 determined to be Public funds with securities pledged, plus offset of funds; offset amount #1,136.20; insured for $100,000.00; secured $97,205.07.
Account #1025005982 is a Totten trust with two qualifying beneficiaries, fully insured.
Account #1025006089 is single ownership account; only insured to $100,000.00
Account #1025006220 is joint ownership account; would be insured up to $200,000.00

Federal Deposit Insurance Corporation
1910 Pacific Ave. Dallas TX, 75201
Division of Resolutions and Receiverships

DATE

To: **[PRO FORMA MANAGER]**
DRR/CLAIMS/DFOB

From: **[CLAIMS SPECIALIST]**
DRR/CLAIMS/DFOB

SUBJECT: 4656–Connecticut Bank Of Commerce
Stamford, CT – In Receivership
OFFSET OF FUNDS - DEPOSITOR/DEBTOR

Attached is offset documentation for **[NAME OF DEPOSITOR/DEBTOR]** and a copy of a letter to **[NAME OF ACQUIRING INSTITUTION].** The **[OFFSET DOLLAR AMOUNT]** should be posted as follows:

Debtor	NPS No.	Effective date	Principal	Interest
[NAME OF DEPOSITOR(S)		07/11/2002	$402,320.86	$0.00

Upon completion of this request, please forward the information to Asset Processing Unit. This memo contains an acknowledgment line; please sign, date, and return a copy of this memo when this request has been completed and forwarded to Asset Processing. Please call me at **[(XXX) XXX-XXXX]** if you have any questions.

Enclosure(s)

ACKNOWLEDGED BY: _____ DATE: _____

cc: Asset Processing
Correspondence File
Offset File
Account Officer
Account Hold File
CPOC File

O. Secured Accounts/Preferred Claims

Contents

This chapter contains the following information on Secured Accounts/Preferred Claims:

Topic Title	Page Number
Overview	IV-O-1
Policy Statement	IV-O-2
Procedures	IV-O-2

Overview

This chapter addresses two separate claims processes — secured accounts and preferred claims. The processes may be applicable to deposit accounts or other liabilities of the failed financial institution.

Certain liability accounts in a financial institution may be secured by institution-owned securities, loans or other types of assets. When the liability account is a deposit, the institution has pledged its assets (securities, loans, etc.) to secure the deposit(s) for the amount that exceeds the federal deposit insurance limit (i.e., deposits of a public unit are protected first by deposit insurance and then by the proceeds from the liquidation of any properly pledged assets). Most frequently, the secured depositor is a public unit and the deposits are known as public funds. Public unit accounts are defined as those accounts owned by the United States, a state, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico and other government possessions and territories, and Indian Tribes. State laws govern the pledging of assets which collateralize public unit deposits of public units which are at the state level or below. Section 330.15 of the FDIC's regulations (12 C.F.R. 330.15) governs the insurance coverage of "public unit" accounts.

Financial institutions which pledge assets to secure a liability must be in compliance with state laws. A nationally chartered financial institution cannot pledge its assets to a non-public unit (any person or entity other than a public unit) to secure its deposit(s) and must comply with state law when pledging assets (securities, loans, etc.) to secure public unit deposits. If a non-public unit has assets pledged to secure its deposit, obtain a copy of the pledge agreement and have the Closing Attorney determine if the pledge is valid under state law.

In the case of an institution failure, the deposit is first protected by federal deposit insurance and then by the market value of the security, but only to the extent that the deposit exceeds the insured amount.

Federal Reserve borrowings and Treasury, Tax and Loan (TT&L) accounts, to the extent they are secured, are treated as secured accounts.

Also, advances from the Federal Home Loan Bank ("FHLB") system are secured accounts. The FHLB system consists of 12 regional FHLB banks. FHLB advances are loans made by a FHLB bank that provide funds to member banks for residential mortgages. The advances are fully collateralized, and, often times, over collateralized by the member bank's assets.

Preferred claims are paid before other claims against the Receivership are considered. Preferred claims depend on applicable state law. Preferred claims are based on a trustee relationship between the failed institution and claimant. Additionally, to be valid, specific property or cash proceeds must pass into the hands of the Receiver.

The evidence of the trustee relationship must prove that (i) the institution was acting as trustee for the claimant, and (ii) the specific property or cash realized from the specific property must pass into the hands of the Receivership.

Policy Statement

It is the policy of the FDIC to process secured accounts and preferred claims in accordance with applicable state and federal laws, regulations and policies.

Procedures

Please refer to the Secured Accounts/Preferred Claims Job Aid located in PPM for detailed procedures.

SINCLAIR NATIONAL BANK

9/7/2001

CUSIP	NAME	MKT PRICE AS OF 9/7/01	MKT VALUE AS OF 9/7/01	GEN'L LEDGER (AS OF 9/7/01)	ORIGINAL PAR	CURRENT PAR	COUPON	YIELD	MATURITY	PLEDGED	PLEDGED AMT.	PLEDGED TO	SK - AGENT
3133MD7D9	FHLB	102.540	512,700.00	506,059.50	500,000.00	500,000.00	5.250%	4.138%	2/13/2004	YES	450,000.00	STATE OF AMERICA	AMERICA BANKER'S BANK
3133M8C44	FHLB	101.170	505,850.00	502,684.87	500,000.00	500,000.00	5.420%	3.233%	3/26/2002	YES	450,000.00	STATE OF AMERICA	AMERICA BANKER'S BANK
3133MEWX5	FHLB	101.570	304,710.00	299,033.17	300,000.00	300,000.00	4.875%	4.246%	5/14/2004	YES	260,000.00	STATE OF AMERICA	AMERICA BANKER'S BANK
	TOTAL AGENCY ISSU		**$1,323,260.00**	**$1,307,777.54**		**$1,300,000.00**					**$1,160,000.00**		
	Market Value Adjustment				GAIN	**23,260.00**							

SECURED DEPOSIT EXAMPLES

Contents

Topic Title	Page Number
Example 1	IV-O-4-1
Example 2	IV-O-4-2

Example 1

Name of Public Entity:	ABC County		
Account #98-765-4	DDA	$356,431.29	
Account #99-253-3	DDA	$378,425.98	
Total Balance of Account(s)		$734,857.27	$734,857.27
Insurance on Non-Interest Bearing Accounts		$100,000.00	
Insurance on Interest Bearing Accounts		$ -0-	
Total Applicable Insurance		$100,000.00	($100,000.00)
Preliminary Uninsured Balance			$634,857.27
Market Value of Securities Pledged (Secured Deposit Analysis Report)			($635,674.50)
Final Amount (Under) or Over-Pledged			$ 817.23
Secured Deposit[1]			$634,857.27

[1] Deposit insurance applicable when public entity has only interest bearing account(s) or non-interest bearing account(s), or when the public entity is not located within the same state as the failed institution.

Example 2

Name of Public Entity:	ISD #4		
Account #123-456-7	DDA	$635,231.37	
Account #23456	CDS	$256,425.98	
Total Balance of Account(s)		$891,657.35	$891,657.35
Insurance on Non-Interest Bearing Accounts		$100,000.00	
Insurance on Interest Bearing Accounts		$100,000.00	
Total Applicable Insurance		$200,000.00	($200,000.00)
Preliminary Uninsured Balance			$691,657.35
Market Value of Securities Pledged (Secured Deposit Analysis Report)			($625,674.50)
Final Amount (Under) or Over-Pledged			($ 65,982.95)
Secured Deposit[2]			$625,674.50

[2] Deposit insurance applicable when a public entity has both interest bearing account(s) and non-interest bearing account(s), and is located within the same state as the failed institution.

P. Corporate Settlement Process

Contents

This chapter contains the following information on Corporate Settlement:

Topic Title	Page Number
Overview	IV-P-1
Policy Statement	IV-P-1
Procedures	IV-P-2

Overview

The funding of additional insured deposits to the Acquiring Institution from the FDIC in its Corporate capacity or the need for insurance funds to be returned from the Acquiring Institution is known as Corporate Settlement. Corporate Settlement involves the Due To/Due From FDIC transactions with the Acquiring Institution. Through the net settlement process, the FDIC is reimbursed for funds that are determined to be uninsured post-closing or the Acquiring Institution is reimbursed for funds that are determined to be insured post-closing. This process begins at closing.

Corporate Settlement is **not** applicable in a Purchase and Assumption transaction when **all** deposits transfer. It is also **not** applicable in a Payout. Corporate Settlement is applicable in a Purchase and Assumption transaction when only insured deposits transfer.

Policy Statement

It is the policy of FDIC to have the first Corporate Settlement within 30 days of closing to settle any net difference between the FDIC and the Acquiring Institution (AI) for post-closing insurance determinations. In some instances an AI may request an earlier Settlement when there is a large Due From FDIC amount. There is no set timeframe to complete Corporate Settlement. Corporate Settlement should continue until all issues on deposit accounts have been resolved.

Procedures

Please refer to the Corporate Settlement Process Job Aid located in PPM for detailed procedures.

Federal Deposit Insurance Corporation
1910 Pacific Ave. Dallas TX, 75201
Division of Resolutions and Receiverships

September 10, 2002

Acquiring Institution
123 Main Street
Stamford, CT 06079

SUBJECT: XXXX–Example Bank
Stamford, CT – In Receivership
CORPORATE SETTLEMENT - DUE TO FDIC

Dear Mr. Banker:

Reference is made to the following account(s), which was (were) transferred to your bank in the initial wire.

Account Name	Account Type & Number	Principal	Interest	Total
Anne Depositor	CDS - 1061405	17,000.00	672.17	17,672.17

It is hereby requested that these funds be returned to the FDIC. This will be a "Due to FDIC" through corporate settlement.

Sincerely,

Claim Agent
Claims Department

ACKNOWLEDGED BY: _____ DATE: _____

RLS7195
Print Time: 9/10/2002
Print Date: 02:26:06PM

DUE TO/DUE FROM CORPORATE SETTLEMENT

INSTITUTION: XXXX - Example Bank
ACQUIRERS: The Other Bank
TRANSACTION DATES RANGE FROM: 07/27/2002 TO 08/31/2002
SORT ORDER: Account Number

BRANCH NUMBER	ACCOUNT NUMBER	FDIC CLAIMS TYPE	CLAIMANT NAME	HOLD TYPE CODE	DUE TO FROM AC((DT
90	1061405	CDS	Anne Depositor	PH	$
25	1069873	CDS	Anne Depositor	XX	$
90	300134023	CDS	Anne Depositor	XX	$
90	300134024	CDS	Anne Depositor	XX	$

DT: $
DF: $

FEDERAL DEPOSIT INSURANCE CORPORATION
SETTLEMENT TRACKING AND RECONCILIATION SYSTEM
4660 - EXAMPLE BANK
P&A
07/01/2002
Claim Transactions

SETTLEMENT ACCOUNT TRANSACTION FORM PRINTED: 09/19/2002 ITEM NUMBER - 40001

TRANSACTION DESCRIPTION:

RETURN OF UNINSURED DEPOSITS
The Corporation has determined that an uninsured deposit was transferred to the Assuming Bank. These transactions cover the period from July 1, 2002 through August 31, 2002.

TRANSACTION OR INVOICE DATE	TOTAL AMOUNT	DUE TO ASSUMING BANK	DUE TO FDIC
07/01/2002	$17,672.17		$17,672.17

PREPARED BY: DATE APPROVED BY (FDIC) DATE

REVIEWED BY: DATE APPROVED BY (ASSUMING BANK) DATE

LAS ACCOUNTS CHARGED

JOURNAL ENTRY NO. _____

ACCOUNT NUMBER	DEBIT	CREDIT

JOURNAL NUMBER THIS TRANSACTION
IS RECORDED ON _____

TOTALS: _____ _____

FEDERAL DEPOSIT INSURANCE CORPORATION
SETTLEMENT TRACKING AND RECONCILIATION SYSTEM
4660 - EXAMPLE BANK
P&A
07/01/2002
Claim Transactions

SETTLEMENT ACCOUNT TRANSACTION FORM PRINTED: 09/19/2002 ITEM NUMBER ____.

TRANSACTION DESCRIPTION:

DEPOSITS DETERMINED TO BE INSURED
On July 1, 2002, the Corporation believed that these funds may be uninsured. Between July 1, 2002 and August 31, 2002, the Corporation determined that these funds were insured.

TRANSACTION OR INVOICE DATE	TOTAL AMOUNT	DUE TO ASSUMING BANK	DUE TO FDIC
07/01/2002	$205,449.47	$205,449.47	

PREPARED BY: DATE APPROVED BY (FDIC) DATE

REVIEWED BY: DATE APPROVED BY (ASSUMING BANK) DATE

LAS ACCOUNTS CHARGED

JOURNAL ENTRY NO. _____

ACCOUNT NUMBER	DEBIT	CREDIT

JOURNAL NUMBER THIS TRANSACTION
IS RECORDED ON _____

TOTALS: _____ _____

Exhibit IV-P-5

SETTLEMENT TRACKING AND RECONCILIATION SYSTEM
FEDERAL DEPOSIT INSURANCE CORPORATION
4660 - EXAMPLE BANK
AB:
P&A
Closed on 07/01/2002
Claim Transactions

SETTLEMENT ACCOUNT TRANSACTION FORM

TRANSACTION DESCRIPTION:

Settlement Interest for Interim Corporate Settlement I01.

TRANSACTION OR INVOICE DATE	TOTAL AMOUNT	DUE TO ASSUMING BANK	DUE TO FDIC
09/23/2002	$770.73	$770.73	

PREPARED BY: DATE

APPROVED BY (FDIC) DATE

APPROVED BY (ASSUMING BANK) DATE

LAS ACCOUNTS CHARGED

JOURNAL ENTRY NO.	ACCOUNT NUMBER	DEBIT	CREDIT

JOURNAL NUMBER THIS TRANSACTION IS RECORDED ON

TOTALS:

Exhibit IV-P-6

FEDERAL DEPOSIT INSURANCE CORPORATION

SETTLEMENT TRACKING AND RECONCILIATION SYSTEM

4660 - EXAMPLE BANK

AB:

P&A

Closed on 07/01/2002

Recap of All Settlement(s) To 09/19/2002

Claim Transactions

Item No.	Transaction Description	Transaction Date	Payment Date	Type	Due to Bank Amount	Due to Bank Interest	Due to FDIC Amount	Due to FDIC Interest
30001	DEPOSITS DETERMINED TO BE INSURED	07/01/2002	09/23/2002	I01	$205,449.47	$843.27		
40001	RETURN OF UNINSURED DEPOSITS	07/01/2002	09/23/2002	I01			$17,672.17	$72.54
			Sub Total		$205,449.47	$843.27	$17,672.17	$72.54
			TOTAL		$206,292.74		$17,744.71	
			TOTAL DUE BANK		$188,548.03			

FEDERAL DEPOSIT INSURANCE CORPORATION
SETTLEMENT TRACKING AND RECONCILIATION SYSTEM
4660 - EXAMPLE BANK
AB:
P&A
Closed on 07/01/2002
All Settlement(s) To 09/19/2002
Claim Transactions
Sort By: Item number

Item No.	Transaction Description	Transaction Date	Payment Date	Payment Type	Amount	# of Days	Quarterly Interest Rate	Quarterly Interest Amount	Quarterly Per Diem	Item Total
30001	DEPOSITS DETERMINED TO BE INSURED On July 1, 2002, the Corporation believed that these funds may be uninsured. Between July 1, 2002 and August 31, 2002, the Corporation determined that these funds were insured.	07/01/2002	09/23/2002	I01		83	1.80	843.27	10.1599	
					$205,449.47	83		$843.27		$206,292.74
40001	RETURN OF UNINSURED DEPOSITS The Corporation has determined that an uninsured deposit was transferred to the Assuming Bank. These transactions cover the period from July 1, 2002 through August 31, 2002.	07/01/2002	09/23/2002	I01		83	1.80	72.54	0.8739	
					$17,672.17	83		$72.54		$17,744.71
	TOTAL DUE BANK				$187,777.30			$770.73		$188,548.03

Approved:

Assuming Bank _____ Date _____

FDIC _____ Date _____

Exhibit IV-P-8

Due To FDIC Wiring Instructions

Step 1	Receiving Financial Institution Name And Location US Treasury FRB New York, NY
Step 2	9 Digit ABA Number 021030004
Step 3	Short Name TREAS NYC/CTR
Step 4	Account Name FDIC
Step 5	Account Number 51000001
Step 6	Other Instructions Return of deposit insurance for FIN# XXXX Credit A/C 061101

(Be certain to include the FIN# of the failed financial institution.)

Q. Automated Clearing House (ACH) Payments - Payout Only

Contents

This chapter contains the following information on Automated Clearing House (ACH) Payments - Payout Only:

Topic Title	Page Number
Overview	IV-Q-1
Policy Statement	IV-Q-2
Procedures	IV-Q-2

Overview

The Automated Clearing House (ACH) system is the primary electronic funds transfer (EFT) system used by the federal government to make payments. Other non-federal governmental units and private organizations also use the ACH system to make payments; however, this chapter addresses **only** payments made by the Federal government.

There are numerous types of Federal government payments. These include, but are not limited to, the following:

- Social Security
- Supplemental Security Income
- Civil Service Retirement
- Railroad Retirement
- Veterans Administration
- Income Tax Refunds
- Federal Salary

Federal government ACH deposits are not an issue for the FDIC when the closing transaction is a Purchase and Assumption (whether for insured deposits only, all deposits or Deposit Insurance National Bank transactions) as there is an acquiring institution to take over and continue to accept the direct deposits. However, the FDIC does have responsibility in the event of a **payout** as there is no acquiring bank to continue to accept and process the federal government ACH payments. The FDIC recognizes that many recipients are senior citizens and that the return of their deposits could create a major hardship. For this reason, the FDIC attempts to locate another institution to accept and service federal government ACH payments.

Policy Statement

It is the policy of the FDIC, immediately following the closing of an institution where the transaction is a **payout**, to find an insured depository institution willing to accept the re-direct of the failed institution's federal government ACH payments.

Procedures

Please refer to the Automated Clearing House (ACH) Payments Job Aid located in PPM for detailed procedures.

R. Printing Of Deposit Insurance Checks (Payout and DINB Resolutions Only)

Contents

This chapter contains the following information on Printing of Deposit Insurance Checks (Payout Only):

Topic Title	Page Number
Overview	IV-R-1
Policy Statement	IV-R-1
Procedures	IV-R-2

Overview

A payout or a Deposit Insurance National Bank (DINB) resolution occurs when the FDIC cannot find a third-party acquirer/agent for the failed institution, either through a Purchase and Assumption (P&A) or an Insured Deposit Transfer (IDT). Claims plays a vital role during a payout or DINB. Claims Agents apply the federal regulations governing the FDIC's payment of deposit insurance in an effort to determine depositor insurance coverage. In a payout and in a DINB resolution with respect to accounts retained by the FDIC, the FDIC issues deposit insurance checks to insured depositors, in amounts up to the balance in their account as of the Closing Date, up to the insurance limit. The deposit insurance checks may be printed by the FDIC or, in the case of a large number of checks, the United States Department of the Treasury (Treasury).

Policy Statement

It is the goal of the FDIC to provide depositors of failed institutions with access to their insured funds within one or two business days of failure. The FDIC, in its corporate capacity, will insure depositors' balances in their accounts as of the Closing Date up to the insurance limit, in accordance with federal law and regulations, based on ownership rights and capacities. The initial deposit insurance checks are printed and disbursed via mail to the depositors. Any additional insurance coverage warranted, based on ownership rights and capacities, will be determined once the Claims Agent reviews the bank records/depositor file and interviews the depositor during the Customer Relationship Management (CRM) phase.

Procedures

Please refer to the Printing of Deposit Insurance Checks Procedures Job Aid and the "Initiate Transactions" chapter of the CAS Participant Guide located in PPM.

S. *Acquiring Institution Relations*

Contents

This chapter contains the following information on Acquiring Institution Relations:

Topic Title	Page Number
Overview	IV-S-1
Policy Statement	IV-S-1
Procedures	IV-S-1

Overview

The Acquiring Institution (AI), also referred to as the assuming institution, has several duties required in the Purchase and Assumption Agreement (P&A) or other transfer agreement that need to be discussed with several FDIC closing functional areas, including Claims. If dialogue can be started prior to institution failure, it would be beneficial. This chapter will explain the tasks and procedures that are critical to the Claims areas which need to be addressed with the AI. Information that Claims needs to provide to the AI and information that needs to be received from the AI will be detailed.

Policy Statement

It is the policy of the FDIC for the Claims Agent in Charge or designee to meet with appropriate representative(s) of the AI during the closing. The purpose of this meeting is to discuss the duties and responsibilities of the AI and the FDIC as they relate to the Claims function.

Procedures

Please refer to the Acquiring Institution Relations Job Aid located in PPM for detailed procedures.

A. Non-Depositor Claims

Contents

This chapter contains the following information on Creditor Claims:

Topic Title	Page Number
Overview	V-A-1
Policy Statement	V-A-2
Procedures	V-A-2

Overview

For purposes of this chapter, creditor claims are all claims against a receivership except for 1.) deposit insurance claims and 2.) non-deposit insurance claims secured by pledged assets. Creditor claims arise from the business activities of the failed financial institution. The activity which gives rise to the creditor claim typically must have been performed **prior to** the financial institution having been placed into receivership and the financial institution must **not have already paid** for that activity. The rights of a creditor are fixed at the time of the financial institution's failure.

A creditor claim against a receivership can arise from a multitude of business activities. Parties who may have entered into such activities are as follows:

1. Vendors (businesses/individuals) providing goods and/or services, i.e. supplies, utilities, legal or other professional services, leasing of equipment, or providing computer services. (These are typically referred to as **General Trade Creditors.**)

2. Employees with accrued but unpaid salary, vacation, and/or sick time.

3. Governmental units (local, State, or Federal) for unpaid taxes (income, employment, property, or other), assessments, or other proper levies.

4. Other creditor claimants may include International Banking Facility (IBF) account holders, beneficiaries of Letters of Credit (LOC), litigants, subordinated debt holders, and stockholders of the failed financial institution.

DRR Claims is responsible for identifying all potential creditors of the failed institution through a review of the failed institution's books and records. DRR Claims is also responsible for notifying potential creditors of the closing of the failed institution and the procedures which the potential creditor should follow to file their claim. In addition, DRR Claims is responsible for evaluating the claim and for determining whether to allow, disallow, or partially allow the claim.

Certain dates are important in the creditor claims process. As mentioned in Section IV Chapter C - Publications and Notices, a claimant has 90 days from the date of the initial published notice to file a claim against the receivership. This date is referred to as the Bar Date.

Section 1821 (d)(5)(A) of the FDI Act requires that the Receiver shall determine whether to allow, disallow, or partially allow a claim within 180 days of receipt of the claim from the claimant.

Policy Statement

It is the policy of the FDIC to process all creditor claims in a timely manner and to allow, disallow, or partially allow such claims as determined by the facts of the particular claim.

Procedures

Please refer to the Non-Depositor Claims Procedures Job Aid and CAS-NDC Non-Depositor Claims Training Guide located in PPM for detailed procedures concerning Post Closing and Non Depositor Claims.

B. Processing & Issuance Of Approved Claims

Contents

This chapter contains the following information for the processing and issuance of approved claims:

Topic Title	Page Number
Overview	V-B-1
Policy Statement	V-B-1
Procedures	V-B-2

Overview

Receivership certificates (RCs) are used by the Receiver to legally identify parties with approved claims against a receivership. Each holder of an RC is entitled to a pro-rata share of the Receivership's liquidated funds based upon the established priority claim level as set forth by federal law. In this process, the Receiver no longer issues a formal certificate to approved creditors. Instead, a Notice of Insurance Determination (NID) and a Notice of Allowance of Claim (NAC) are provided to uninsured depositors and non-deposit creditors, respectively.

While reviewing claims of depositors and creditors of a particular receivership, the Receiver must determine which parties have a valid claim and whether payment should be made in the form of an RC. For further information on allowing claims filed by non-deposit creditors, please refer to Section V - Chapter A - Non-Depositor Claims. Additional details on allowing claims filed by uninsured depositors can also be found in Section IV - Chapter K - Account Hold Release Process.

Policy Statement

An NAC for non-deposit creditors will be issued as soon as possible once a claim has been processed and approved. An NID for uninsured depositors will be issued as soon as an insurance determination has been completed. The exception for issuing an NID immediately upon completing an insurance determination would be for brokered deposits which may require insurance redeterminations. The approved claim format may change over time.

Procedures

Please refer to the CAS Participant Guide and the CAS-NDC -- Non-Deposit Claims Training Guide for detailed procedures concerning the processing and issuance of approved claims for uninsured depositors and non-deposit creditors, respectively.

C. Ongoing Reconciliation Process

Contents

This chapter contains the following information on Ongoing Reconciliation Process:

Topic Title	Page Number
Overview	V-C-1
Policy Statement	V-C-2
Procedures	V-C-3
Collection Guidelines	V-C-6

Overview

The establishment of this policy is to support the ongoing process of reconciling the FDIC liability accounting systems of record related to both deposits and general trade creditors. The Division of Resolutions and Receivership Business Operations Support (BOS) specifically, the Liability Accounting/Reconciliation Unit (LARU) within BOS, is responsible for ensuring that the liability accounts contained in the Accounting and Claims systems of record remain in balance. This policy is in conjunction with the policy and procedures for the Reconciliation (Verification) of Deposit Download located in the Claims Manual under Section IV Chapter E.

At closing, the FDIC Proforma team gathers financial information from the closed bank which is adjusted as the receivership liquidation progresses. The general ledger of a receivership is maintained on the New Financial Environment (NFE) by BOS. LARU within BOS reconciles specific general ledger liability accounts to various subledger systems, including the Claims Administration System (CAS).

Claims Administration and LARU work closely to ensure that CAS, the Dividend Processing System (DPS) and NFE remain in balance and accurately reflect the records of the liabilities for depositors and general creditors.

Policy Statement

It is the policy of the FDIC that NFE, DPS and CAS should be balanced and reconciled on an ongoing basis and that out of balance conditions be researched and adjusted, as necessary.

Additionally, these same systems should be reviewed in a timely manner and updated, as necessary, to reflect the money owed to the FDIC in its corporate capacity as subrogee for insured depositors.

Ensuring that receivership liability accounts contained in Accounting and Claims systems of record are in balance is the responsibility of BOS.

Procedures

Please refer to the Ongoing Reconciliation Process Procedures for a detailed outline as to DRR Account Officer's responsibilities in the ongoing reconciliation process. Also refer to [Collections Guidelines, V-C-6] for the collections process.

Ongoing Reconciliation Process Procedures

Liability Accounting Discrepancies and Proven Overpayments

Overview

The Liability Accounting Reconciliation Unit (LARU) accountant reviews specific general ledger accounts within the New Financial Environment (NFE) and reconciles specific liability accounts to various subledger systems. DRR Claims personnel and Business Operations Support (BOS) Liability Accounting Reconciliation Unit personnel (LARU) work closely to ensure the subledger systems or Claims Administration System (CAS), and the Dividend Processing System (DPS) remain in balance with the NFE general ledger and accurately reflect the liabilities for depositors and general trade creditors.

Claims Administration is responsible for managing the integrity of liability data entered in CAS for both the Corporation and the Receivership. Claims information is maintained in two separate areas of CAS. For general creditors the data is in CAS Non-Depositor Claims (CAS-NDC) and uninsured depositor data is in CAS Deposit Insurance (CAS-DI). Transactions entered into both areas of CAS affect the liabilities of a receivership throughout the liquidation process. For instance, many of the liability accounts that are set up in CAS-DI at or after closing affect the corporate settlement process. This includes payment of deposit insurance on accounts that were initially deemed to be potentially insured and passed to an Assuming Institution and in reverse, accounts that were deemed to be uninsured and later determined to be eligible for additional deposit insurance. Also affecting the receivership liabilities are the general trade creditor claims that are set up in CAS-NDC. Both uninsured depositors and general trade creditors may be resolved by cash payment or through the issuance of a Notice of Allowance of Claim to be paid through dividends derived from the liquidation of receivership assets.

The relationship between Claims Administration and BOS is ongoing and begins at the closing of the failed financial institution. This working relationship is vital in order to mitigate potential losses resulting from overpayments of deposit insurance or other accounting discrepancies.

Procedure

The CAS, NFE, and the DPS, should be balanced and reconciled on a quarterly basis by LARU, and immediately prior to a dividend payment. In the case of an Insured Deposit Transaction (IDT) (including a payout or DINB), these reconciliations should begin immediately after bank closing to detect any discrepancies.

To facilitate the reconciliation process, BOS maintains and manages a SharePoint site for the review of liability accounts where outages are present. LARU will send an email to Claims as notification of outages requiring resolution through the SharePoint site. Upon receiving the notice Claims will investigate the outage(s) and takes action to resolve the item. Below are the steps to be taken by Claims when a variance has been identified.

1. The reconciliation process relies on spreadsheets that are automatically populated from NFE with General Ledger (GL) balances from both corporate and receivership business units, then compares the balances and identifies any variances between CAS and DPS.

2. Claims Specialists research variances identified with CAS and attempt to clear them within ten business days from the date the variance is detected.

3. Once the resolution is determined, Claims Specialist makes the appropriate Proforma adjustments +/- to CAS .

4. In the event a variance cannot be cleared within ten days, a Claims Manager must review. The Claims Specialist then notates in the SharePoint site maintained by BOS and in CAS the action being taken to resolve the variance.

5. Claims should evaluate the variance to determine whether it is in the best interest to pursue collection. [Refer to Claims Manual Section V-C-6 "Collection Guidelines for Overpayments of Deposit Insurance."]

6. Claims Specialists should set up a tickler for tracking and follow up on unresolved variances.

7. Claims Specialists should report follow up action to Claim Manager on a weekly basis following the ten day resolution period and continue until the matter is resolved.

8. If the determination is made not to pursue collection, then a case should be prepared under the appropriate delegated authority recommending the variance balance be written off.

9. Claims will notify LARU in writing when balancing adjustments are made. Examples of documentation supporting adjustments include, but are not limited to the following:

    a. Collection Letters
    b. Notes to File of Phone Conversations
    c. Cases Written
    d. Legal Opinions
    e. Settlement Offers

All documentation related to the balancing of record(s) are to be maintained with the appropriate account record located in CAS and in the Verification/Reconciliations folder in the post-closing Receivership File regarding each such adjustment.

<u>Other Adjustments - Chargeback and Returned Items</u>

Reconciliation discrepancies resulting from chargebacks on returned items will follow the procedure outlined below:

1. In the case of a payout where Deposit Insurance payout checks were issued, at the time DRR becomes aware of the returned item(s), the Claims Specialist should determine whether the FDIC payout check has cleared. A DRR Claims representative will review and evaluate the documentation and deposit records immediately to determine whether a stop payment should be placed on any outstanding payout checks. Judgment should be exercised when making stop payments. For example, if the variance is nominal and the payout check is a large sum, then a stop payment may not be in the best interest of the FDIC. The Claims Specialist should discuss the matter with the Claims Manager.

2. Upon making the determination that a stop payment should not be pursued, prepare a case recommending that the amount of the returned item be written off, using the appropriate delegated authority.

3. In the event that the deposit insurance check has cleared, Claims will notify Asset Management to set up an Other Asset and begin collection efforts.

Collection Guidelines for Overpayment of Deposit Insurance

Purpose

Claims Administration will refer depositor obligations to Asset Management to pursue collection of any outstanding obligations to the FDIC. In the event Claims cannot refer obligations to Asset Management this procedure is to establish standardized guidance for Claims Administration management of Deposit Insurance Overpayments.

Background

From time to time situations may arise that will create an overpayment to a depositor. A deposit insurance overpayment occurs when a depositor receives more funds than he or she was entitled under deposit insurance regulations due to:

a. Application of offsets followed by untimely or incomplete corporate settlement, resulting in depositor access to applied funds;
b. Failure to place holds or have holds remain in place on depositor uninsured funds, allowing the depositor access to the funds;
c. Chargebacks or returned items in the case of a DINB or Payout; and
d. Incorrect deposit insurance determinations.

A deposit insurance overpayment would normally be identified when there is a difference in one or more of a Receivership's general ledger accounts, the Dividend Processing System (DPS) and the Claims Administration System (CAS). Claims Administration must exercise prudent practices and maintain judicious internal control to recover overpayments of deposit insurance.

General Procedures

1. Prior to making contact with the overpaid depositor, complete a thorough review of the depositor's records to determine the status.
    a. In instances where the overpayment is not identified within 30 days following the bank closing, Claims should forward the depositor's file to the FDIC Library requesting a current address, as well as information regarding whether the depositor is deceased or has filed for bankruptcy.

2. Contact the depositor immediately in person or by telephone.
    a. When contacting the depositor, explain the error and request a repayment of the overpaid funds.
    b. If the depositor requires written verification for the overpaid amount, proceed to step three.
    c. If the depositor agrees to return the overpaid amount, fax or email instructions to the depositor providing guidance on how to return the funds to the FDIC.

3. Written notification of the overpayment.
    a. The correspondence should explain when and how the deposit insurance overpayment(s) occurred, and request that the depositor return the overpaid amount to the FDIC, with specific instructions on how to make payment. See sample letter ("Exhibit A").

4. The depositor shall have up to ten business days to respond to the initial written notification. If the depositor does not respond to the initial written notification within ten business days, Claims should send a letter *demanding* payment. See sample letter ("Exhibit B").

5. There is no criminal statute relevant to deposit insurance overpayments. Therefore, under no circumstance should the demand letter threaten referral to the Justice Department or other entity for criminal investigation. If the depositor refuses or does not return the overpayment after the initial demand letter, Claims should send an additional letter demanding payment. FDIC Legal Division and DRR Claims Administration will jointly develop a demand letter that suits the circumstances of the overpayment on a case-by-case basis.

6. If the depositor continues to ignore requests to return the funds, a Claims Specialist in conjunction with Claims Management and the Legal Division should determine whether litigation should be pursued on a case-by-case basis. See sample letter ("Exhibit C").

Resolution Alternatives

1. Settlement of the overpayment liability is recommended when it is the most cost effective method of collection. In most cases, settlement may be a preferred method of collection over litigation simply due to the costs to litigate. Offers to settle overpayment liabilities must be approved prior to acceptance. The Claims Specialist must prepare a case recommending settlement of the overpayment and write-off of any applicable remaining balance. The case should then be submitted for approval under the appropriate delegations of authority.

   NOTE: If a settlement is reached with the depositor, where the depositor has benefitted financially from the overpayment, the law requires the FDIC to provide the depositor an IRS Form 1099-C for amounts over $600.00. When discussing this with the depositor, do not offer tax advice. Simply refer the depositor to his/her tax advisor.

2. When all other collections options fail, litigation may be the FDIC's last alternative. Review the following decision tree and discuss viable options with a Claims Manager before making a recommendation to pursue legal action.

Litigation Decision Tree

The following guidelines should be used in the determination of whether litigation should be pursued:

1. Overpayment amount. The net overpayment must be at least $25,000, factoring in projected dividends that can be retained to offset the overpayment, as well as estimated litigation expenses.

2. Potential recoveries from depositor. To the extent possible, Claims should attempt to estimate the financial capacity of the depositor to return the funds. Internet searches for assets and liabilities can assist in making this determination.

NOTE: If the overpaid depositor does not have the financial capacity to satisfy a significant portion of the overpayment amount, do not pursue litigation.

3. Request a legal opinion regarding the cost of litigation and probability of success.
   a. Costs will be impacted by whether the litigation is pursued by in-house attorneys or outside counsel;
   b. Travel or other expenses of the FDIC staff needed for the case; and
   c. The facts leading to the overpayment.

4. If it is determined that legal action should be pursued, then a case must be prepared recommending such action and approved jointly under the delegated authority of the General Counsel (or designee) and the Director of DRR (or designee).

   NOTE: Review the legal opinion carefully to ensure that the costs analysis is included with the opinion. Follow up with legal on any outstanding matters requested and not addressed in the legal opinion.

Documentation and Recovery of Overpayment Amounts

If a Receiver's Certificate or Notice of Insurance Determination Letter (NIDL) has been issued to a depositor who was overpaid, prepare a memorandum to the Liability Accounting Unit (LARU) within Business Operations Support (BOS) requesting that future dividend payments be withheld until the overpayment has been resolved. The Claims Specialist should update the case file in CAS to reflect the overpayment for tracking purposes.

As depositors return overpayments to the FDIC, the payments are received by the mailroom and automatically routed to BOS. Once BOS notifies Claims Administration that funds have been received, the Claims Specialist is to provide posting instructions to the LARU. The Claims Specialist simultaneously ensures that correcting adjustments and comments are input to CAS for tracking and documentation purposes.

Effective Date

The procedures set forth in this manual are effective immediately.

Exhibit A – Sample Collection Letter to be placed on FDIC Letterhead:

Date

Depositor Name(s)
Address
City, State Zip

CERTIFIED MAIL #_____

SUBJECT: NAME OF RECEIVERSHIP
City, ST – In Receivership
Notice of Overpayment

Dear Mr. & Ms. Depositor Last Name,

As you are aware, on Date of Failure, the Primary Regulator closed Bank Name (Bank), City, ST, and named the Federal Deposit Insurance Corporation (FDIC) as Receiver. Upon the failure of a bank, the FDIC is charged with ensuring that depositors are provided with the full amount of their insured funds.

A recent review of our records indicates that you received more funds from the FDIC than you had on deposit at the time Bank was closed.

On Date of Failure, you held a deposit account with a total balance of $211,169.63. However, the FDIC paid you a total of $311,077.91. **As a result, you were overpaid by $99,908.28.** The following is a summary of the transactions leading to the overpayment:

Date	Activity	Depositor Funds	FDIC Payments
7/11/2008	Balance at time of bank failure	$211,169.63	
7/13/2008	Payment #1		$100,000.00
7/13/2008	Payment #2		$55,584.82
8/1/2008	Payment #3		$155,493.09
	Totals	**$211,169.63**	**$311,077.91**
	Total Overpayment		**$99,908.28**

The FDIC requests that you get in touch with us to further discuss this situation. Please contact Claims Manager Name, Resolutions and Closings Manager, Claims Administration, via telephone at 972-XXX-XXXX or via email at xxxxxxx@fdic.gov.

Thank you in advance for your attention to this matter.

Sincerely,

Insert Name Here
Title
Division of Resolutions and Receiverships

Exhibit B – Sample 2nd Collection Letter to be placed on FDIC Letterhead:

Date

Depositor Name(s)
Address
City, State Zip

CERTIFIED MAIL #_____

SUBJECT: NAME OF RECEIVERSHIP
City, ST – In Receivership
Notice of Overpayment – Second Notice (Demand for Payment)

Dear Mr. & Ms. Depositor Last Name,

This letter follows up on our previous correspondence to you dated Date of 1st Letter, to which we have not received a response. An additional copy of the Date of 1st Letter is enclosed for your convenience.

As we advised you in our previous correspondence, in the wake of Bank's failure you received more funds from the FDIC than you had on deposit at the time Bank was closed.

On Date of Failure, you held a deposit account with a total balance of $211,169.63. However, the FDIC paid you a total of $311,077.91. **As a result, you were overpaid by $99,908.28.** The following is a summary of the transactions leading to the overpayment (relevant account statements are enclosed):

Date	Activity	Depositor Funds	FDIC Payments
7/11/2008	Balance at time of bank failure	$211,169.63	
7/13/2008	Payment #1		$100,000.00
7/13/2008	Payment #2		$55,584.82
8/1/2008	Payment #3		$155,493.09
	Totals	**$211,169.63**	**$311,077.91**
	Total Overpayment		**$99,908.28**

The FDIC again requests that you get in touch with us to further discuss this situation. Please contact Claims Manager Name, Resolutions and Closings Manager, Claims Administration, via telephone at 972-XXX-XXXX or via email at xxxxxx@fdic.gov.

We appreciate your prompt attention to this important matter.

Sincerely,

Insert Name Here
Title
Division of Resolutions and Receiverships

Enclosures: Letter dated Insert Date Here
Account Statements

Exhibit C – Sample 3rd Collection Letter to be placed on FDIC Letterhead:

Date

Depositor Name(s)
Address
City, State Zip

CERTIFIED MAIL #_____
AND REGULAR MAIL

SUBJECT: NAME OF RECEIVERSHIP
City, ST – In Receivership
FINAL NOTICE – Overpayment of Deposit Insurance (Demand for Payment)

Dear Mr. & Ms. Depositor Last Name,

The FDIC previously sent you the enclosed letters dated Insert Dates Here asking that you contact us to arrange to repay an overpayment you received in the amount of $99,908.28. As explained in those letters, you received $311,077.91 in deposit insurance payments even though you had only $211,169.63 on deposit at Bank when it closed, resulting in the overpayment.

Despite having contacted you twice, we have yet to hear from you. Accordingly, the FDIC hereby demands that you repay the $99,908.28 overpayment in full by **Insert Date Here.** You may send your payment by personal check, cashier's check, money order to the following address:

ATTN: Federal Deposit Insurance Corporation
P.O. Box 971774
Dallas, Texas 75397-1774

If you prefer to return the payment electronically via wire transfer, below is the information needed to complete the wire transfer:

BANK: Federal Home Loan Bank of New York
ROUTING #: 026 -009-739
FOR CREDIT TO: FDIC National Liquidation Account
ACCOUNT #: 21076010
ATTN: Claims Manager Name, for Receivership Fund #FUND Number - Bank

In the event that you do not repay the full amount owed to the FDIC by Insert Date Here, the FDIC reserves its right to take all steps necessary and appropriate to recover those funds, including litigation.

Sincerely,

Insert Name Here
Title
Division of Resolutions and Receiverships

Enclosures: Copies of previous Notices of Overpayment

D. Unclaimed Deposits

Contents

This chapter contains the following information on Unclaimed Deposits:

Topic Title	Page Number
Overview	V-D-1
Policy Statement	V-D-2

Overview

An unclaimed deposit is defined as any **unclaimed insured deposit account funded** by FDIC-Corporate and includes checking and savings accounts, certificates of deposit and official items.

(Insured deposits are defined as the net amount due to any depositor for deposits in an insured depository institution with respect to its deposits pursuant to 12 U.S.C. Section 1813(m), and applicable regulations at 12 C.F.R. Part 330.)

Depositors claim their insured deposits from the FDIC in a Payout or their transferred deposits from the acquiring institution. To claim insured deposits from the FDIC, the depositors must negotiate their deposit insurance check. To claim transferred deposits, depositors must take an action to exercise active ownership and control over their transferred deposits in the new institution within 18 months after closing. See Exhibit V-D-1: Acts Which Constitute A Claim of Transferred Deposits.

NOTE: Unclaimed funds include those in an insured deposit/all deposit transfer, DINB, Bridge Bank and those in Payout (partial or entire) situations. An acquiring institution, DINB, Bridge Bank and a Payout situation are treated synonymously throughout this Chapter. For specific unclaimed information (such as status of unclaimed checks) in a Payout, DINB, or Bridge Bank situation, assistance can be obtained from DRR Asset/Liability Accounting Unit (ALAU) and/or the Dividend Processing System (DPS).

Policy Statement

On June 28, 1993, Congress amended the FDIA to provide depositors with an

extended period in which to claim their deposits. **The Unclaimed Deposits Amendments Act of 1993 (UDAA).** See Exhibit V-D-2: Federal Deposit Insurance Act (FDIA). The UDAA modified the former law that had required depositors to claim their deposit insurance within 18 months after appointment of the receiver or be barred from future claims for federal deposit insurance. (The depositors would become general creditors of the receivership estate.) Under UDAA the FDIC is now required to offer unclaimed deposits to the states for ten (10) years temporary custody as unclaimed property. If a state declines to accept the funds, FDIC-Corporate retains them, and the depositor may claim the insured deposit from FDIC-Corporate up to the termination of the receivership. See Exhibit V-D-3: Unclaimed Deposits Flowchart. For the "window receiverships," those established between January 1, 1989 and the enactment of the UDAA, depositors may claim their deposit insurance up to the termination of the receivership.

Claiming Periods - Pursuant to UDAA, there are three claiming periods as discussed below.

Pre-Window Period

Institutions closed *prior* to January 1, 1989

- Depositors may only claim their insured deposits from the acquiring institution (or FDIC in a payout situation) for 18 months from the closing date.
- Acquiring institution should have returned unclaimed funds to the FDIC after 18 months, as required by the closing resolution document.

Window Period

Institutions closed from January 1, 1989 through June 28, 1993

- Depositors may claim their insured deposits from the FDIC until the termination of the receivership.
- FDIC posts the unclaimed depositor information for the window-period institutions on a web site located at http://www2.fdic.gov/funds/index.asp. ALAU is responsible for the removal of the terminated FINs and paid claims on a monthly basis.

NOTE: Abandoned property lists published by the states may be used by a third party (a firm or individual) to search for the owners of the abandoned property. These third parties may try to obtain information directly from FDIC. Caution should be used when providing confidential information over the telephone. Ask that the caller (depositor) put the request in writing and include all documents (copies of statement, passbook, 1099s etc.) which would prove that he/she is in fact the owner of unclaimed funds. If the caller is not the depositor, request that he/she file a Freedom of Information Act (FOIA) request, and include all pertinent documents (statements, passbook etc.), along with proof of

his/her relationship to the depositor/owner of unclaimed funds.

Post-Window period

Institutions closed *after* June 28, 1993

- Depositors may claim their insured deposits from a) the acquiring institution for 18 months from the closing date, b) the FDIC while the refunded deposits from the acquiring institution are in its custody, c) the FDIC for 18 months from the closing date in a Payout, d) the state custodian for a period of ten (10) years from remittance/transfer from the FDIC or e) the FDIC until the termination of the relevant receivership if the appropriate state custodian declines to accept custody of the deposit insurance funds.

There are 5 key steps regarding the claiming, reporting, refund and remittance/transfer of temporary custody of post-window period deposits:

- At closing, a letter is given to the acquiring institution outlining the unclaimed deposit process **and** an initial Notice to Depositors is also sent. In the event of a payout, FDIC would send the initial Notice to Depositors. Section IV, Chapter C: Publications and Notices.
- Fourteen (14) Months from closing.
- Fifteen (15) Months from closing.
- Eighteen (18) Months from closing.
- Transfer of funds to state custodian(s).

Guidelines for the Transfer of the Unclaimed Funds to State Custody

Guidelines

1. If there is a last known address for the depositor appearing in the records of the failed institution, the funds are delivered to the state of the last known address.

2. If the depositor's address is not disclosed in the failed institution's records **or** if the address is outside the United States, the funds are delivered to the state in which the failed institution had its main office.

3. If the deposit is a "United States deposit," i.e., deposits that are titled in the name of the United States, its departments, agencies, instrumentalities and officers and employees in their official capacity, the unclaimed funds are delivered to the Secretary of the Treasury for deposit in the general fund of the Treasury. **(NOTE: These funds are not returned to the FDIC after the expiration of the 10-year custodial period.)**

Interest on Unclaimed Deposits Position Statement

Interest on Unclaimed Deposits

Typically, Section 2.3 of the closing agreement e.g., Purchase and Assumption Agreement, titled "Unclaimed Deposits", sets forth the responsibilities of the acquiring institution regarding unclaimed deposits. On the subject of service charging the unclaimed accounts, Section 2.3 is very specific. The acquiring institution is instructed to ". . . refund to the Corporation the full amount of each such Deposit (without reduction for service charges) . . ." Section 2.3, however, does not discuss the treatment of accrued interest.

There is no mechanism for handling accrued interest that may have been credited during the 18 months the funds were in the custody of the acquiring institution. Moreover, the receiver has no right to the interest when the unclaimed money is returned to the Corporation. Therefore, the Claims Specialist must ensure that the acquiring institution clearly understands and prepares for the accurate delivery of the unclaimed deposits at the end of the 18 month period as outlined by the closing agreement. The Corporation is not willing to accept interest accrued on the unclaimed deposits.

NOTE: If the Corporation does receive accrued post-closing interest from the acquiring institution it will forward the interest as well as the original closing balance to the appropriate custodian.

Depositors in Payout or DINB transactions are paid no interest on their deposits after the day the bank failed. The depositor can only make claim for the balance in the account on the date the bank failed; "the depositor's rights are fixed at closing."

Procedures

Please refer to the Post-Closing Phase Unclaimed Deposits Job Aid located in PPM for detailed procedures.

Acts Which Constitute A Claim of Transferred Deposits

Any of the acts listed in the table below will constitute a claim of an insured transferred account.

If a depositor has more than one account and claims any one, the other accounts also will be determined to be claimed.

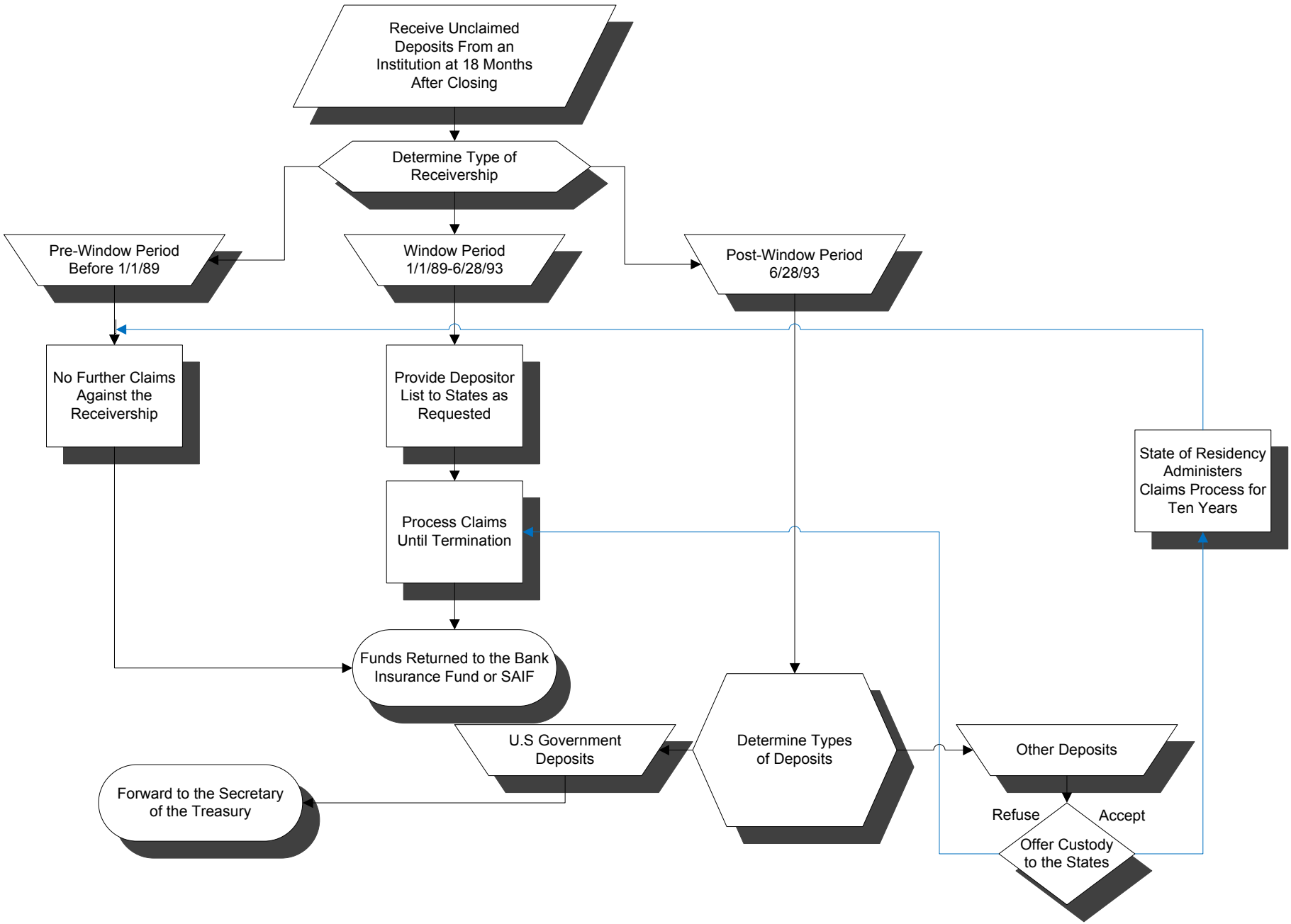
Acts	Notes
1. Writing to the acquiring institution and notifying it that you wish to keep your account(s) active. Please be sure to include the name(s) on the account(s), the account number(s), your signature, name and address.	
2. Providing the acquiring institution with a change of address form.	
3. Making a deposit or withdrawal of any amount from your deposit account(s). This includes writing a check on an account, or having automated payments credited to or debited from an account.	Deposits include automatic (such as ACH) deposits. Withdrawals include ACH withdrawals, as well as checks or drafts written on the account.
4. Renegotiating the terms of a certificate of deposit.	
5. Executing a new signature card and/or changing the deposit ownership.	
6. Entering into a new deposit agreement with the acquiring institution.	This includes the execution of a new deposit agreement, or any other means acceptable under state law.
7. Closing the account.	

Based on UDAA, this subsection (e) of section 12 of the Federal Deposit Insurance Act (12 U.S.C. 1822 (e)) was amended to read as follows on January 5, 1993:

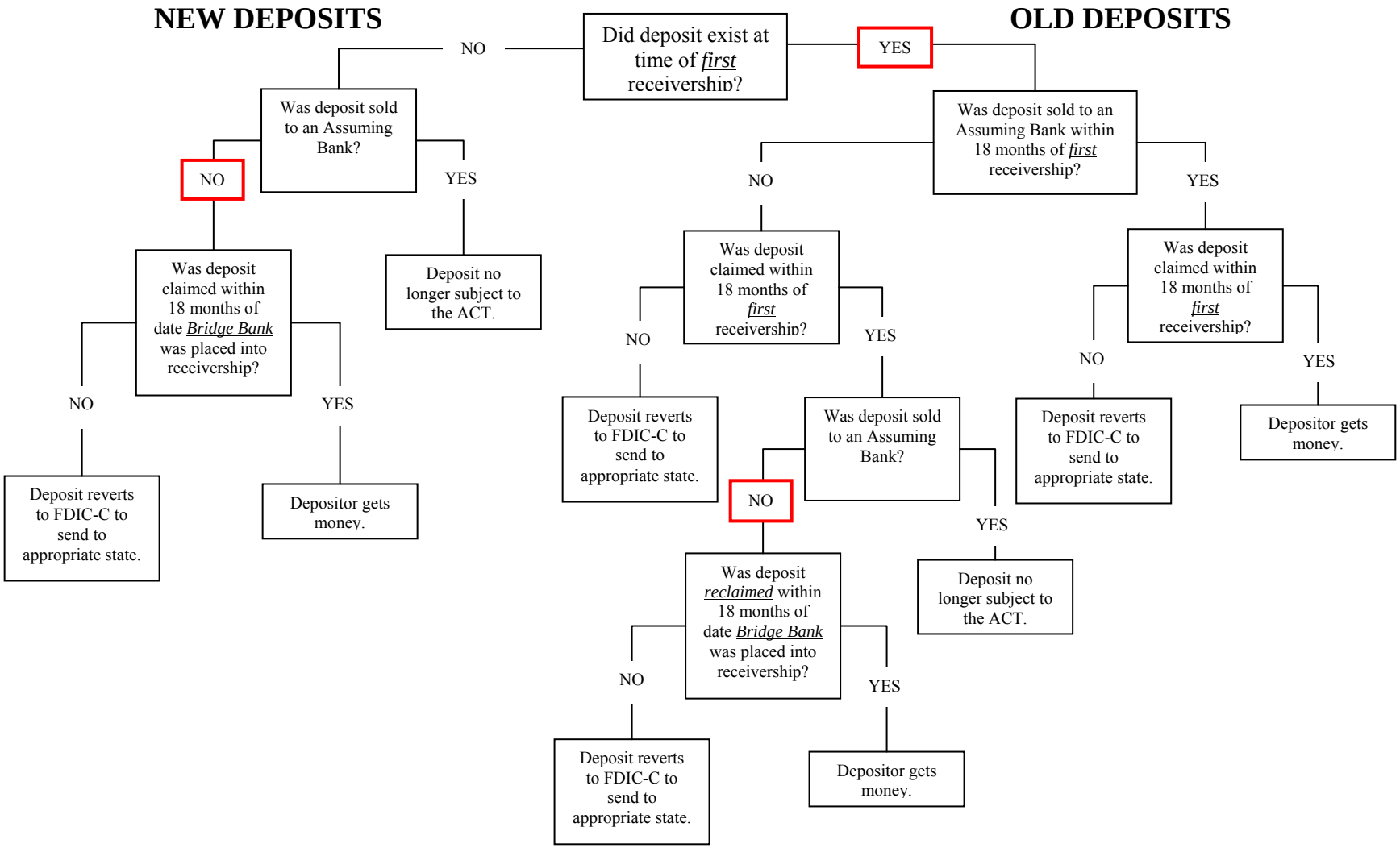
(e) DISPOSITION OF UNCLAIMED DEPOSITS--
(1) NOTICES--
(A) FIRST NOTICE--Within 30 days after the initiation of the payment of insured deposits under section 11(f), the Corporation shall provide written notice to all insured {{8-16-93 p.1208}}depositors that they must claim their deposit from the Corporation, or if the deposit has been transferred to another institution, from the transferee institution.
(B) SECOND NOTICE--A second notice containing this information shall be mailed by the Corporation to all insured depositors who have not responded to the first notice, 15 months after the Corporation initiates such payment of insured depositors.
(C) ADDRESS--The notices shall be mailed to the last known address of the depositor appearing on the records of the insured depository institution in default.
(2) TRANSFER TO APPROPRIATE STATE--If an insured depositor fails to make a claim for his, her, or its insured or transferred deposit within 18 months after the Corporation initiates the payment of insured deposits under section 11(f)--
(A) any transferee institution shall refund the deposit to the Corporation, and all rights of the depositor against the transferee institution shall be barred; and
(B) with the exception of United States deposits, the Corporation shall deliver the deposit to the custody of the appropriate State as unclaimed property, unless the appropriate State declines to accept custody. Upon delivery to the appropriate State, all rights of the depositor against the Corporation with respect to the deposit shall be barred and the Corporation shall be deemed to have made payment to the depositor for purposes of section 11(g)(1).
(3) REFUSAL OF APPROPRIATE STATE TO ACCEPT CUSTODY--If the appropriate State declines to accept custody of the deposit tendered pursuant to paragraph (2)(B), the deposit shall not be delivered to any State, and the insured depositor shall claim the deposit from the Corporation before the receivership is terminated, or all rights of the depositor with respect to such deposit shall be barred.
(4) TREATMENT OF UNITED STATES DEPOSITS--If the deposit is a United States deposit it shall be delivered to the Secretary of the Treasury for deposit in the general fund of the Treasury. Upon delivery to the Secretary of the Treasury, all rights of the depositor against the Corporation with respect to the deposit shall be barred and the Corporation shall be deemed to have made payment to the depositor for purposes of section 11(g)(1).
(5) REVERSION--If a depositor does not claim the deposit delivered to the custody of the appropriate State pursuant to paragraph (2)(B) within 10 years of the date of delivery, the deposit shall be immediately refunded to the Corporation and become its property. All rights of the depositor against the appropriate State with respect to such deposit shall be barred as of the date of the refund to the Corporation.
(6) DEFINITIONS.--For purposes of this subsection--
(A) the term "transferee institution" means the insured depository institution in which the Corporation has made available a transferred deposit pursuant to section 11(f)(1);
(B) the term "appropriate State" means the State to which notice was mailed under paragraph (1)(C), except that if the notice was not mailed to an address that is within a State it shall mean the State in which the depository institution in default has its main office; and
(C) the term "United States deposit" means an insured or transferred deposit for which the deposit records of the depository institution in default disclose that title to the deposit is held by the United States, any department, agency, or instrumentality of the Federal Government, or any officer or employee thereof in such person's official capacity.

[Codified to 12 U.S.C. 1822(e)]

Unclaimed Deposits Flow Diagram



The Unclaimed Deposits Amendment Act of 1993 (ACT)
Bridge Bank Unclaimed Deposits



Criteria for Depositors to Claim Funds

Claims must be made within 18 month period from closing date

Month

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18

Institution Closes

14 month-FDIC notifies Acquiring Institution that by month 15, it must provide list of unclaimed deposits

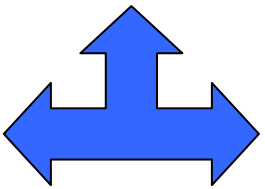
15 months – FDIC sends Notice to depositors of unclaimed deposits that depositors have 3 months to claim funds.

Criteria for Depositors to Claim Funds

After 18 months:

Unclaimed deposits are returned to FDIC

The Acquiring Institution will provide electronic register of accounts that have not been claimed



FDIC will transfer temporary custody of funds to state of last known address of depositor; if address is not available, to state where the institution is located.

E. Receivership Dividends

Contents

This chapter contains the following information on Receivership Dividends:

Topic Title	Page Number
Overview	V-E-1
Policy Statement	V-E-2
Procedures	V-E-3

Overview

Receivership dividends are distributions of cash to allowed claimants of the failed institution (the receivership). The cash is generated through the liquidation of receivership assets. Net proceeds from collection efforts are invested by the receivership and accumulated pending payment of administrative expenses, preferred and secured claims, and dividend distributions. The intent of the FDIC's receivership dividend policy is to distribute cash in the form of dividends to allowed claimants of the receivership as sufficient cash accumulates in the receivership, rather than to hold all receivership cash until final termination of the receivership.

The order of priority in which allowed claimants receive dividends is governed by law. The Omnibus Budget Reconciliation Act of 1993, which amended the Federal Deposit Insurance Act, contained a "national depository preference" distribution schedule for all FDIC insured depository institutions which failed after August 10, 1993. All receiverships, whether the failed institution was a bank or thrift, whether state or federally chartered, which come into existence after August 10, 1993, pay dividends in the following order of priority 12 USC 1821(d)(11)(A):

1. Administrative expenses of the receiver,
2. Deposits (with the FDIC as subrogee for insured depositors being on a par with uninsured depositors),
3. Other general or senior liabilities of the institution,
4. Any subordinated obligations,
5. Any obligation of commonly controlled depository institutions for cross-guaranty assessments under 12 USC 1815(e)(2)(C),
6. Shareholder and/or member claims.

Prior to the passage of the Omnibus Budget Reconciliation Act of 1993, with its national depositor preference distribution schedule, the order of priority varied, depending on whether the failed institution was a bank or thrift, and

whether the institution was state or federally chartered. The law in effect at the time the institution failed usually determines the order of priority for payment of dividends to allowed claimants. Should questions arise as to the order of priority for such older receiverships, consult with DRR Accounting Operations (DRR A/O) and Legal.

The FDIC currently uses the following types of dividends:

1. Traditional Dividend
2. Advance Dividend
3. Initial Dividend
4. Accelerated Dividend
5. Post Insolvency Interest (PII) Dividend
6. Final Dividend

DRR Claims' involvement in the dividend process is greatest for traditional and post insolvency interest dividends, since Claims is responsible for preparing the cases to request authority to pay those types of dividends. For other types of dividends, that responsibility lies elsewhere.

Authority to pay dividends is requested through cases approved by the appropriate delegated authority. Actual payment of a dividend is usually done by the issuance of a check to uninsured depositors and general creditors. Payment to FDIC Corporate, as subrogee of insured depositors, is typically done by wire. Payment by wire to uninsured depositors and other allowed claimants is also possible.

Policy Statement

It is the policy of the FDIC to pay receivership dividends, as sufficient cash becomes available in a receivership, in accordance with cases approved by the appropriate delegated authority. Dividend checks are typically not issued in advance of sufficient cash becoming available.

Procedures

Please refer to the Post Closing Receivership Dividends Job Aid located in PPM for detailed procedures.

F. Information and Reporting Requirements

Contents

This chapter contains the following information on Information and Reporting Requirements:

Topic Title	Page Number
Overview	V-F-1
Policy Statement	V-F-1
Procedures	V-F-2

Overview

DRR Claims provides information and reports to numerous parties both within and outside the FDIC. The Claims Specialist assigned to a receivership must respond to such requests in a timely fashion. Much of the requested information will be available through CAS and/or RLS. Consequently, ensuring that CAS and/or RLS are current is always a high priority.

Because the type of information requests and reporting requirements change periodically, it is impractical to provide definitive guidance on how or when to respond to such inquiries or how to perform the research which may be needed in order to prepare the response. Therefore, this chapter will provide only an overview of some of the current requirements.

In some cases, the Claims Specialist will be providing the information requested to another individual within Claims who, in turn, is collecting and collating responses from numerous Claims Specialists prior to providing one “global” response to the inquiry.

Policy Statement

It is the policy of DRR Claims to respond to requests for information and to prepare reports within established timeframes. It is understood that such timeframes are frequently not determined by DRR Claims but rather by others within and outside the FDIC.

Procedures

Please refer to Post-Closing Phase Information and Reporting Requirements located in PPM for detailed procedures.

G. Account Holds

Contents

This chapter contains the following information on the Account Hold Release Process:

Topic Title	Page Number
Overview	V-G-1
Policy Statement	V-G-1
Procedures	V-G-1

Overview

Holds placed upon deposits of the failed institution assist FDIC in retaining control of all or part of a depositor's account until issues involving either the account or related asset can be resolved. The releasing of an Account Hold results in the previously held funds being made available to:

- The depositor(s) or owner(s) of the account
- The FDIC
- A third party (loan servicer, etc.)
- A combination of the above

Deposit holds are to be discharged-released by the authorization of the originating FDIC department.

Claims acts as the liaison with the Acquiring Institution; therefore, Claims MUST BE advised of all account hold releases.

Policy Statement

It is the policy of the FDIC to review and analyze, in a timely manner, holds which have been placed on deposit accounts so that the holds can be released and/or a proper determination can be made as to the disposition of the hold.

Procedures

Please refer to the Non Claims Hold Management Section of the CAS Participant Guide.

- Account Hold Procedures "Post-Closing"
- Circular 7210.5 Deposit Account Holds Placed in the Claims Administration System (CAS)

EXHIBIT V-G-1
HOLD RELEASE AND DUE TO LETTER

«CORRESPONDENCE_DATE»

«ACQUIRING_INSTITUTION_NAME»
«ACQUIRING_INSTITUTION_CONTACT_NAME»
«ACQUIRING_INSTITUTION_ADDRESS1»
«ACQUIRING_INSTITUTION_ADDRESS2»
«ACQUIRING_INSTITUTION_CITY_STATE»

SUBJECT: **«FAILED_INSTITUTION_FUND_NO» - «FAILED_INSTITUTION_NAME»**
«FAILED_INSTITUTION_CITY_STATE» - In Receivership
Transfer of Additional Deposit Funds Due From FDIC

Dear «ACQUIRING_INSTITUTION_CONTACT_NAME»:

Reference is made to the account(s) on the attached spreadsheet (or electronic file) which may not have been transferred in whole or in part to your institution in the initial wire.

FDIC has determined that the funds in the(se) account(s) should be transferred to your institution as indicated. Please make these funds immediately available to the respective depositors with interest accrued from «CLOSING_DATE».

The resulting "Due From FDIC" will be paid to your institution through the corporate settlement process at a later date.

Please acknowledge receipt of this request by signing below and returning this letter to the FDIC.

Sincerely,

[NAME OF CAIC MANUALLY ENTERED]
Claims Department

Acknowledged By:_____ Date:_____
[Acquiring Institution Representative]

Enclosure: Due from FDIC to Acquiring Institution

EXHIBIT V-G-1
HOLD RELEASE AND DUE TO LETTER

«CORRESPONDENCE_DATE»

«ACQUIRING_INSTITUTION_NAME»
«ACQUIRING_INSTITUTION_CONTACT_NAME»
«ACQUIRING_INSTITUTION_ADDRESS1»
«ACQUIRING_INSTITUTION_ADDRESS2»
«ACQUIRING_INSTITUTION_CITY_STATE»

SUBJECT: **«FAILED_INSTITUTION_FUND_NO» - «FAILED_INSTITUTION_NAME»**
«FAILED_INSTITUTION_CITY_STATE» - In Receivership
Deposit Account Hold(s) Release(s) and Due To FDIC

Dear «ACQUIRING_INSTITUTION_CONTACT_NAME»:

Reference is made to the accounts listed on the attached spreadsheet or electronic file which were transferred to your bank in the initial wire with an FDIC Hold in place. FDIC hereby directs you to take the actions indicated on the attached spreadsheet with respect to such accounts.

Any amounts indicated for release and return to the FDIC should be immediately debited from the depositor's account(s) and reflected on your records as a "Due To FDIC" that will be paid to the FDIC through the corporate settlement process at a later date. Any amounts designated for release to the depositor should be made immediately available to such depositor. Finally, any remaining holds indicated should remain in place until you are further advised by the FDIC.

Please acknowledge receipt of this request by signing below and returning this letter to the FDIC.

Sincerely,

[MANUALLY ENTERED BY CAIC]
Claims Department

ACKNOWLEDGED BY: _____ DATE:_____
[Acquiring Institution Representative]

Enclosure: Deposit Account Hold(s) Release and Debit(s) (Due To) Files

EXHIBIT V-G-1
PH HOLD RELEASE LETTER

«CORRESPONDENCE_DATE»

«ACQUIRING_INSTITUTION_NAME»
«ACQUIRING_INSTITUTION_CONTACT_NAME»
«ACQUIRING_INSTITUTION_ADDRESS1»
«ACQUIRING_INSTITUTION_ADDRESS2»
«ACQUIRING_INSTITUTION_CITY_STATE»

SUBJECT: **«FAILED_INSTITUTION_FUND_NO» - «FAILED_INSTITUTION_NAME»**
«FAILED_INSTITUTION_CITY_STATE» - In Receivership
Deposit Account Hold(s) Release(s)

Dear «ACQUIRING_INSTITUTION_CONTACT_NAME»:

Reference is made to the accounts listed on the attached spreadsheet or electronic file which were transferred to your bank in the initial wire with an FDIC Hold in place. FDIC hereby directs you to take the actions indicated on the attached spreadsheet with respect to such accounts.

Any amounts designated for release to the depositor should be made immediately available to such depositor. Finally, any remaining holds indicated should remain in place until you are further advised by the FDIC.

Please acknowledge receipt of this request by signing below and returning this letter to the FDIC.

Sincerely,

[MANUALLY ENTERED BY CAIC]

Claims Department

ACKNOWLEDGED BY: _____ DATE:_____

[Acquiring Institution Representative]

Enclosure: Deposit Account Hold(s) Release File

Federal Deposit Insurance Corporation
1910 Pacific Ave. Dallas TX, 75201
Division of Resolutions and Receiverships

EXHIBIT V-G-1
PAYMENT OF DEPOSIT INSURANCE FOR BROKERED ACCOUNTS LETTER

VIA FACSIMILE: 714 667-1705

April 28, 2003

Name of Broker
Attn: Name of Contact
421 N. Main Street
Santa Ana, CA 92701

SUBJECT: XXXX – Failed Institution
City, State – In Receivership
Payment of Deposit Insurance for Brokered Accounts

Dear Mr. Wegner:

This is to advise you that FDIC has processed your information relative to the above subject receivership and that we will be authorizing account hold releases for the insured deposit funds on the accounts transferred to World Bank (Acquirer). The Acquirer should process the releases within three to five business days.

We are providing you a spreadsheet that reflects your individual customers and includes information relative to their uninsured funds. FDIC acknowledges your customers' valid claims against the receivership of Failed Institution. We will mail to you a Receivership Certificate representing the uninsured funds of your clients. Please advise your customers accordingly. Any questions your customers have should be directed through you.

Should you have any questions concerning this matter, I can be reached at 800-568-9161, extension XXXX, or at (972) 761-XXXX.

Sincerely,

Name
Claims Department

Attachments

Federal Deposit Insurance Corporation
1601 Bryan Street, Dallas, TX 75201 | Dallas Field Office

EXHIBIT V-G-1
Letter to Customer Release of Hold – Payout

September 12, 2002

A.R. and J.L. Smith Trust
Box 1111
St. Joseph, OR 97222

SUBJECT: XXXX – Failed Institution
City, State – In Receivership
RELEASE OF ACCOUNT(S)/FDIC RIGHTS RESERVED

Dear Depositor:

Pursuant to its authority under 12 U.S.C. 1822(d), the Federal Deposit Insurance Corporation (FDIC) withheld payment of deposit insurance proceeds for the following account(s) at Failed Institution, City, State.

Account Name	Claim Number	Account Type & Number	Amount
A.R. and J.L. Smith Trust	100002617-000	CDS – 00100047088	$225.59

The FDIC, in its discretion, has decided to release the deposit insurance proceeds of the account(s) listed above. By doing do, the FDIC does not waive any rights or release or otherwise prejudice any claims, demands, or causes of action it may have against the depositor or account holder arising out of or relating to directly or indirectly, the bank, the liquidations of its assets or any other matter involving the FDIC.

Enclosed you will find check(s) in the amount of $225.59 for payment of your insured deposit(s).

Please call me at (972) 761-1234 if you have any questions.

Sincerely,

Claims Department

Enclosure(s)

EXHIBIT V-G-2
ADD HOLD LETTER

«CORRESPONDENCE_DATE»

«ACQUIRING_INSTITUTION_NAME»
«ACQUIRING_INSTITUTION_CONTACT_NAME»
«ACQUIRING_INSTITUTION_ADDRESS1»
«ACQUIRING_INSTITUTION_ADDRESS2»
«ACQUIRING_INSTITUTION_CITY_STATE»

Subject: **«FAILED_INSTITUTION_FUND_NO» - «FAILED_INSTITUTION_NAME»**
«FAILED_INSTITUTION_CITY_STATE» - In Receivership
DEPOSIT ACCOUNT HOLD(S)

Dear **«ACQUIRING_INSTITUTION_CONTACT_NAME»**:

Please place an FDIC hold effective immediately on the deposit account(s) listed at the end of this letter. Please acknowledge receipt of this request by signing below and returning this letter to FDIC at the above address.

Sincerely,

[MANUALLY ENTERED BY CAIC]
Claims Department

Acknowledged By:_____ Date:_____
[Acquiring Institution Representative]

Add Account Hold Letter (from File Manager)

Account Name	Account Type	Account Number	Amount of Hold
[Name]	[Sav, CD, etc.]	[Acct #]	[$xxx]

Appendix A

Glossary

A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T | U | V | W | X

A

Account Hold

A hold placed on a deposit account by the FDIC to retain control of all or part of the depositor's account until some issue regarding the depositor or the account can be resolved.

Accounts Payable

Amounts owing on an open account to creditors for goods and services.

Accrued Interest

(1) Payable - Interest earned but not yet paid. When an institution fails prior to the end of an interest payment date, the balance of the account for insurance purposes includes the interest, which has accrued through the date of the institution failure.

(2) Receivable - Interest charged to a loan but not paid by the customer. Generally the interest is reported as income within the institution's books and shown as a receivable.

ACH

Automated Clearing House – A computerized facility used by member depository institutions to process (i.e., combine, sort, and distribute) payment orders in machine-readable form (computer tapes or punched cards).

Acquiring Institution

This is the term for the financial institution taking over some or all of the business of a failed institution.

ADR

Alternative Dispute Resolution – refers to all forms of dispute resolution other than court adjudication. A broad range of ADR processes exist, from the most common mediation, arbitration to various hybrids, such as minitrials, summary jury trials, and early neutral evaluation.

Affiliate

Any organization that a financial institution owns or controls by stock holdings, or which the financial institution's shareholders own, or whose officers are also directors of the financial institution.

Agent

A person authorized by another person, called the principal, to act on the latter's behalf in transactions involving a third party. The following three characteristics apply to an agent:

- Acts on behalf of and is subject to the control of the principal
- Does not have title to the principal's property
- Owes the duty of obedience to the principal's orders.

Financial institutions are frequently appointed by individuals to be their agents, and authorize their employees to act on behalf of principals.

Agent Institution

A financial institution authorized by the FDIC to make a final distribution of insured deposits and, in some instances, to purchase certain assets of the closed institution.

Aggregate

Combining accounts by ownership rights and capacities for deposit insurance purposes.

AI

Agent Institution or Assuming Institution or Acquiring Institution, depending on the type of agreement. This is the term for the financial institution taking over some or all of the business of the failed institution.

Amendment

Addition to, or change in, a legal document. When properly signed it has the full legal effect of the original document.

AP or A/P

Accounts Payable – amounts owing to creditors for goods or services.

ARM

Adjustable Rate Mortgage. Mortgage, which contains predetermined adjustments of the interest rate at specified intervals. Interest rate is tied to some index outside the control of the financial institution, such as the interest rates on U.S. Treasury bills or the average national mortgage rate. Adjustments are made regularly, usually at intervals of 1, 3, or 5 years.

ARP

Accelerated Resolution Program. Used by the Resolution Trust Corporation (RTC) to describe the resolution of a failing institution in which the institution was not first placed into a Conservatorship or Pass-Through Receivership.

Asked Price

The trading price proposed by a prospective seller of securities.

Asset

Anything having commercial or exchange value that is owned by a business, institution, or individual.

Assign

To transfer ownership from one party to another. Property assigned can be in a number of forms, including tangible property, rights, or the right to transfer ownership at some later date.

Assuming Institution

This is the term for the financial institution taking over some or all of the business of a failed institution.

Assumption

The act of taking on responsibility for the liabilities of another party, usually documented by an assumption agreement. In the case of a mortgage assumption, the seller remains secondarily liable unless released from the obligation by the lender.

At Par

At a price equal to the face, or nominal, value of a security. (See also par value.)

Auction Market

The system by which securities are bought and sold through brokers on the securities exchanges, as distinguished from the over-the-counter market, where trades are negotiated.

Back to top

B

Balance Sheet

A financial report, also called Statement of Condition or Statement of Financial Position, showing the status of the company's assets, liabilities, and owners' equity as of a given date, usually at the close of a month.

Bankruptcy

State of insolvency of an individual or an organization; the inability to pay debts.

Bank Wire

Computerized message system owned and administered by participating banks in the U.S., which typically transmits large dollar, credit transfer information like the FED wire.

Bar Date

The date, usually 90 calendar days after the receiver's initial publication of the notice to creditors to present their claims, after which further rights of creditors to make claims against the Receivership may be disallowed or barred.

Beneficial Interest

Interest or right of a person who is to receive benefits under a trust, will, or similar transfer of property.

BIA

Bureau of Indian Affairs. A bureau within the U.S. Department of Interior. In financial institution documents, BIA refers to the accounts holding deposit interests of American Indians.

Bid Price

A price offered by those wishing to buy given stocks, bonds, notes, or other assets.

BIF

Bank Insurance Fund. Established by FIRREA for use by the FDIC in paying insurance related expenses for Receiverships of Bank Insurance Fund members (i.e., banks, thrift and loan associations, etc.).

BIS

Business Information Systems. That component part of DRR with information technology responsibilities at a financial institution failure; a particularly important group during the closing phase of a financial institution failure because they ensure that the failing institution’s computer-based deposit and other information can be read, understood, and used by the FDIC’s computer-based systems.

Bond

Any interest-bearing or discounted government or corporate security that obligates the issuer to pay the bondholder a specified sum of money, usually at specific intervals, and to repay the principal loan amount at maturity.

Bond Rating

Method of evaluating the likelihood of default by a bond issuer. Standard & Poor's, Moody's Investors Service, and Fitch's Investors Service are three bond rating agencies which analyze the financial strength of each bond's issuer, whether it is a corporation or a government body.

Book Value

A value at which an asset is carried on a balance sheet. At times, the value could be its cost minus accumulated depreciation.

Borrowed Reserves

Funds borrowed by member banks from a Federal Reserve Bank for the purpose of maintaining the required reserve ratios.

Bridge Bank

A chartered national bank that operates under a Board of Directors appointed by the FDIC; it assumes the deposits and certain other liabilities and purchases certain assets of one or more failed banks.

Broker

A person who acts as an intermediary between a buyer and seller, usually charging a commission. (Also see Deposit Broker.)

Brokered Deposit

Deposits placed by a Deposit Broker. The FDIC places special restrictions and regulations on financial institutions concerning the acceptance and insurance of these accounts.

Business Day

A day other than a Saturday, Sunday, or legal holiday.

By Laws

Rules governing the internal management of an organization which, in the case of business corporations, are initially drawn up at the time of incorporation.

Back to top

C

CAC

Collections After Closing. Preferred claims for deposits made prior to the financial institution's closing, which were collected after the date of closing.

Case

A comprehensive memorandum in a specific format prepared when requesting authority to take a proposed action (e.g., compromise, foreclosure, sale of an asset, payment of dividends, termination of a Receivership). The case is written to the person who has the authority to approve the proposal.

Cash

Asset account on a balance sheet representing paper currency and coins, negotiable money orders and checks, and bank balances.

Cash Dividend

Cash payment to a corporation's shareholders, distributed from current earnings or accumulated profits and taxable as income. Cash dividends are distinguished from stock dividends, which are payments in the form of stock.

Cash Letter

An interbank transmittal form, resembling a deposit slip, used to accompany cash items sent from one bank to another for collection. Cash items include checks and deposit tickets with other control documents included.

Cash Method (or Basis)

An accounting method that recognizes interest income as it is collected rather than when it is earned (accrued).

Certificate of Deposit (CD)

A certificate issued by a financial institution stating that the named person(s) or entity have a specific sum of money on deposit, usually for a specified time period. Commonly referred to as a CD.

Charge-offs

Loans or other assets determined by the closed financial institution to be uncollectable and therefore taken off their General Ledger. These loans are worked by the FDIC, but are not included in the FDIC General Ledger.

Check Reconciliation System

See CRS.

Child

A person being the natural, adopted, or step-child of the owner of an account.

Claim Agent or Claims Specialist

Interchangeable terms. Claim Agent is most often used to refer to an FDIC employee or contractor, at a closing, who is interacting with depositors. Claims Specialist refers to an individual who is assigned any responsibilities referred to within the Claims Manual.

Claim Agent-in- Charge

The Claims person assigned the task of supervising the Claim Agents and who is responsible for the accuracy of all Claims actions performed at a closing.

Claim Number

The number assigned to a liability when the stratification process is completed.

Clear

To Clear…a Check – the return of checks to the bank on which they were drawn for payment….having passed through or having been collected by a clearinghouse.

Clearinghouse

Entity used to process funds for clearing checks or drafts that are transferred between banks not through the Federal Reserve System.

Closing

As it refers to a financial institution, the cancellation of a financial institution's charter to operate. The process of closing a financial institution. Typically done by the federal or state agency, which chartered the institution, though in certain circumstances the FDIC can close the financial institution.

CMO

Collateralized Mortgage Obligation. A derivative product of either mortgages or mortgage-backed securities that distributes the cash flows from the mortgages into several layers called tranches. Each tranche receives periodic interest payments at a fixed-rate based on the outstanding principal balances. The remaining cash flow is allocated to the first layer or “A Tranche” in the form of principal repayment. Cash flows are allocated in this manner until the “A Tranche" is completely paid. At that time, all excess cash flows are allocated to the next tranche, etc.

Collateral

Asset pledged to a lender until a loan is repaid. If the borrower defaults, the lender may have the legal right to seize the collateral and sell it to pay off the loan.

Collected

As in Collected Funds. Cash or checks deposited in the bank which have been presented for payment and for which payment has actually been received.

Collections after Closing

Deposits made at a failed institution prior to the closing of that institution which remain “uncollected” as of the date the institution is closed. These deposits are collected after closing.

Commercial Loan

A loan made for a business purpose. Frequently, a short-term renewable loan to finance the seasonal working capital needs of a business, such as the purchase of inventory or the production and distribution of goods.

Community Property

Funds of a husband-wife (community).

Compounded

Adding interest accrued for one period to the principal at the beginning of the next period and computing interest for the next period on the total interest plus principal.

Contingent Liability

The potential obligation of a guarantor or accommodation endorser; or the position of a customer who opens a letter of credit and whose account will be charged if a draft is presented. This also includes pending lawsuits, judgments under appeal, disputed claims, and the like, representing financial liability in the event of an adverse outcome.

Corporate and Other Business Accounts

Deposit accounts of a corporation, partnership, or unincorporated association, which is engaged in any independent activity. Corporate and Other Business Accounts comprise one of the ownership categories of insured deposits.

Corporate Purchase

Refers to the transaction where the FDIC in its Corporate capacity purchases assets from a Receivership.

Corporate Settlement

The process wherein the FDIC, in its Corporate capacity, passes insured funds to an acquiring institution, which, in turn, makes those funds available to depositors of the failed institution. Since final insurance determinations for all accounts may not have been made at the time of the initial wire transfer during the closing phase, the Corporate Settlement process provides for the FDIC to send additional funds to the acquiring institution or for the acquiring institution to return funds to the FDIC, depending on whether the initial insurance determination provided insufficient funds to the depositor or too many funds to the depositor. Claims is responsible for the Corporate Settlement process.

Corporation

A legal entity, separate and distinct from the individuals who own or manage it, with the capacity of continuous existence or succession, and having the capacity as a legal entity, of taking, holding and conveying property, suing and being sued, and exercising such other powers as may be conferred on it by law, just as a natural person may.

Correspondent Bank

A bank that provides settlement with the Federal Reserve and/or processing services for another financial institution. For Claims' purposes, it principally relates to check clearing functions.

Coupon

Interest rate on a debt security that the issuer promises to pay to the holder until maturity; expressed as an annual percentage of face value.

Coupon Rate

The stated annual interest rate on a debt instrument, as a percentage of its face value. Since bonds do not often trade at face value, the coupon rate seldom equals the yield on the bond.

CP

Corporate Purchase (of Receivership assets).

CPOC

Corporate Proof of Claim. A claim filed by the FDIC in its Corporate capacity against the Receiver for its preferred claim, the subrogated claim, and the assignment of the general creditor claims paid.

CRS

Check Reconcilement System. The system used by DRR/Accounting Operations to reconcile the checks issued during a payout.

Current Yield

A percentage rate calculated by dividing the annual interest on a bond by the market price. It is the actual income rate of return as opposed to the coupon rate or the yield to maturity.

CUSIP Number

Committee on Uniform Security Identification Procedures Number. The identifying nine-digit number that identifies a specific security. This number can be found on the safekeeping receipt.

Custodian

A person, bank, or other financial institution that keeps custody of individual or corporate assets.

Back to top

D

DDA

See Demand Deposit Account for definition.

Declaration Date

The specified date for the payment of a dividend or interest.

Deferred Compensation

Compensation that has not yet been paid to an employee. These funds are solely the property and rights of the employer until they are made available to the participant or other beneficiary. The funds are only available to the participants through the general creditor process.

Defined Benefit Plan

Provides an employee with a fixed benefit upon retirement. Each year the employer contributes to the plan an amount determined by an actuary to be sufficient to fund the benefit fixed by the plan.

Defined Contribution Plan

A plan wherein contributions, whether by employer or employee, are determined by the plan (though the employer can change the terms of the plan at will). These contributions may be allocated to the various investment options within the plan. The following plans are always defined contribution plans: profit sharing plans, 401(k) plans, money purchase plans, thrift plans, savings plans, and employee stock ownership plans.

Demand Deposit Account

A non-interest bearing account balance which, without prior notice to the bank, can be drawn on by check, cash withdrawal from an automatic teller machine, or by transfer to other accounts using the telephone or home computers.

Demand Loan

Loan with no set maturity date that can be called for repayment when the lender chooses.

Deposit

The unpaid balance of money or its equivalent received or held by a bank in the usual course of business and for which it has given or is obligated to give credit. For legal definition, refer to 12 U.S.C. 1813(1).

Deposit Account Records

(For definition, refer to 12 CFR § 330(1) (d)). For regulation on account record keeping, see 12 CFR § 330.4. Records of the failed Institution which include:

- Signature cards
- Certificates of deposit
- Account ledgers
- Passbooks
- Some computer records
- Corporate resolutions authorizing accounts in the possession of the insured depository institution.

Deposit Broker

Any party engaged in the business of placing deposits, or facilitating the placement of deposits of third parties with insured depository institutions; or the business of placing deposits with insured depository institutions to sell interests in those deposits to third parties. Also, an agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured depository institution to use the proceeds of the account to fund a prearranged loan.

Depositor Preference Statutes

Statutes which recognize claims of depositors prior to those claims of other types of general trade creditors for purposes of distribution of the failed institution's assets. The Federal Deposit Insurance Act, as amended, contains national deposit insurance preference for all Receiverships established after August 10, 1993 (12 U.S.C. 1821 (d)(ll)). Depositor preference state statutes apply to receiverships established before August 10, 1993 for state chartered institutions.

Deposits Payable Solely Outside the U.S. and its Territories

Excludes any obligation of an insured depository institution which is payable solely at offices of such institutions located outside the U.S. and its territories from being a “deposit" for purposes of the deposit insurance regulations.

Direct Payout

Occurs when a financial institution fails and the FDIC, in its corporate capacity, pays the insured deposits up to the deposit insurance limit directly to the depositors. There is no Assuming Financial Institution or Agent Financial Institution. Also see Payout.

Discount

The method whereby interest on a bank loan or note is deducted in advance. It is the difference between a bond's current market price and its face or redemption value. For U.S. Treasury bills and other discount securities, the term means the security has no stated interest rate, is sold at a discount price, and is redeemed at maturity for full face value.

Discount Yield

The annual percentage rate of return on a security sold at a value less than its face value. Example: U.S. Treasury Bills sold at $9,750 and maturing at $10,000 in 90 days, for instance. To figure the annual yield, divide the discount ($250) by the face amount ($10,000) and multiply that number by the appropriate number of days in the year (365) divided by the number of days to maturity (90):

$$\frac{\$250}{\$10{,}000} \times \frac{365}{90} = .025 \times 4 = .10 = 10\%$$

Discovered Liabilities

Liabilities that were not listed in the books of the failed institution at the time of closing, but were identified afterward.

Discretionary Payment

Payment made under 12 U.S.C. 1821 (i)(3)(A) and then assigned and subrogated to Corporation.

DITA

Deposit Insurance Transfer Agreement. Transaction where only insured deposits are transferred to an acquiring institution.

DITAPA

Deposit Insurance Transfer and Asset Purchase Agreement. Transaction where only insured deposits are transferred to an acquiring institution who also purchases select assets.

Dividend

As it relates to a receivership, typically a pro rata distribution, to depositors and proven creditors, of net proceeds after converting assets of a failed institution to cash and after providing cash for anticipated future operating needs of the receivership.

DOF

Division of Finance. Formerly Division of Accounting and Corporate Services (DACS). The accounting/finance division of the FDIC.

DPC

Dividend Priority Code - Codes used within the Receivership Liability System (RLS) and DPS (Dividend Processing System) to designate the dividend payment priority of a claim as established by DRR/Accounting Operations per statute.

DPS

Dividend Payment System. Computer based system used by DRR Accounting Operations to pay receivership dividends. Has certain automatic interface capabilities with RLS.

DRR

Division of Resolutions and Receiverships (formerly DAS, DOL, and/or DOR).

DSC

Division of Supervision and Consumer Protection. That division of the FDIC which combined the responsibilities of the former Division of Supervision (DOS) and the former Division of Compliance and Consumer Affairs (DCA). DSC supervises and examines FDIC insured depository institutions in accordance with law and agreement with other federal regulatory agencies.

DTC

Depository Trust Company, also known as The Depository Trust & Clearing Corporation (DTCC).

Due Date

Date is 180 days after completed proof of claim (POC) is received. Claim must be processed and be allowed or disallowed by this date or an extension requested.

Back to top

E

EFT

Electronic Funds Transfer – a system using electronic means to transfer payment data and funds from an originator to a recipient's account at a receiving financial institution.

Employee Benefit Accounts

Deposit accounts representing non-contingent interests of a beneficiary in an employee benefit plan. Employee Benefit Accounts comprise one of the ownership categories of insured deposits.

Employee Benefit Plan

A pension, profit-sharing, or stock bonus plan established by an employer or employee organization for the benefit of employees, including plans qualifying under Sections 401(a) or 401(k), of the IRS Code of 1954 (26 U.S.C. § 401(a), 401(k)), but does not include any plans qualifying under section 457 of the IRS Code of 1954 (26 U.S.C. § 457).

Employee Organization

Any labor union, organization, employee representation committee, association, group or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning an employee benefit plan, or other matters incidental to employment relationships. Also, it is any employees' beneficiary association organized for the purpose, in whole or in part, of establishing such a plan.

Equivalent Bond Yield

Comparison of discount yields and yields on bonds with coupons. Example: If a 10%, 90-day Treasury Bill with a face value of $10,000 cost $9,750, the equivalent bond yield would be:

$$\frac{\$250}{\$9,750} \times \frac{365}{90} = 10.40\%$$

Escheat

Reversion of property (e.g., land, account balances, insurance policies) to the appropriate state in the absence of legal heirs or claimants.

Escheatable

Abandoned property, possessions, and/or funds belonging to customers of a financial institution which, after a period of inactivity as set by state statute, are to be forwarded to the state treasury. However, deposit insurance funds that remain unclaimed do not escheat to the state. Deposit insurance funds are transferred to the state but, if they remain unclaimed for 10 years, are then returned to FDIC Corporate and become the property of the FDIC. (Receivership dividend checks are escheatable, since they do not represent deposit insurance funds.).

Excess Deposit

See Uninsured Deposit.

Excess Hold

A hold placed on the uninsured portion of a deposit account.

Executor/Executrix

Person designated to carry out the wishes of a deceased individual expressed in a will as to the administration of the decedent's estate and the distribution of the assets in it.

Back to top

F

Face Value

Value of a bond, note, mortgage, or other security as given on the certificate or instrument.

Failed Financial Institution

A financial institution that was closed, generally by the agency which chartered it.

Fannie Mae

Nickname for the Federal National Mortgage Association.

FDIA

Federal Deposit Insurance Act – see http://www.fdic.gov/regulations/laws/rules/1000

FDIC

Federal Deposit Insurance Corporation

FDICIA

Federal Deposit Insurance Corporation Improvement Act of 1991

Federal Funds

Funds deposited by commercial banks at Federal Reserve Banks, including funds in excess of bank reserve requirements. Also, they are loans from one bank to another.

FHLB

Federal Home Loan Bank

FHLMC

Federal Home Loan Mortgage Corporation

FICA

Federal Insurance Contribution Act. Federal legislation requiring tax contributions from both the employer and employee to cover expenses of the Social Security benefit fund.

Fiduciary

A person holding a position of trust or confidence recognized by law.

Fiduciary Accounts Held by Failed Institution

Accounts held by the failed institution as agent or other fiduciary capacity. These fiduciary accounts comprise one of the ownership categories for deposit insurance purposes and are separately insured from other trust funds if they are separately maintained and not commingled with other deposits.

FIN

Financial Institution Number. The unique four-digit number assigned by the FDIC to a failed institution. (Also known as Bank Number.)

Final Settlement Date

A procedure specifically established and authorized in the Closing Agreement. The day by which monies due to/from the AI and FDIC as Receiver for Settlement items, must be paid.

FIRREA

Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (enacted August 9, 1989). FIRREA added significant amendments to the Federal Deposit Insurance Act (FDI Act).

FIMS

Financial Information Management System. The FDIC's accounting system.

Fixed Asset

Tangible property, which will typically be used over a period of more than one year, that is used in the operations of a business and is not expected to be consumed or converted into cash in the ordinary course of events.

Float

The amount of time a bank takes to clear or reject (bounce) a check for payment; the time at which funds are debited from the issuer's account; checks in transit between banks and not yet paid; checks in the process of collection that remain conditional credits in a depositor's checking account until the checks are paid to the bank.

Foreign Currency Deposits

Deposits of foreign, but freely convertible, currency, maintained by any person or entity (regardless of nationality).

Foreign Exchange

Instruments employed in making payments between countries; currency, notes, checks, bills of exchange, and electronic notifications of international debits and credits.

FRB

Federal Reserve Bank

Financial Reporting Branch of DOF

Freddie Mac

Nickname for Federal Home Loan Mortgage Corporation (FHLMC). Mortgage-backed securities, issued in minimum denominations of $25,000, that are packaged, guaranteed, and sold by the FHLMC. Mortgage-backed securities are issues in which residential mortgages are packaged and sold to investors.

FRF

FSLIC Resolution Fund. Established by FIRREA for the transfer of assets and liabilities of the former FSLIC. This is a separate fund maintained by the Corporation and used for insurance-related expenses of the Receiverships transferred to FDIC from FSLIC.

FSLIC

Federal Savings and Loan Insurance Corporation. Former agency responsible for insuring deposits of savings and loan institutions. Per FIRREA, FSLIC ceased to exist.

FUTA

Federal Unemployment Tax Act. Legislation requiring a tax (paid by employer) on employees that covers expenses of an unemployment benefit fund.

Futures Contract

Agreement to buy or sell a specific amount of a commodity or financial instrument at a particular price in a stipulated future month. The price is established between buyer and seller on the floor of a commodity exchange. A futures contract obligates the buyer to purchase the underlying commodity and the seller to sell it, unless the contract is sold to another before settlement date, which may happen if a trader wants to take a profit or cut a loss.

Back to top

G

GCR

Gross Cash Recovery. Estimated amount of gross cash that will be received from the liquidation of an asset.

General Creditor

Individuals or entities that have a proven claim against the receivership estate. These include depositors with funds determined uninsured, unpaid proven claims for goods and services to the failed institution prior to closure, and valid contracts that were repudiated by the FDIC. Proven claims are fixed as of the date of closing. General creditors do not include shareholders of the failed institution since they were the owners of the institution and are therefore entitled to any proceeds once all proven creditor claims are paid in full.

GINNIE MAE

Nickname for Government National Mortgage Association. See also GNMA.

GINNIE MAE Pass- Through

Security backed by a pool of mortgages and guaranteed by the Government National Mortgage Association (GINNIE MAE), which “passes through” to investors the interest and principal payments of homeowners.

GNMA

Government National Mortgage Association. A government-owned corporation, nicknamed Ginnie Mae, within the U.S. Department of Housing and Urban Development, whose purpose is to serve low-to moderate income homebuyers.

Grandchild

The natural born, adopted, or step-child of a son or daughter.

GTC

General Trade Creditor. Any vendor or person to which the failed institution owed a debt at the time of closing.

Guardian

A person legally designated to act on the behalf of a minor or a person who is determined to be incapable of handling his or her own affairs.

Back to top

H

Holding Company

Company that owns or controls one or more financial institutions or other holding companies.

Back to top

I

IBF

See International Banking Facility.

IDT

Insured Deposit Transfer. An agreement in which the insured deposits of a failed financial institution are transferred to an Agent Financial Institution. The insured deposits are funded by the FDIC and the Agent Financial Institution acts as the FDIC's paying agent to insured depositors. All unclaimed deposits must be returned to the FDIC after 18 months.

Indenture

A formal agreement between an issuer of bonds and the bondholder covering such considerations as:

- Form of the bond
- Amount of the issue
- Property pledged (if not a debenture issue)
- Protective covenants
- Redemption rights or call privileges.

Independent Activity

For deposit insurance purposes, a corporation, partnership, or unincorporated association shall be deemed to be engaged in an “independent activity,” if the entity is operated primarily for some purpose other than to increase deposit insurance.

Information Package

The compilation of financial information on a failing financial institution. The information package is divided into three sections:

- Open section, which contains basic financial information on the institution and is made available to potential bidders
- An appendix to the open section which contains supporting documentation
- A confidential section for FDIC use only.

Insured Deposit

The net amount due to a depositor for deposits in an insured depository institution less any part, which is in excess of the insurance limit. (For legal definition, refer to 12 U.S.C. 1813(1) and (m)).

Insured Depository Institution

A depository institution in which the deposits are insured pursuant to the Federal Deposit Insurance Act, including a foreign bank having an insured branch.

International Banking Facility (IBF)

A set of separate books and records of a financial institution, as authorized by federal law and regulations promulgated by the Federal Reserve, used for international banking transactions. IBF deposits are not deposits for deposit insurance purposes.

IRA

A qualified retirement plan, short for Individual Retirement Account. IRA accounts comprised a separate ownership category until December 19, 1993, after which they are insured with other self-directed retirement plans.

Irrevocable Trust Accounts

Accounts established by written instruments, such as a will, in which the settlor (creator of the trust) relinquishes all power to revoke the trust. Irrevocable trust accounts comprise one of the ownership categories of insured deposits.

Issue Date

The date when a new issue of securities is placed on sale.

ITF

In Trust For. Commonly used abbreviation in account titles to designate revocable (Totten) trust accounts.

Back to top

J

Joint Ownership Accounts

Deposit accounts owned by two or more persons and meeting the following requirements:

- All co-owners are natural persons
- Each co-owner possesses withdrawal rights on the same basis
- Each co-owner has personally signed a signature card (unless the account is a Certificate of Deposit or is maintained by an agent, nominee, guardian, custodian or conservator). Joint ownership is one of the ownership categories of insured deposits.

Back to top

K

Keogh

A qualified retirement plan for a self-employed individual established under Section 402 of the IRS Code, or any qualified retirement plan of a sole proprietorship or partnership. Keogh Accounts comprised one of the ownership categories of insured deposits until December 19, 1993, after which they are insured with other self-directed retirement plans.

Back to top

L

Letter of Credit

Instrument or document issued by a financial institution guaranteeing the payment of a customer's drafts up to a stated amount for a specified period. A revolving letter of credit is issued for a specified amount and is automatically renewed for the same amount for a specified period permitting any number of drafts to be drawn, provided they do not exceed its overall limit. Sometimes abbreviated as LC or LOC.

Liability Register

A list of all deposit accounts.

Loan Hold

A hold placed on a depository account due to related past-due loans or the use of the account as collateral.

Back to top

M

Market Value

The amount a buyer is willing to pay for a security. The price at which buyers and sellers trade similar items in an open marketplace. In the absence of a market price, it is the estimated highest price a buyer would be warranted in paying and a seller justified in accepting, provided both parties were fully informed and acted intelligently and voluntarily.

Moody's Investors Services

One of the two best known bond-rating agencies in the country, the other being Standard & Poor's. Moody's also rates commercial paper, preferred and common stocks, and municipal short-term issues.

Mortgage

Debt instrument by which the borrower (mortgagor) gives the lender (mortgagee) a lien on real property as security for the repayment of the loan.

Mortgage Backed Certificate

A certificate issued by a holder of mortgages. Such certificates are secured by mortgages and guaranteed as to interest and principal.

Mortgage Backed Security (MBS)

Issues in which residential mortgages are packaged and sold to investors; investment securities representing an interest in a pool of mortgages or trust deeds. Payments on the underlying mortgages are used to make payment to the security holders.

Mortgage Pool

Group of mortgages having similar characteristics in terms of class of property, interest rate, and maturity. Investors buy participations and receive income derived from payment on the underlying mortgages.

Mortgage Servicing

Administration of a mortgage loan, including collecting monthly payments and penalties on late payments, tracking the amount of principal and interest paid at any particular time, acting as escrow agent for funds to cover taxes and insurance, and if necessary, curing defaults and foreclosing on collateral when the loan is seriously delinquent.

Municipal Bond

Debt instrument issued by a State or local government entity, its agencies or authorities, or a U.S. possession or territory.

Mutual Savings Bank

A state-chartered savings bank which is owned by its depositors and managed by a fiduciary board of trustees. For legal definition, refer to 12 U.S.C. 1813(f).

Back to top

N

NASD

National Association of Securities Dealers. A nonprofit organization formed under the joint sponsorship of the Investment Bankers' Conference and the Securities and Exchange Commission to comply with the Maloney Act security trading.

Natural Person

Human being. (See the FDIC Rules and Regulations, 12 CFR Section 330.1.)

Negotiable Instrument

An unconditional written promise to pay a specified sum of money at a specified date to the order of a specified payee or the bearer.

Nominee

A person or firm, such as a bank official or brokerage house, into whose name securities or other properties are transferred by agreement to facilitate transactions, although the customer remains the true owner.

Non-Contingent Interest

An interest capable of determination without evaluation of contingencies except for those covered by the present worth tables and rules of calculation set forth in life-expectancy tables published by the IRS.

NPS

National Processing System – formerly LAMIS. An internal loan processing system used to track receivership assets not being serviced by a contractor.

Back to top

O

OCC

Two meanings:

- Office of Corporate Communications (within the FDIC)
- Office of the Comptroller of the Currency - chartering and regulatory agency for National Banks.

Offset

The right which exists between two parties each of whom, under an independent contract, owes an ascertained amount to the other to set off their respective debts by way of mutual deduction.

Original Face Value

The original balance when a security is issued.

OTS

Office of Thrift Supervision. The regulator of federally chartered savings and loan associations.

Ownership Rights and Capacities

The legal basis for determining how accounts owned by the same person or entities are to be treated. The rights and capacities by which accounts are either aggregated or separated for deposit insurance purposes.

Back to top

P

P&A

Purchase and Assumption Agreement. An agreement between an Acquiring Financial Institution and the FDIC, whereby the FDIC in its Receivership capacity transfers certain failed financial institution liabilities and simultaneously sells certain failed financial institution assets to the assuming financial institution.

Par Value

The nominal or face value of a security, stock, bond, or note expressed as a specific amount. Found on the safekeeping receipt.

Pass-Through Certificate

A security that represents an undivided interest in pools of mortgages. Principal and interest payments from the mortgagors are passed through to certificate holders as received. Since mortgagors may prepay mortgages, the pass-through payments to certificate holders fluctuate.

Pass-Through Security

A security backed by mortgages that passes through principal and interest payments to the security holders. Thus, payments vary in size, the principal is reduced as payments are made, and the final maturity of the securities is uncertain.

Pass With Hold (PH)

Deposit accounts transferred to the Assuming Institution but withheld from the depositor, until such time as a final insurance determination can be made. Usually done when it is believed that all funds are insured. Usually the depositor is required to furnish documentation (i.e., Pension/Profit Sharing Plans, trust documents, etc.).

PAV

Payment Authorization Voucher. An FDIC form used to generate payments to vendors and creditors of a Receivership.

Paying Agent

A financial institution is appointed paying agent after entering into an Insured Deposit Transfer Agreement. The paying agent is responsible for the payment of the failed financial institution's insured deposits.

Payout

The method of resolution in which the FDIC directly pays the depositors up to the insured limit. Claims and payment procedures may be done in person or by mail. Also see Direct Payout.

PH

See Pass With Hold.

Pledged Security

A security used as collateral to secure the liabilities of a financial institution, such as deposits of a public unit.

PLG

Professional Liability Group. Formerly PLU (Professional Liability Unit) or PLS (Professional Liability Section). That part of the FDIC Legal Division that seeks to recover losses suffered by a failed financial institution, due to negligence or fraud, from parties who breached the fiduciary duty/duty of care that they owed to the failed financial institution. Such parties include former directors and officers of the failed institution, and other professionals retained by the institution, such as attorneys, accountants, appraiser, and brokers.

POC

Proof of Claim. Typically, a standard form submitted by claimant, with supporting documentation which states the existence of and basis for a claim against a receivership.

Political Subdivision

Includes drainage, irrigation, navigation, improvement, levee, sanitation, school or power districts, and bridge or port authorities, and other special districts created by state statute or compacts between the states. Also includes any subdivision of a public unit.

POD

Payable on Death

Preclosing

Before the closing. May refer to Claims processes which are performed prior to the closing phase. May refer to goods provided or services rendered to an institution prior to its failure.

Preferred Claim

Claims based on a trustee and cestuique (beneficiary) trust relationship between the failed institution and claimant. Additionally, to be valid, specific property or cash proceeds must pass into the hands of the Receiver. An example of a preferred claim is the payment to a depositor through the collections after closing process.

Priority Claim

Any claim which, according to law, is provided a status above that of all other claims.

Probate

Judicial process whereby the will of a deceased person is presented to the court and an executor or administrator is appointed to carry out the will's instructions.

Pro Forma

A consolidated statement of condition consisting of the failed institution's general ledger separated into two parts. One part represents the assets purchased and liabilities assumed by the assuming institution, the other part represents the assets and liabilities retained by the FDIC.

PTR

Pass-Thru Receivership. Resolution process used by RTC in which selected liabilities of a failing institution were retained by a Receiver whereas most deposit liabilities and assets passed into a newly chartered thrift, which was then immediately placed into Conservatorship. This allowed the RTC time to manage the institution and prepare it for sale at a later date.

Public Unit

Any of the following: United States or a State, county, or municipality of the U.S. May also include a political subdivision of the foregoing, provided certain requirements are met.

Public Unit Accounts

Accounts of an official custodian of public funds, including funds belonging to the United States, a State, county, municipality, or political subdivision of the United States. Public unit accounts comprise one of the ownership categories.

Put-Back

Provisions in the closing agreement, which requires the Receiver to repurchase certain qualified loans from the AI. Also referred to as "Puts".

Back to top

Q

Quote

An offer by a dealer to buy or sell at a stated price. A statement by a broker as to the value of a certain security.

Back to top

R

RC

Receiver's Certificate. A document issued by the FDIC as receiver to legally evidence those with proven claims (including uninsured deposits) against the receivership. Holders of RC's are entitled to a distributive share of liquidation proceeds as set forth in applicable state or federal statutes.

Receiver

Court appointed person who takes possession of but not title to, the assets and affairs of a business or estate that is in a form of bankruptcy called Receivership or is enmeshed in a legal dispute.

Receiver Settlement

The process of handling adjustments, subsequent to the initial transfer of business and sale of assets, between the FDIC as receiver of a failed institution and an acquiring institution. Such adjustments may be the result of assets which have been "put back" by the acquirer to the receiver, subsequent purchases of assets (such as branches and equipment of those branches) by the acquirer from the receiver, and/or for other reasons. This process is based on the transactional documents (e.g. Purchase and Assumption Agreement) which outline the responsibilities and obligations of the receiver and acquiring institution. DRR Accounting Operations is responsible for this function. Not to be confused with Corporate Settlement.

Reclamation

Claim made by the U.S. Treasury against an institution that wrongfully accepted or cashed a U.S. Treasury check. For example, a Social Security check made payable to a deceased person and cashed by a descendant. The U.S. Treasury, from time to time, makes claims against the FDIC as receiver of a failed institution for U. S. Treasury checks which were wrongfully accepted or cashed by the failed institution prior to its failure.

Reconcile

To compare subsidiary ledgers and supporting documentation to General Ledger account balances for accuracy.

Redeterminations

Are used to perform insurance determination adjustments after, and in addition to, the group certified excess determination.

REMIC

Real Estate Mortgage Investment Conduit. A pass-through vehicle created under the Tax Reform Act of 1986 to issue multi-class mortgage-backed securities. Interest may be regular (debt instruments) or residual (equity interests).

REPO

Repurchase Agreement. An agreement between a seller and a buyer, usually of U.S. Government securities, whereby the seller agrees to repurchase the securities at an agreed upon price and usually at a stated time.

Retirement Plan

A qualified retirement plan is one which meets the requirements of Section 401(a) of the Internal Revenue Code. Can be either a defined benefit plan or a defined contribution plan.

Revocable Trust Accounts

Also known as Totten trusts. Deposit accounts owned by one or more persons evidencing an intention that upon the death of the owner(s), the funds would belong to the listed beneficiaries. Revocable Trust is one of the ownership categories of insured deposits.

RTC

Resolution Trust Corporation. A temporary corporation established by FIRREA to manage and resolve all conservatorships and receiverships of failed savings associations established on or after January 1, 1989, but prior to June 30, 1995, including those which were being managed by the former FSLIC. By law, the RTC ceased to exist on December 31, 1995, with all of its remaining work and responsibilities passing to the FDIC.

Back to top

S

Safekeeping

Storage and protection of a customer's financial assets, valuables, or documents, provided as a service by an institution serving as Agent and, where control is delegated by the customer, also as custodian.

SAIF

Savings Association Insurance Fund. One of two deposit insurance funds established by FIRREA for use by the FDIC in paying deposit insurance.

SATF

Settlement Account Transaction Form. Generic name for various forms generated in STRS to effect adjustments between the Assuming/Agent/Acquiring Financial Institution and the FDIC as Receiver or the FDIC in its Corporate capacity.

SAV

Savings Account (SV)

SEC

Securities and Exchange Commission. A Federal agency created by the Securities Exchange Act of 1934 to administer that act and the Securities Act of 1933. In charge of the securities and commodities exchanges - the organized, national exchanges where securities, options, and futures contracts are traded by members for their own accounts and for customers' accounts.

Secured Claim

Deposit liabilities of a failed institution for which the institution had pledged its institution-owned securities or other assets to secure any amount (up to the market value of the security) that exceeds the insured amount.

Secured Deposits

Deposits, primarily those of public entities, secured by bank-owned securities or loans for the amount which exceeds the insurance limit.

Set Off

See Offset

Settlement

See Corporate Settlement and Receivership Settlement.

Settlement Jackets

Envelopes used to document the reconcilement of the failed institution's General Ledger accounts for the preparation of the Pro Forma Statement.

Settlor (or Grantor)

A person who creates a trust.

Single Ownership Accounts

Deposit accounts owned by one natural person. They include those in the owner's name; those established for the benefit of the owner by agents, nominees, guardians, custodians or conservators; and those established by a business that is a sole proprietorship.

SLAPA

Small Loan Asset Purchase & Assumption. Transaction where all deposits passed to an acquiring institution and the acquirer purchased all "small-dollar" loans as defined in the agreement. This is a pre-FIRREA transaction.

Sole Proprietorship

An unincorporated business in which all assets are owned by one person. Sole proprietorship accounts are aggregated and insured with other single ownership accounts of the individual.

SSN or SS#

Social Security Number

Standard & Poor's

Subsidiary of McGraw-Hill, Inc. that provides a broad range of investment services, including rating corporate and municipal bonds, common stocks, preferred stocks, and commercial paper.

STRS

Settlement Tickler Reconciliation System. Is a tool that creates, organizes, tracks, and reports information related to failed institution transactions and their related settlement activities.

Subrogation

The assumption by the FDIC of another's legal right to collect a debt or damages (file a claim).

Back to top

T

TAPA

Total Asset Purchase & Assumption. Pre-FIRREA transaction where all deposits and all assets are assumed by an acquiring institution.

Tax Code

A one-digit code on the DPS system indicating if tax reporting (a 1099 sent to the payee/claimant and the IRS) is required when payments (i.e., dividends) are made. 0 = non-reportable and I = reportable.

Tenancy

Possession under right or title.

Testamentary

Relating to disposition of property after death. Property encompassing cash, land, and other assets of the deceased person. See also Totten and Revocable Trusts.

Time Certificate of Deposit

A certificate issued by a financial institution specifying the amount deposited, the rate of interest to be paid on the deposit, the term, and maturity date.

Time Deposit

A bank deposit which is payable in not less than 7 days.

TIN

Taxpayer's Identification Number

Totten

Revocable trust account created by depositing money for the benefit of another with the intention that the deposit pass to the beneficiary upon the depositor's death. See also ITF, Testamentary and Revocable Trust Accounts.

TRA

Tax Reform Act of 1986. This act increased employees' rights and benefits in qualified retirement plans by shortening the vesting schedule to a maximum of 7 years and reducing employee eligibility requirements to a 2-year maximum.

Treasuries

Negotiable debt obligations of the U.S. Government, secured by its full faith and credit and issued at various schedules and maturities.

Treasury Bills

Short-term securities issued by the U.S. with **original** maturities of 1 year or less issued at a discount from face value. Auctions of 91-day and 182-day bills take place weekly, and the yields are watched closely in the money markets for signs of interest rate trends. The Treasury also auctions 52-week bills once every four weeks. Treasury bills are issued in minimum denominations of $10,000, with $5,000 increments above $10,000 (except for cash management bills, which are sold in a minimum of $10 million blocks).

Treasury Bonds

Long-term debt instruments issued by the U.S. with maturities of 10 years or longer issued in minimum denominations of $1,000.

Treasury Notes

Intermediate term securities issued by the U.S. with maturities of 1-10 years. Denominations range from $1,000 to $1 million or more. The notes are sold by cash subscription, in exchange for outstanding or maturing government issues, or at auction.

Trust

A transfer of property from one person, called the settlor or donor, to another person, called the trustee, who is to hold the property for a specified beneficiary or use.

Trust Department

Part of a financial institution engaged in settling estates, administering trusts and guardianships, and performing agency services.

Trust Estate

The determinable and beneficial interest of a beneficiary or principal in trust funds, but does not include the beneficial interest of an heir or devisee in a decedent's estate.

Trust Funds

Deposits received or held by a bank or savings association, whether held in the trust department or held or deposited in any other department of the institution.

Trust Interest

The interest (not including any interest retained by the settlor) of a beneficiary in an irrevocable express trust (other than an employee benefit plan) created either by a written trust instrument or by statute.

TT&L

Treasury, Tax & Loan. Banks frequently act as agents for the U.S. Treasury in establishing clearing accounts specifically for business deposits of payroll, income, and related federal tax obligations. Such deposits (TT&L) are periodically cleared (or swept) by the Treasury, often using Federal Reserve Banks as a clearing intermediary. Banks pledge U.S. Government notes to secure such deposits.

Back to top

U

UCC

Uniform Commercial Code. A code of laws governing various commercial transactions, including the sale of goods, banking transactions, secured transactions in personal property, and other matters designed to bring uniformity in these areas.

UDAA

Unclaimed Deposits Amendments Act of 1993. See Exhibit V-D-2: Federal Deposit Insurance Act (FDIA) as amended by the Unclaimed Deposits Amendments Act (UDAA).

UID

Unclaimed Insured Deposits. See Unclaimed Deposits.

Uncollected Funds

The portion of a deposit made up of checks that have not yet been collected by the depository financial institution. Such checks have not yet "cleared" back to the financial institution on which the checks are drawn. A financial institution usually will not let a depositor draw on uncollected funds.

Unclaimed Deposit

Deposit insurance funded by FDIC-Corporate which remains unclaimed 18 months after an institution has failed.

Uninsured Deposit

Formerly known as Excess Deposit. Sometimes abbreviated as XX. The amount of a deposit which exceeds the insurance limit. Depositor receives a Receiver's Certificate for the Uninsured amount.

Back to top

V

Vesting

The attainment by a participant of a benefit right attributable to an employer's contribution in a pension or profit-sharing plan. Vesting can be immediate, gradual over time, or occur upon completion of a stated period of time in service or participation in the plan.

Back to top

W

Whole Bank

Whole Bank Purchase and Assumption Transaction. An agreement between an AI and the FDIC, whereby the FDIC in its Receivership capacity sells all or a substantial majority of the failed institution's assets, usually at a discounted price, and transfers all or a substantial majority of the failed institution's liabilities to the AI.

Worthlessness Determination

Determination that the proceeds that can be realized from liquidation of a failed institution's assets are insufficient to satisfy all classes of claims and that, therefore, specified lower priority classes of claims are worthless. No dividend or distribution of those assets would ever be paid to the lower priority claims specified in the formal determination of worthlessness made by the Director, DRR, or his designee.

Back to top

X

XX or XS

An abbreviation sometimes used to designate an excess or uninsured deposit.

Back to top