

§ 335.901

whose financial statements are required, or disclosure about which is otherwise necessary for the protection of investors.

[62 FR 6856, Feb. 14, 1997, as amended at 69 FR 59783, Oct. 6, 2004]

§ 335.901 Delegation of authority to the Director (DSC) and to the associate directors, regional directors and deputy regional directors to act on matters with respect to disclosure laws and regulations.

(a) Except as provided in paragraph (b) of this section, authority is delegated to the Director, Division of Supervision and Consumer Protection (DSC), and where confirmed in writing by the director, to an associate director, or to the appropriate regional director or deputy regional director, to act on disclosure matters under and pursuant to sections 12, 13, 14 and 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78) or this part.

(b) Authority to act on disclosure matters is retained by the FDIC Board of Directors when such matters involve:

(1) Exemption from disclosure requirements pursuant to section 12(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(h)); or

(2) Exemption from tender offer requirements pursuant to section 14(d)(8) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(d)(8)).

PART 336—FDIC EMPLOYEES

Subpart A—Employee Responsibilities and Conduct

Sec.

336.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Subpart B—Minimum Standards of Fitness for Employment With the Federal Deposit Insurance Corporation

336.2 Authority, purpose and scope.

336.3 Definitions.

336.4 Minimum standards for appointment to a position with the FDIC.

336.5 Minimum standards for employment with the FDIC.

336.6 Verification of compliance.

336.7 Employee responsibility, counseling and distribution of regulation.

336.8 Sanctions and remedial actions.

12 CFR Ch. III (1–1–05 Edition)

336.9 Finality of determination.

SOURCE: 61 FR 28728, June 6, 1996, unless otherwise noted.

Subpart A—Employee Responsibilities and Conduct

AUTHORITY: 5 U.S.C. 7301; 12 U.S.C. 1819(a).

§ 336.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Employees of the Federal Deposit Insurance Corporation (Corporation) are subject to the Executive Branch-wide Standards of Ethical Conduct at 5 CFR part 2635, the Corporation regulation at 5 CFR part 3201 which supplements the Executive Branch-wide Standards, the Executive Branch-wide financial disclosure regulations at 5 CFR part 2634, and the Corporation regulation at 5 CFR part 3202, which supplements the Executive Branch-wide financial disclosure regulations.

Subpart B—Minimum Standards of Fitness for Employment With the Federal Deposit Insurance Corporation

AUTHORITY: 12 U.S.C. 1819 (Tenth), 1822(f).

§ 336.2 Authority, purpose and scope.

(a) *Authority.* This part is adopted pursuant to section 12(f) of the Federal Deposit Insurance Act, 12 U.S.C. 1822, and the rulemaking authority of the Federal Deposit Insurance Corporation (FDIC) found at 12 U.S.C. 1819. This part is in addition to, and not in lieu of, any other statutes or regulations which may apply to standards for ethical conduct or fitness for employment with the FDIC and is consistent with the goals and purposes of 18 U.S.C. 201, 203, 205, 208, and 209.

(b) *Purpose.* The purpose of this part is to state the minimum standards of fitness and integrity required of individuals who provide service to or on behalf of the FDIC and provide procedures for implementing these requirements.

(c) *Scope.* (1) This part applies to applicants for employment with the FDIC under title 5 of the U.S. Code appointing authority in either the excepted or

Federal Deposit Insurance Corporation

§ 336.3

competitive service, including Special Government Employees. This part applies to all appointments, regardless of tenure, including intermittent, temporary, time-limited and permanent appointments.

(2) In addition, this part applies to all employees of the FDIC who serve under an appointing authority under chapter 21 of title 5 of the U.S. Code.

(3) Further, this part applies to any individual who, pursuant to a contract or any other arrangement, performs functions or activities of the Corporation, under the direct supervision of an officer or employee of the Corporation.

§ 336.3 Definitions.

For the purposes of this part:

(a) *Company* means any corporation, firm, partnership, society, joint venture, business trust, association or similar organization, or any other trust unless by its terms it must terminate within twenty-five years or not later than twenty-one years and ten months after the death of individuals living on the effective date of the trust, or any other organization or institution, but shall not include any corporation the majority of the shares of which are owned by the United States, any state, or the District of Columbia.

(b) *Control* means the power to vote, directly or indirectly, 25 percent or more of any class of the voting stock of a company, the ability to direct in any manner the election of a majority of a company's directors or trustees, or the ability to exercise a controlling influence over the company's management and policies. For purposes of this definition, a general partner of a limited partnership is presumed to be in control of that partnership. For purposes of this part, an entity or individual shall be presumed to have control of a company if the entity or individual directly or indirectly, or acting in concert with one or more entities or individuals, or through one or more subsidiaries, owns or controls 25 percent or more of its equity, or otherwise controls or has power to control its management or policies.

(c) *Default on a material obligation* means a loan or advance from an insured depository institution which is or was delinquent for 90 or more days

as to payment of principal or interest, or any combination thereof.

(d) *Employee* means any officer or employee, including a liquidation graded or temporary employee, providing service to or on behalf of the FDIC who has been appointed to a position under an authority contained in title 5 of the U.S. Code. This definition excludes those individuals designated by title 5 of the U.S. Code as officials in the Federal Executive Schedule.

(e) *Federal banking agency* means the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation, or their successors.

(f) *Federal deposit insurance fund* means the Bank Insurance Fund, the Savings Association Insurance Fund, the Federal Savings and Loan Insurance Corporation (FSLIC) Resolution Fund, or the funds that were formerly maintained by the Resolution Trust Corporation (RTC), or their successors, for the benefit of insured depositors.

(g) *FDIC* means the Federal Deposit Insurance Corporation, in its receivership and corporate capacities.

(h) *Insured depository institution* means any bank or savings association the deposits of which are insured by the FDIC.

(i) *Pattern or practice of defalcation regarding obligations* means:

(1) A history of financial irresponsibility with regard to debts owed to insured depository institutions which are in default in excess of \$50,000 in the aggregate. Examples of such financial irresponsibility include, without limitation:

(i) Failure to pay a debt or debts totalling more than \$50,000 secured by an uninsured property which is destroyed; or

(ii) Abuse of credit cards or incurring excessive debt well beyond the individual's ability to repay resulting in default(s) in excess of \$50,000 in the aggregate.

(2) Wrongful refusal to fulfill duties and obligations to insured depository institutions. Examples of such wrongful refusal to fulfill duties and obligations include, without limitation: