

January 17, 2006

**MEMORANDUM TO:** The Board of Directors

**FROM:** Christopher J. Spoth  
Acting Director  
Division of Supervision and Consumer Protection

Douglas H. Jones  
Acting General Counsel

**SUBJECT:** Final Rule -- Certification of Assumption of Deposits and Notification of Changes of Insured Status, 12 CFR Part 307

**RECOMMENDATION**

Part 307 (12 CFR 307) is the FDIC's regulation concerning voluntary termination of deposit insurance. It is in large measure a procedural or housekeeping regulation. On October 6, 2005, the Board authorized publication of proposed revisions to Part 307 for public comment. No comments were received in response to that notice. The Division of Supervision and Consumer Protection (DSC) and the Legal Division believe that the proposed revisions would clarify and streamline aspects of the process whereby deposit insurance is voluntarily terminated, and recommend that the Board approve the attached final regulation.

**DISCUSSION**

Under section 8(q) of the Federal Deposit Insurance Act the insured status of a depository institution terminates upon the FDIC's receipt of "satisfactory evidence" that all of the institution's deposits have been assumed by another insured institution. Existing Part 307 contains procedures to implement this statutory provision. The attached final regulation would modify the existing requirements by: (1) making clear that an insured institution is required to file a "certification" when all of its deposits are assumed, but no certification is required if only a portion of its deposits are assumed (e.g., when it sells a branch); and (2) requiring that the transferring institution (or its legal successor) file the certification, rather than the assuming institution.

The final regulation would also provide that the transferring institution's status as an insured institution automatically terminates upon the FDIC's receipt of an accurate certification stating that: (1) all of its deposits have been assumed by an insured depository institution or institutions, and (2) the legal authority of the transferring institution to accept deposits has been terminated contemporaneously with the deposit assumption. In such a situation, and in a situation in which the FDIC has been appointed receiver of an insured institution, little practical purpose would be served by an FDIC order terminating deposit insurance. However, in a small number of situations, where an institution's banking charter has not been cancelled, there is an actual, or apparent, possibility that a transferring institution could resume taking deposits. In such a

situation, the regulation provides that the Executive Secretary, at DSC's request, will issue an order terminating deposit insurance.

Part 307 also addresses giving notice to depositors when an insured institution, after FDIC approval, voluntarily terminates its insured status without the assumption of all its deposits by an insured institution. The final regulation would provide more specificity concerning how such notice is to be given, including providing a model letter that institutions have the option of using.

In sum, the revisions to Part 307 would make the insurance termination process somewhat easier for insured depository institutions, and somewhat more efficient for the FDIC. On that basis we recommend that the Board adopt the attached final regulation and authorize its publication in the Federal Register.