

United States Code Annotated  
Title 12. Banks and Banking  
Chapter 16. Federal Deposit Insurance Corporation (Refs & Annos)

12 U.S.C.A. § 1822

§ 1822. Corporation as receiver

Effective: July 30, 2008

[Currentness](#)

**(a) Bond not required; agents; fee**

The Corporation as receiver of an insured depository institution or branch of a foreign bank shall not be required to furnish bond and may appoint an agent or agents to assist it in its duties as such receiver. All fees, compensation, and expenses of liquidation and administration shall be fixed by the Corporation, and may be paid by it out of funds coming into its possession as such receiver.

**(b) Payment of insured deposit as discharge from liability**

Payment of an insured deposit to any person by the Corporation shall discharge the Corporation, and payment of a transferred deposit to any person by the new depository institution or by an insured depository institution in which a transferred deposit has been made available shall discharge the Corporation and such new depository institution or other insured depository institution, to the same extent that payment to such person by the depository institution in default would have discharged it from liability for the insured deposit.

**(c) Recognition of claimant not on depository institution records**

Except as otherwise prescribed by the Board of Directors, neither the Corporation nor such new depository institution or other insured depository institution shall be required to recognize as the owner of any portion of a deposit appearing on the records of the depository institution in default under a name other than that of the claimant, any person whose name or interest as such owner is not disclosed on the records of such depository institution in default as part owner of said deposit, if such recognition would increase the aggregate amount of the insured deposits in such depository institution in default.

**(d) Withholding payments to meet liability to depository institution**

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 therefor.

**(e) Disposition of unclaimed deposits**

**(1) Notices**

**(A) First notice**

Within 30 days after the initiation of the payment of insured deposits under [section 1821\(f\)](#) of this title, the Corporation shall provide written notice to all insured 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 1821\(f\)](#) of this title--

**(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 1821\(g\)\(1\)](#) of this title.

**(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 1821\(g\)\(1\)](#) of this title.

**(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 1821\(f\)\(1\)](#) of this title;

(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.

**(f) Conflict of interest**

**(1) Applicability of other provisions**

**(A) Clarification of status of Corporation**

The Corporation is, and has been since its creation, an agency for purposes of Title 18.

**(B) Treatment of contractors**

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, shall be deemed to be an employee of the Corporation for purposes of Title 18 and this chapter. Any individual who, pursuant to a contract or any other agreement, acts for or on behalf of the Corporation, and who is not otherwise treated as an officer or employee of the United States for purposes of Title 18 shall be deemed to be a public official for purposes of [section 201 of Title 18](#).

**(2) Regulations concerning employee conduct**

The officers and employees of the Corporation and those individuals under contract to the Corporation who are deemed, under paragraph (1)(B), to be employees of the Corporation for purposes of Title 18 shall be subject to the ethics and conflict of interest rules and regulations issued by the Office of Government Ethics, including those concerning employee conduct, financial disclosure, and post-employment activities. The Board of Directors may prescribe regulations that supplement such rules and regulations only with the concurrence of that Office.

**(3) Regulations concerning independent contractors**

The Board of Directors shall prescribe regulations applicable to those independent contractors who are not deemed, under paragraph (1)(B), to be employees of the Corporation for purposes of Title 18 governing conflicts of interest, ethical responsibilities, and the use of confidential information consistent with the goals and purposes of Titles 18 and 41. Any such regulations shall be in addition to, and not in lieu of, any other statute or regulation which may apply to the conduct of such independent contractors.

**(4) Disapproval of contractors**

**(A) In general**

The Board of Directors shall prescribe regulations establishing procedures for ensuring that any individual who is performing, directly or indirectly, any function or service on behalf of the Corporation meets minimum standards of competence, experience, integrity, and fitness.

**(B) Prohibition from service on behalf of Corporation**

The procedures established under subparagraph (A) shall provide that the Corporation shall prohibit any person who does not meet the minimum standards of competence, experience, integrity, and fitness from--

(i) entering into any contract with the Corporation; or

(ii) becoming employed by the Corporation or otherwise performing any service for or on behalf of the Corporation.

**(C) Information required to be submitted**

The procedures established under subparagraph (A) shall require that any offer submitted to the Corporation by any person under this section and any employment application submitted to the Corporation by any person shall include--

(i) a list and description of any instance during the 5 years preceding the submission of such application in which the person or a company under such person's control defaulted on a material obligation to an insured depository institution; and

(ii) such other information as the Board may prescribe by regulation.

**(D) Subsequent submissions**

**(i) In general**

No offer submitted to the Corporation may be accepted unless the offeror agrees that no person will be employed, directly or indirectly, by the offeror under any contract with the Corporation unless--

**(I)** all applicable information described in subparagraph (C) with respect to any such person is submitted to the Corporation; and

**(II)** the Corporation does not disapprove of the direct or indirect employment of such person.

**(ii) Finality of determination**

Any determination made by the Corporation pursuant to this paragraph shall be in the Corporation's sole discretion and shall not be subject to review.

**(E) Prohibition required in certain cases**

The standards established under subparagraph (A) shall require the Corporation to prohibit any person who has--

**(i)** been convicted of any felony;

**(ii)** been removed from, or prohibited from participating in the affairs of, any insured depository institution pursuant to any final enforcement action by any appropriate Federal banking agency;

**(iii)** demonstrated a pattern or practice of defalcation regarding obligations to insured depository institutions; or

**(iv)** caused a substantial loss to the Deposit Insurance Fund (or any predecessor deposit insurance fund);

from performing any service on behalf of the Corporation.

**(5) Abrogation of contracts**

The Corporation may rescind any contract with a person who--

**(A)** fails to disclose a material fact to the Corporation;

**(B)** would be prohibited under paragraph (6) from providing services to, receiving fees from, or contracting with the Corporation; or

(C) has been subject to a final enforcement action by any Federal banking agency.

#### **(6) Priority of FDIC rules**

To the extent that the regulations under this subsection conflict with rules of other agencies or Government corporations, officers, directors, employees, and independent contractors of the Corporation who are also subject to the conflict of interest or ethical rules of another agency or Government corporation, shall be governed by the regulations prescribed by the Board of Directors under this subsection when acting for or on behalf of the Corporation. Notwithstanding the preceding sentence, the rules of the Corporation shall not take priority over the ethics and conflict of interest rules and regulations promulgated by the Office of Government Ethics unless specifically authorized by that Office.

#### **CREDIT(S)**

(Sept. 21, 1950, c. 967, § 2[12], 64 Stat. 887; Pub.L. 95-369, § 6(c)(23), Sept. 17, 1978, 92 Stat. 619; Pub.L. 97-320, Title I, § 113(l), Oct. 15, 1982, 96 Stat. 1474; Pub.L. 101-73, Title II, §§ 201(a)(1), 216, Aug. 9, 1989, 103 Stat. 187, 254; Pub.L. 103-44, § 1, June 28, 1993, 107 Stat. 220; Pub.L. 103-204, § 19(a), Dec. 17, 1993, 107 Stat. 2402; Pub.L. 104-179, § 4(b)(1), Aug. 6, 1996, 110 Stat. 1567; Pub.L. 109-173, § 8(a)(18), Feb. 15, 2006, 119 Stat. 3613; Pub.L. 110-289, Div. A, Title VI, § 1604(b)(1)(C), July 30, 2008, 122 Stat. 2829.)

#### [Notes of Decisions \(23\)](#)

12 U.S.C.A. § 1822, 12 USCA § 1822

Current through P.L. 117-262. Some statute sections may be more current, see credits for details.