

Rules and Regulations

Federal Register

Vol. 67, No. 74

Wednesday, April 17, 2002

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 304

RIN 3064-AC52

Technical Amendments to FDIC Regulation Relating to Forms, Instructions, and Reports

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The FDIC is revising its regulation on forms, instructions, and reports to make the information contained in it current. The revised regulation includes current FDIC addresses and websites, and updated descriptions of FDIC forms.

EFFECTIVE DATE: April 17, 2002.

FOR FURTHER INFORMATION CONTACT: Thomas E. Nixon, Senior Program Attorney, Office of the Executive Secretary, (202) 898-8766; Robert Walsh, Manager, Policy and Program Development Section, Division of Supervision (202) 898-6911; Philip Houle, Counsel, Legal Division (202) 898-3722, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background and Current Actions

The FDIC's regulation, "Forms, Instructions, and Reports" informs the public where it may obtain forms and instructions for reports, applications and other submittals used by the FDIC and describes certain forms used by the FDIC, including the Consolidated Reports of Condition and Income (Call Report), that are not described elsewhere in FDIC regulations. It also implements requirements of the Federal Deposit Insurance Corporation Improvement Act (FDICIA), Public Law 102-242 (Dec. 19, 1991), which require

the inclusion of "off balance sheet" items in any financial reports from an insured institution to a Federal banking agency and for the FDIC to collect information on small business and small farm lending from insured depository institutions in their annual reports of condition.¹

This final rule updates the regulation to provide current information. It does not change any regulatory requirement imposed on the public by the FDIC, including any reporting or record keeping requirement. The FDIC is also publishing today in this document, directly following the final rule, a list of forms used by the FDIC that provides form numbers, descriptive titles, Paperwork Reduction Act clearance numbers, and citations to regulations that refer to the forms. This "Forms Used by the FDIC" list will not be codified into the Code of Federal Regulations, but will be periodically updated by the FDIC and made available to the public.

II. Public Comment Waiver and Effective Date

As noted, this final rule updates information in part 304 and does not affect any regulatory requirement imposed by the FDIC on the public. The changes are matters of "agency organization, procedure, or practice" and are thus not subject to the general requirement of the Administrative Procedure Act (APA) for notice and comment, pursuant to 5 U.S.C. 553(b)(A). The changes are also routine, technical, non-substantive and insignificant in nature and impact. They are also inconsequential to the industry and the public, except to the extent that they correct errors, update information and improve access to information concerning forms, instructions and reports required by the FDIC. Thus, the FDIC finds, for good cause, that the APA notice-and-comment provisions are unnecessary. 5 U.S.C. 553(b)(B).

This final rule is also effective immediately, because: (a) The changes are routine, technical, and not substantive; (b) the public does not need a delayed period of time to conform or adjust; and (c) the current part 304 contains inaccurate information which should be corrected as promptly as possible. Therefore, it is determined that

¹ FDICIA section 121, 12 U.S.C. 1831n(a)(3)(C) and FDICIA section 122, 12 U.S.C. 1817 note.

good cause exists for making these amendments effective on publication in the **Federal Register**, pursuant to 5 U.S.C. 553(d)(3).

III. Paperwork Reduction Act

This final rule does not create or modify any collection of information pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Consequently, no information has been submitted to the Office of Management and Budget for review.

IV. Regulatory Flexibility Act

A regulatory flexibility analysis under the Regulatory Flexibility Act (RFA) is required only when an agency must publish a notice of proposed rulemaking. 5 U.S.C. 603 and 604. As already noted, the FDIC has determined that publication of a notice of proposed rulemaking is not necessary here. Accordingly, the RFA does not require a regulatory flexibility analysis.

V. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104-121) provides generally for agencies to report rules to Congress for review. The reporting requirement is triggered when the FDIC issues a final rule as defined by the APA. 5 U.S.C. 551. Because the FDIC is issuing a final rule as defined by the APA, the FDIC will file the reports required by the SBREFA.

The Office of Management and Budget has determined that this proposal does not constitute a "major" rule as defined by SBREFA.

VI. Assessment of Federal Regulations and Policies on Families

The FDIC has determined that this final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105-277, 112 Stat. 2681 (1998).

List of Subjects in 12 CFR Part 304

Bank deposit insurance, Banks, banking, Freedom of information, Reporting and recordkeeping requirements.

Adoption of Technical Amendments

For the reasons set forth in the preamble, the FDIC hereby revises part

304 of chapter III of title 12 of the Code of Federal Regulations, as set forth below:

PART 304—FORMS, INSTRUCTIONS, AND REPORTS

Sec.

304.1 Purpose.

304.2 Where to obtain forms and instructions.

304.3 Reports.

Authority: 5 U.S.C. 552; 12 U.S.C. 1817, 1831, 1867.

§ 304.1 Purpose.

Part 304 informs the public where it may obtain forms and instructions for reports, applications, and other submittals used by the FDIC, and also describes certain forms that are not described elsewhere in FDIC regulations.

§ 304.2 Where to obtain forms and instructions.

Forms and instructions used in connection with applications, reports, and other submittals used by the FDIC can be obtained by contacting the FDIC Public Information Center (801 17th Street, NW., Washington, DC 20434; telephone: 800-276-6003 or 202-416-6940), except as noted below in § 304.3. In addition, many forms and instructions can be obtained from FDIC regional offices. A list of FDIC regional offices can be obtained from the FDIC Public Information Center or found at the FDIC's web site at <http://www.fdic.gov>, or in the directory of FDIC Law, Regulations and Related Acts published by the FDIC.

§ 304.3 Reports.

(a) Consolidated Reports of Condition and Income, Forms FFIEC 031 and 041. Pursuant to section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)), every national bank, state member bank, and insured state nonmember bank is required to file Consolidated Reports of Condition and Income (also known as the Call Report) in accordance with the instructions for these reports. All assets and liabilities, including contingent assets and

liabilities, must be reported in, or otherwise taken into account in the preparation of, the Call Report. The FDIC uses Call Report data to calculate deposit insurance assessments and monitor the condition, performance, and risk profile of individual banks and the banking industry. Reporting banks must also submit annually such information on small business and small farm lending as the FDIC may need to assess the availability of credit to these sectors of the economy. The report forms and instructions can be obtained from the Division of Supervision, FDIC, Washington, DC 20429.

(Approved by the Office of Management and Budget under control number 3064-0052)

(b) Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks, Form FFIEC 002. Pursuant to section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)), every insured U.S. branch of a foreign bank is required to file a Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks in accordance with the instructions for the report. All assets and liabilities, including contingent assets and liabilities, must be reported in, or otherwise taken into account in the preparation of the report. The FDIC uses the reported data to calculate deposit insurance assessments and monitor the condition, performance, and risk profile of individual insured branches and the banking industry. Insured branches must also submit annually such information on small business and small farm lending as the FDIC may need to assess the availability of credit to these sectors of the economy. Because the Board of Governors of the Federal Reserve System collects and processes this report on behalf of the FDIC, the report forms and instructions can be obtained from Federal Reserve District Banks or through the web site of the Federal Financial Institutions Examination Council,

<http://www.ffiec.gov/>.

(Approved by the Office of Management and Budget under control number 7100-0032)

(c) Summary of Deposits, Form FDIC 8020/05. Form 8020/05 is a report on the amount of deposits for each authorized office of an insured bank with branches; unit banks do not report. Reports as of June 30 of each year must be submitted no later than the immediately succeeding July 31. The report forms and the instructions for completing the reports will be furnished to all such banks by, or may be obtained upon request from, the Division of Supervision, FDIC, 550 17th Street, NW., Washington, DC 20429.

(Approved by the Office of Management and Budget under control number 3064-0061)

(d) Notification of Performance of Bank Services, Form FDIC 6120/06. Pursuant to Section 7 of the Bank Service Company Act (12 U.S.C. 1867), as amended, FDIC supervised banks must notify the agency about the existence of a service relationship within thirty days after the making of the contract or the performance of the service, whichever occurs first. Form FDIC 6120/06 may be used to satisfy the notice requirement. The form contains identification, location and contact information for the bank, the servicer, and a description of the services provided. In lieu of the form, notification may be provided by letter. Either the form or the letter containing the notice information must be submitted to the regional director—Division of Supervision of the region in which the bank's main office is located.

(Approved by the Office of Management and Budget under control number 3064-0029)

Dated at Washington, DC, this 9th day of April, 2002.

By order of the Board of Directors.
Federal Deposit Insurance Corporation.

Robert E. Feldman,
Executive Secretary.

[“Forms Used by the FDIC” will not appear in the Code of Federal Regulations.]

FORMS USED BY THE FDIC

Form	Title	Reference	Paperwork Reduction Act Clearance Number
FDIC 1600/04	Background Investigation Questionnaire for Contractor Personnel and Management Officials.	12 CFR 366.6	3064-0072
FDIC 1600/07	Background Investigation Questionnaire for Contractors	12 CFR 366.6	3064-0072
FDIC 1600/10	Notice and Authorization Pertaining to Consumer Reports	12 CFR 366.6	3064-0072

FORMS USED BY THE FDIC—Continued

Form	Title	Reference	Paperwork Reduction Act Clearance Number
FDIC 2100/14	Applicant Background Questionnaire	5 USC 7201; 5 CFR 720.07.	3064-0138
FDIC 2120/16	Applicant Certification Statement	12 CFR 336.4	3064-0121
FDIC 3700/04A	Contractor Representations and Certifications	12 CFR 366.6	3064-0072
FDIC 3700/12	Eligibility Representations and Certifications	12 CFR 366.6	3064-0072
FDIC 3700/13	Contractor Application	12 CFR 366.6	3064-0072
FDIC 3700/29	Contractor Past Performance RFP Reference Check Questionnaire	12 CFR 366.6	3064-0072
FDIC 3700/33	Contractor Application Revision Request	12 CFR 366.6	3064-0072
FDIC 3700/44	Leasing Representations and Certifications	12 USC 1819, 1821	3064-0072
FDIC 5000/24	Amended Appellate Budget Form	12 CFR 366.6	3064-0122
FDIC 5000/25	Amended Bankruptcy Budget Form	12 CFR 366.6	3064-0122
FDIC 5000/26	Non-Litigation/Transactional Form	12 CFR 366.6	3064-0122
FDIC 5000/27	Appellate Budget Form	12 CFR 366.6	3064-0122
FDIC 5000/28	Bankruptcy Budget Worksheet	12 CFR 366.6	3064-0122
FDIC 5000/29	Amended Bankruptcy Worksheet	12 CFR 366.6	3064-0122
FDIC 5000/31	Amended Litigation/PLS Adversary Budget Form	12 CFR 366.6	3064-0122
FDIC 5000/32	Amended Litigation/PLS/Adversary Budget Worksheet	12 CFR 366.6	3064-0122
FDIC 5000/33	Amended Non-Litigation/Transactional Budget Form	12 CFR 366.6	3064-0122
FDIC 5000/34	Bankruptcy Budget Form	12 CFR 366.6	3064-0122
FDIC 5000/35	Litigation/PLS Adversary Budget Form	12 CFR 366.6	3064-0122
FDIC 5000/36	Litigation/PLS/Adversary Budget Worksheet	12 CFR 366.6	3064-0122
FDIC 6120/06	Suspicious Activity Report	12 CFR 304.3(d)	3064-0029
FDIC 6200/05	Application for Federal Deposit Insurance	12 CFR 303.21	3064-0001
FDIC 6200/07	Application for Federal Deposit Insurance for Operating Noninsured Institutions.	12 CFR 303.21	
FDIC 6200/09	Application for Consent to Exercise Trust Powers	12 CFR 303.242	3064-0025
FDIC 6342/12	Request for Deregistration, Registered Transfer Agent	12 CFR 341.5	3064-0027
FDIC 6420/07	Certified Statement for Deposit Insurance	12 CFR 327.2	3064-0057
FDIC 6440/12	Loan/Application Register	12 CFR 338.8	7100-0247
FDIC 6710/06	Suspicious Activity Report	12 CFR 353.3	3064-0077
FDIC 6710/07	Application Pursuant to Section 19 of the Federal Deposit Insurance Act.	12 CFR 303.221	3064-0018
FDIC 6800/03	Initial Statement of Beneficial Ownership of Securities (Form F-7)	12 CFR 335.111, 335.611.	3064-0030
FDIC 6800/04	Statement of Changes in Beneficial Ownership (Form F-8)	12 CFR 335.111, 335.612.	3064-0030
FDIC 6800/05	Annual Statement of Changes in Beneficial Ownership (Form F-8A)	12 CFR 335.111, 335.613.	3064-0030
FDIC 8020/05	Summary of Deposits	12 CFR 304.3(c)	3064-0061
FFIEC 002	Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks.	12 CFR 304.3(b)	7100-0032
FFIEC 004	Report on Indebtedness of Executive Officers and Principal Shareholders and their Related Interests to Correspondent Banks.	12 CFR 349.3	3064-0023
FFIEC 009	Country Exposure Report	12 CFR 347.305	3064-0017
FFIEC 009a	Country Exposure Information Report	12 CFR 347.305	3064-0017
FFIEC 019	Country Exposure Report for U.S. Branches and Agencies of Foreign Banks.	12 USC 3105, 3108	7100-0213
FFIEC 030	Foreign Branch Report of Condition	12 CFR 347.110	3064-0011
FFIEC 031	Consolidated Reports of Condition and Income for a Bank with Domestic and Foreign Offices.	12 CFR 304.3(a)	3064-0052
FFIEC 041	Consolidated Reports of Condition and Income for a Bank with Domestic Offices Only.	12 CFR 304.3(a)	3064-0052
GFIN	Notice of Government Securities Broker or Government Securities Dealer Activities to be Filed by a Financial Institution Under Section 15C(a)(1)(B).	15 USC 78o-5	3064-0093
GFIN-W	Notice by Financial Institutions of Termination of Activities as a Government Securities Broker or Government Securities Dealer.	15 USC 78o-5	3064-0093
GFIN-4	Disclosure Form for Person Associated With a Financial Institution Government Securities Broker or Dealer.	15 USC 78o-5	3064-0093
GFIN-5	Uniform Termination Notice for Person Associated With a Financial Institution Government Securities Broker or Dealer.	15 USC 78o-5	3064-0093
MSD 4	Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated With a Bank Municipal Securities Dealer.	15 USC 78o-4	3064-0022
MSD 5	Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated With a Bank Municipal Securities Dealer.	15 USC 78o-4	3064-0022
TA-1	Transfer Agent Registration and Amendment Form	12 CFR 341.3-341.4	3064-0026

FORMS USED BY THE FDIC—Continued

Form	Title	Reference	Paperwork Reduction Act Clearance Number
	Certification of Income Eligibility for the Affordable Housing Program ...	12 USC 1831q	3064-0116
	Interagency Biographical and Financial Report	12 USC 1815(a), 1816, 1817(j).	3064-0006
	Interagency Bank Merger Act Application	12 CFR 303.60-303.67	3064-0015
	Interagency Notice of Change in Director or Senior Executive Officer ...	12 CFR 303.100-303.104.	3064-0097
	Interagency Notice of Change in Control	12 CFR 303.80-303.87	3064-0019
	Purchaser Eligibility Certification	12 CFR 340.7	3064-0135

[FR Doc. 02-9241 Filed 4-16-02; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 951

[No. 2002-15]

RIN 3069-AB14

Affordable Housing Program Amendments

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is amending its regulation governing the operation of the Affordable Housing Program (AHP) to improve the operation and effectiveness of the AHP. The changes include: making the requirements for approval of post-completion project modifications the same as the current requirements for pre-completion project modifications; allowing the Federal Home Loan Banks (Banks) to define "homeless household" for purposes of scoring applications for AHP subsidies to finance housing for such households; allowing the Banks to award scoring points to projects using Federal government properties, and to projects using non-Federal government properties conveyed for an amount significantly below their fair market value; permitting the Banks to allow members or project sponsors to re-use repaid AHP direct subsidy to assist another AHP-eligible household to purchase or rehabilitate an owner-occupied unit in the same project; permitting a Bank to allocate up to the greater of \$3 million or 25 percent of its annual required AHP contribution for the subsequent year to the current year's AHP competitive application program; adding the Federal Financial Institutions Examination Council as a

source of area median income data that may be used to determine household income eligibility; removing the requirement that the amount of AHP subsidies offered by a Bank in each funding period must be comparable; removing the requirement that the Banks must determine the feasibility of projects before their applications may be scored; and allowing the Banks up to one year and 120 days after completion of a rental project to review the documentation received from the project owner for project compliance.

EFFECTIVE DATE: The final rule shall be effective on May 17, 2002.

FOR FURTHER INFORMATION CONTACT: Charles E. McLean, Deputy Director, (202) 408-2537, Melissa L. Allen, Program Analyst, (202) 408-2524, Office of Policy, Research and Analysis; or Sharon B. Like, Senior Attorney-Advisor, (202) 408-2930, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Section 10(j)(1) of the Federal Home Loan Bank Act (Bank Act) requires each Bank to establish a program to subsidize the interest rate on advances to members of the Bank System engaged in lending for long-term, low- and moderate-income, owner-occupied and affordable rental housing at subsidized interest rates. See 12 U.S.C. 1430(j)(1). The Finance Board is required to promulgate regulations governing the AHP. See 12 U.S.C. 1430(j)(1), (9). The Finance Board's existing regulation governing the operation of the AHP, which made comprehensive revisions to the AHP, was adopted in August 1997 and became effective January 1, 1998. See 62 FR 41812 (August 4, 1997) (*codified at 12 CFR part 951*).

Various amendments have been made to the AHP regulation since 1998 in order to clarify AHP requirements and improve the operation and effectiveness

of the AHP. The Banks, members, project sponsors and Finance Board staff have, over the course of implementation of the AHP, identified additional amendments that it is believed would improve the operation and effectiveness of the AHP. On December 27, 2001, the Finance Board published in the **Federal Register** a proposed rule that would amend the AHP regulation to improve the operation and effectiveness of the AHP. See 66 FR 66813 (December 27, 2001). The proposed rule provided for a 60-day comment period.

The Finance Board received comments on the proposed rule from 41 parties. Commenters included: 9 Banks; 2 Bank Affordable Housing Advisory Councils; 1 financial services holding company representing a Bank member; 25 Native American tribal housing authorities, tribally designated housing entities, and tribes; 1 Native American housing trade association; 1 community development lender; 1 nonprofit housing lender; and 1 community development corporations trade association. Commenters generally supported some or all of the proposed amendments. Comments that raised issues beyond the scope of the proposed rule changes are not addressed in this final rule, but will be considered by the Finance Board in any future rulemaking under the AHP. The provisions of the proposed rule on which significant comments were received are discussed below.

II. Analysis of Final Rule

A. Definitions—§ 951.1

1. Removal of Definition of "Homeless Household"—§ 951.1

For the reasons discussed in section F. below, the final rule removes the definition of "homeless household" in § 951.1 of the AHP regulation, and allows each Bank to define the term for purposes of scoring applications for AHP subsidy to finance housing for