

Claims Manual - Volume I

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Claims Manual Volume II

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## A. Introduction to the Claims Manual

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### Contents

This chapter contains the following information on the Claims Manual:

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### 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 some of the statutory and regulatory framework relevant to understanding and performing the Claims function.

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### Scope of Manual

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#### 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. It also provides tools and job aids to assist the Claims Specialist in accomplishing the various specific steps which comprise the Claims function.

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#### 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
- Deposit Brokers Web Site  
<http://www.fdic.gov/deposit/deposits/brokers>
- RLS Operations Manual
- FDIC DRR Claims Computer-Based Instruction (CBI)
- FDIC DRR Advanced Claims Class

- FDIC DRR Failed Financial Institution Closing Manual
- FDIC DRR Resolutions Policy Manual

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

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## Organization of Manual

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**Overview** The Claims Manual is divided into two Volumes. Volume I primarily focuses on policies and procedures relating to Claims matters other than deposit insurance determinations. Volume II focuses on deposit insurance determinations. It is inevitable that there is some overlap, though it is hoped such overlap is minimal.

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**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.

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**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.

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## Chapter Organization

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**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 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 discuss how to accomplish the tasks at hand
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**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.

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**Organizational Change and Job Titles**

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**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.

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**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.

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## A. A Broad Overview of Claims

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### Contents

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

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

### Overview

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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 1930's, public confidence in the banking system wavered 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.<sup>1</sup>

The first 70 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 any insured funds 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 interaction with the failed institution.

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<sup>1</sup> "Managing the Crisis: The FDIC and RTC Experience, 1980-1994".

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.<sup>2</sup> 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.

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## Federal Law and the Federal Deposit Insurance Corporation

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The FDIC was created by and its role has changed as a direct result 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.<sup>3</sup> 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.<sup>4</sup> The chart below shows those changes and the laws that led to the changes:

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<sup>2</sup> 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.

<sup>3</sup> 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”.

<sup>4</sup> 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.

## Deposit Insurance Levels

<u>Year</u>	<u>Amount</u>	<u>Law</u>
1934 (January)	\$ 2,500	Banking Act of 1933
1934 (June)	5,000	National Housing Act of 1934 <sup>5</sup>
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 <sup>6</sup>
1974	40,000	Federal Deposit Insurance Increase <sup>7</sup>
1980	100,000	Depository Institutions Deregulation and Monetary Control Act of 1980 <sup>8</sup>

**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.<sup>9</sup>

**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<sup>10</sup> 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

<sup>5</sup> The \$5,000 level of deposit insurance was made permanent by the Banking Act of 1935.

<sup>6</sup> Public Law 91-151, dated December 23, 1969.

<sup>7</sup> Some accounts, namely time and savings accounts, of state and political subdivisions were insured up to \$100,000.

<sup>8</sup> Public Law 93-495, dated October 28, 1980.

<sup>9</sup> "Managing the Crisis: The FDIC and RTC Experience 1980-1994", pp. 245-247.

<sup>10</sup> Failed institutions whose deposits are insured by the FDIC.

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.

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

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#### **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.

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#### **BIF and SAIF**

In carrying out these responsibilities and in accordance with law the FDIC maintains two separate insurance funds – the Bank Insurance Fund (BIF) and the Savings Association Insurance Fund (SAIF). The BIF insures deposits of banks; the SAIF insures deposits of savings associations.<sup>11</sup>

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### **Federal Deposit Insurance Corporation as Receiver**

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#### **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.<sup>12, 13</sup>

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<sup>11</sup> The use of the terms “bank” and “savings associations” is generic. DRR Accounting Operations and Legal may be consulted as to which fund insures a particular failing or failed institution.

<sup>12</sup> “Managing the Crisis: The FDIC and RTC Experience 1980 – 1994”, pp. 214 – 215.

<sup>13</sup> 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.

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## The Closing of an Insured Financial Institution

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### 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)

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.

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### 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?

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

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**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.

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## A. Discussion of Resolution Types

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### Contents

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

Topic Title	Page Number
<u>Overview</u>	<u>III-A-1</u>
<u>Policy Statement</u>	<u>III-A-1</u>
<u>History of The Resolution Process</u>	<u>III-A-1</u>
<u>Current Resolution Options</u>	<u>III-A-3</u>
<u>Exhibit III-A-1: Resolution Types</u>	

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### Overview

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The Institution Sales Section of DRR is charged with resolving failing financial institutions. The resulting resolution can minimally or drastically impact the work of the DRR Claims Department.

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### Policy Statement

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The FDIC is charged with the responsibility of resolving failing financial institutions in the method that is least costly to the respective deposit insurance fund.

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### History of The Resolution Process

#### **FDIC Resolution Options**

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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: 1) the P & A, and 2) 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.

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**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.

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## Current Resolution Options

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### Three Basic Resolution Types

When notified of a potential failure, the Institution Sales Section of DRR evaluates various options available for selling a failing institution. The FDIC currently uses three basic resolution types:

- Purchase & Assumption
- Insured Deposit Transfer
- Payout

*Specific characteristics of each resolution type will be discussed later in this chapter.*

Sometimes, a P & A transaction may not be an option for consideration due to various factors:

- Institution is failing due to fraud *and/or*
- “Spur-of-the-moment” closings when potential acquirers have not had time to perform due diligence

In these cases, an Insured Deposit Transfer may be considered. Institution Sales diligently tries to sell an institution but in those cases when they are not successful, a payout of deposits occurs.

Claims’ involvement is required on all institution closings but the degree of participation varies depending on the resolution type. Claim Agents are primarily concerned with the deposit liabilities. Refer to [Exhibit III-A-1: Resolution Types](#) for detail on the claims processes required for each of the three resolution types mentioned above.

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### Purchase & Assumption

Initially, the Institution Sales Section offers potential bidders two transaction types 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. The following assets are typically *excluded* from this type of resolution:

- Assets with suspected fraudulent activity
- Assets or asset pools for which a market value cannot be established
- Federal Home Loan Bank (FHLB) stock
- Federal Reserve stock
- Other assets and liabilities that might jeopardize the solvability

Whenever the P & A resolution type is discussed in pre-closing meetings, it has been referred to in several ways:

- Clean Bank P & A
- Whole Bank P & A
- Modified P & A
- P & A with Optional Loan Pools
- P & A with Optional Loss Share Asset Pools
- P & A with Potential Multiple Acquirers

The differences between the first five listed resolution options involve the disposition of the failed institution's assets. The last option involves splitting the institution's deposits amongst several acquirers.

If all deposits pass to an acquirer, the Claim Agent-in-Charge (CAIC) is concerned mainly with the General Creditor 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 CAIC verify the proposed disposition of the deposits as early in the pre-closing phase as possible.

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**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.

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**Miscellaneous** In addition to the resolution types outlined above, it is possible to have multiple transactions in a single failed bank resolution. Institution Sales 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. Institution Sales 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 Institution Sales.

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**Resources**

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

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## **B. Preparation of Uninsured Deposit Estimate Memo**

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### **Contents**

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

<b>Topic Title</b>	<b>Page Number</b>
<u>Overview</u>	<u>III-B-1</u>
<u>Policy Statement</u>	<u>III-B-1</u>
<u>Procedures</u>	<u>III-B-1</u>
<u>Steps to Completing the Uninsured Deposit Estimate Memo</u>	<u>III-B-3</u>
<u>Exhibit III-B-1 Uninsured Deposit Estimate Memo Form</u>	

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### **Overview**

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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 Institution Sales Section of DRR then dispatches a team to the institution to prepare an Information Package ("IP") that will be distributed to potential acquirers. Included in this IP is a section detailing the deposit liabilities.

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### **Policy Statement**

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It is the policy of DRR Claims to provide an Uninsured Deposit Estimate Memo to the Institution Sales Section when needed.

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### **Procedures**

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In order to prepare the Uninsured Deposit Estimate Memo, Claims must perform a preliminary insurance determination by completing the grouping function. For information on performing the grouping function, please refer to Section IV Chapter F - Performing the Grouping Function of this manual.

Once the grouping report is finalized, specific information must be gathered for inclusion in the Uninsured Deposit Estimate Memo, as follows:

1. Date of data – this is the date of the download that was used to perform the grouping. The date is obtained from Institution Sales or Business Information Systems (“BIS”)
2. Total number of deposit accounts for the entire bank – available from RLS-Liability Register-All Deposits
3. Total amount of deposits for the entire bank – available from RLS-Liability Register-All Deposits
4. Number of uninsured depositors (XX-Hold groups) – derived from the Excess Register Report-XX Holds
5. Amount of uninsured deposits – derived from the Excess Register Report-XX Holds
6. Number of *potential* uninsured depositors (PH Hold groups)– derived from the Excess Register Report- PH Holds
7. Amount of *potential* uninsured deposits (groups) – derived from the Excess Register Report- PH Holds
8. Politically sensitive depositor information – derived from perusing the Excess Register Reports
9. Secured deposit information – obtained from Institution Sales staff preparing the IP and from the Excess Register Reports. Required to determine if any public unit deposits are uninsured
10. Unique observations

The first seven items listed are “hard” numbers that are obtained from specific sources. Although the *potential* uninsured depositor information, number and amount is available on the Excess Register Report – PH Holds, the Claim Agent in Charge (“CAIC”) will need to elaborate on the types of deposit accounts comprising this section. The CAIC should provide examples of the types of deposits on the PH report, along with amounts.

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**Politically Sensitive Information**

The politically sensitive information must be gleaned from the Excess Register Report. Politically 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.

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**Unique Observations**

There may be some interesting facts about the uninsured deposits that arise after finalizing the uninsured estimate and 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 politically 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.

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### Steps to Completing the Uninsured Deposit Estimate Memo

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#### Completing the Uninsured Deposit Estimate Memo

Below are some pointers for completing the Uninsured Deposit Estimate Memo:

- The memo should be addressed to the Marketing Specialist for the respective financial institution. The Marketing Specialist will provide copies to relevant staff in Institution Sales
- Do not include any listing of uninsured depositors
- Do not attach copies of the Final Grouping Report or Excess Register.
- Use the term “uninsured” instead of “excess”
- Ensure that terms in the memo are defined the first time they are used within the memo; e.g., “PH” is Pass Hold, “ITF” is In Trust For, “POD” is Payable on Death, etc.
- Use whole dollars when listing amounts
- Do not include bank-owned accounts; e.g., Cashier’s checks or money orders, as the actual checks making up these accounts will be input at closing
- Include bank-owned subsidiary accounts that are uninsured as these accounts are insured separately from bank-owned accounts and will be insured in accordance with the applicable deposit insurance regulation
- Use Excel to input politically sensitive depositor and uninsured information, if there are more than a few. Then copy and paste into the Word document or attach as a separate document
- Identify non-insured deposits; e.g., international banking facility (“IBF”) deposits

Exhibit III-B-1 Uninsured Deposit Estimate Memo Form is the template which should be used when preparing the Uninsured Deposit Estimate Memo. While certain information is always required in the memo, other information may change depending on the situation. Thus, the memo will always retain some flexibility to meet the particular situation.

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## **C. Preparation of Claims Strategic Resolution Plan**

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### **Contents**

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

<b>Topic Title</b>	<b>Page Number</b>
<u>Overview</u>	III-C-1
<u>Policy Statement</u>	III-C-2
<u>Procedures</u>	III-C-2
<u>Exhibit III-C-1: Claims Team Job Matrix</u>	
<u>Exhibit III-C-2: Claims Strategic Resolution Plan</u>	

### **Overview**

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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, or a Payout.

DRR develops a Strategic Resolution Plan (the DRR “Plan”) for each failure. This Plan 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 Plan 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 Plan”) will end up being directly incorporated into (the DRR “Plan”).

Claims’ role in planning for a financial institution failure starts even before the formal development of the DRR Plan, with the preparation of the uninsured deposit estimate memo, as noted in [Section III Chapter B : Preparation of Uninsured Deposit Estimate Memo](#).

The Claims Plan 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 Plan as other program areas need to recognize the impact on Claims.

Before actually writing the Claims Plan, the Claim Agent in Charge (CAIC) should gather pertinent information about the financial institution as it relates to the Claims area. Once the information is gathered, the Claims Plan should begin with information on the financial institution's hours of operation, locations and continue through the closing processes.

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## Policy Statement

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It is the policy of the FDIC to prepare a Claims Strategic Resolution Plan for each FDIC insured depository institution failure as requested by FDIC management. Each Claims Plan should be prepared with the appropriate detail and in the appropriate timeframe, as required by the circumstances.

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## Procedures

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The Claims Plan will include numerous sections containing detail which is important for the efficient handling of Claims related issues. The material and analysis which is to be contained in those sections is discussed below:

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### Financial Institution General Operations

Institution Sales personnel are the first FDIC DRR employees to enter a targeted institution. Their main purpose is to prepare an Information Package (IP) with detailed information that will assist potential purchasers. The IP will contain some information on the institution's operations that is useful in developing the Claims Plan. Requests for other information that may be needed will have to be routed through IP personnel to institution employees. The most reliable method of receiving information that may be needed is through direct interviews with institution employees but Institution Sales personnel must approve this approach.

Below are some typical questions that need to be answered within the Claims Plan:

1. Is the financial institution closed during the week? Some rural financial institutions will close one afternoon during the week – usually Wednesday – and will have Saturday hours. Claims must be prepared in case the regulator decides to close the financial institution during the middle of the week.
2. List the number and locations of all branches including the hours of operation. This information is usually available in the IP.

3. List the cut off time for the day's processing. This information is important when recommending a closing time in the Claims Plan and for recommending whether the acquiring institution should be allowed to reopen the next business day – Saturday following a Friday closing or the next day following a mid-week closing.

NOTE: The Receiver-in-Charge (RIC) and the Closing Manager must be made aware of the implications of opening the day after closing; e.g., Claims staff usually has to work all night to determine the uninsured deposits and the acquirer must have all holds placed before reopening.

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#### **Official Items**

The Receivership Liability System (RLS) is the system of record for all liabilities of the failed institution. The “common” deposit liabilities - checking accounts, certificates of deposit, etc., - are loaded into RLS en masse by uploading the failed institution data file. Official Items are usually not maintained electronically so they must be input manually.

Processing Official Items can negatively impact a closing. Most financial institutions do not maintain Official Item data electronically; therefore these items will need to be input manually. The exception to this is interest checks. Financial institutions issue interest checks on a set payment schedule and the checks are usually prepared by the failed institution's servicer – either in-house or outside. Given early enough access to the financial institution in the pre-closing phase, FDIC Business Information Systems (BIS) personnel should be requested to pursue the possibility of downloading interest check data into RLS. This will probably not occur until the institution actually closes but research must be completed ahead of time in order for the process to be successful at closing.

The CAIC must research the financial institution Official Items operation in order to develop a workable plan of action. Since the information required on Official Items is not included in the IP, below are questions to ask targeted financial institution personnel:

1. What types of Official Items does the institution issue?
2. Approximately how many checks of each type are issued monthly?
3. What is the schedule for issuing interest checks? Daily? Weekly? Monthly?
4. Are interest checks mailed before the payment date?
5. If yes, does negative interest result?
6. What data is captured electronically?
7. Are all Official Items drawn on the institution? If not, on which institution are they drawn?
8. How often are the respective official control accounts reconciled?
9. Are all control accounts currently in balance? If not, explain out-of-balance conditions.

The answers to these questions will provide the basis of the Claims Plan for handling Official Items.

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**Signature  
Cards and  
Certificates of  
Deposits**

The current procedure is that the deposit insurance determinations will be based on the electronic records (i.e., the account titles listed in the deposit download). Signature cards and/or CDs should be retrieved and copied only in the event the depositor disagrees with the insurance determination or if it is determined that the electronic deposit records cannot be relied on during the pre-closing planning phase (i.e., where numerous material differences are found between the electronic records and the signature cards and/or CDs).

In the past, Claims personnel copied all applicable signature cards and/or CDs for each account appearing on the final grouping report as either uninsured or pass with hold. However, in most cases, the information on the signature card and/or CD was the same as the institution's electronic records. Time permitting, during the pre-closing planning phase, the Claims Team should randomly select accounts (the sample) that will be used to compare the actual signature cards and/or CDs to the electronic records of the institution. Based on this comparison, the Claims Team should verify that the electronic records can be relied upon for making deposit insurance determinations. The sampling results and conclusion should be discussed and documented in the Claims Strategic Resolution Plan approved by Claims Management and the closing file.

There is certain information needed from the institution in order to retrieve signature card and CD information.

1. Does the financial institution have its signature cards and CDs imaged?
2. If so, what imaging software does the financial institution utilize?
3. Can the data be downloaded and given to Claims?
4. If signature cards and CDs are imaged, how are they indexed? If indexed, Claims will need a guide explaining the indexing procedures.

If signature cards and CDs are not imaged:

5. Where are the original signature cards and CDs maintained? At the branch where opened or in one central location?
6. Are the signature cards and CDs filed in account number order or alpha order?

Based on the information gathered above, the CAIC will recommend a course of action. In a couple of recent Claims Plans for large institutions, it was proposed by the CAIC and agreed to by Claims management that the electronic records of the institution would prevail. Signature cards and CDs would be retrieved and copied only if the depositor disagreed with the electronic records. In one of these referenced cases, the institution maintained imaged signature cards while the other institution only maintained hard copies.

**Financial Institution's Customer Base**

The composition of the failing institution's customer base may impact the decision on where to meet with uninsured depositors. The information on the depositor demographics is available in the IP or BIS can provide the information based on the final grouping report prepared for the uninsured deposit estimate. If the customer deposit base is local, then Claims will usually establish a Claims Center at or near the failed institution to accommodate the depositors. If the customer base is statewide or nationwide, then other options should be pursued such as: establish Claims Centers in several locations in addition to the depositor interviews via telephone from an FDIC office.

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**Potential Uninsured Depositors**

During the pre-closing process, the Claims Team prepares an uninsured deposit estimate. The results of that exercise should be discussed in the Claims Plan; however, remember the audience who will be reading the Claims Plan and keep the terms generic instead of Claims-specific. The number of uninsured depositors (groups) and the total amount of uninsured deposits should be presented along with the number and total amount of potential uninsured deposits (pass-with-holds). It is important to note that the uninsured deposit numbers are based on limited deposit documentation information and will change once depositor interviews are conducted and additional documentation is received from the depositors. By including this information, Claims is alerting closing management to the fact that the uninsured deposit amount *will* change so there should be no surprises.

The Dallas Customer Service Department of DRR is frequently tasked to handle customer inquiries and to make appointments for uninsured depositors. By not having to answer as many inquiries and make appointments, the Claims Team can focus more on its specific responsibilities. Customer Service should be made aware of the information in the Claims Plan so they can make arrangements for any special needs; e.g., translators.

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**Types of Deposit Accounts**

The Claims staff may encounter institutions whose deposit bases are concentrated in certain account types. These may include: brokered deposits, revocable trusts, and foreign deposits. The CAIC must obtain as much detailed information as possible about these issues in order to inform closing team management and Claims management of their impact on the Claims closing function.

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**Credit Card Operations**

The existence of a credit card operation may impact Claims significantly. A financial institution may be involved in the issuance of credit and debit cards or it may be involved in merchant processing. Due to the many factors involved in credit card and merchant processing, the DRR Accounting Operations, Asset and Legal Teams will need to be consulted for assistance in determining the impact these operations will have on the Claims Team.

Here are some basic questions to ask regarding a credit card operation:

1. Does the institution issue debit cards in lieu of ATM cards?
2. Does the institution issue secured credit cards? If so, the Asset and Accounting Operations Teams will need to be consulted to determine how Claims will be affected.
3. If there are secured credit cards, will the deposits be uploaded into RLS?
4. Is the institution involved in merchant processing? If so, the Accounting Operations, Asset and Legal Teams will need to be consulted to determine if Claims will be affected by this operation.
5. How does the institution handle credit card overpayments?
6. Does the institution utilize any official checks in their credit card operation; i.e., refund checks?
7. Will the operation be shutdown at closing or will it be marketed?
8. How will Claims be impacted?

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**Accounting Issues**

The IP is prepared as of a certain date by Institution Sales personnel. The CAIC should request a complete copy of the institution's general ledger as of the IP date. The general ledger will provide Claims with a better perspective of the institution's liabilities. For example, the general ledger may list deposits that are not included in the download; e.g., deposits of the state treasury or international banking facility (IBF) deposits. The DRR Accounting Operations Team should be consulted for assistance if there are any liabilities on the general ledger that seem out of the ordinary; e.g., interest rate swaps and repurchase agreements. Claims needs to know the impact of such matters and plan for them accordingly.

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**Writing The Claims Plan**

The Claims Plan should be written in such a way that anyone reading it, regardless of his knowledge of the Claims process, knows exactly what is being proposed.

The Claims Plan should open with a discussion of the various resolution options recommended by Franchise Marketing. Claims' involvement in a closing varies depending on the resolution. (See Section III Chapter A – Discussion of Resolution Types)

The Claims Plan should provide details on the financial institution's location, hours of operation and other pertinent information. If the institution has any unusual operating procedures, they should be mentioned here. An example is some remote branches operating a day ahead of the main office. If the CAIC feels strongly that the closing of the institution should occur at a specific time, it should be discussed in the Claims Plan and reasons supporting the request provided.

The Claims Plan should then outline Official Items processing which usually begins closing night. It should include the types and number of Official Items issued by the institution and whether any of the data is captured electronically. Since the Official Items processing can "make or break" a closing, the

strategy should be well thought out and if it includes downloading any information, it must be reviewed and concurred with by BIS personnel.

If Claims personnel were allowed to visit the institution prior to closing to pull and copy signature cards and CDs, this should be mentioned in the Claims Plan. If the CAIC decides not to copy the signature cards and CDs, this should be discussed in the plan. It is worth noting if the institution images any account ownership information.

Over the past few years, several institutions have stood apart from what some might consider “normal” in terms of the types of deposits they have attracted. Many of these failed institutions increased their reliance on brokered deposits prior to closing. Processing brokered deposits is time consuming and can take many months to finalize since Claims must rely on each broker to provide specific investor information. Other institutions have attracted hundreds, even thousands of revocable trust deposits, while others courted foreign depositors. Each of these scenarios involves special processing of deposits and the Claims Plan must contain details on handling them.

The composition of the institution’s deposit base is a good indication of the makeup of the uninsured depositors. The Claims Plan should address any special needs the uninsured depositors might have. For example, if the deposit base consists of elderly individuals, the Claims Center may need to be in a location that is close to the institution/branch and easy to find. Another example is the need for translators if the deposit base speaks a language other than English. Be sure the Claims Plan includes very detailed information on how these situations impact Claims’ planning decisions.

The FDIC may encounter institutions with credit card operations. Regardless of the size of the credit card operation, the resolution of the business can impact Claims significantly. Before Claims can develop a strategy for handling the credit card operation, the Asset Team and Capital Markets must develop a course of action. Based on interviews with the Asset and DRR Accounting Operations Teams, Claims should have a greater understanding of its role in the closing and post-closing phases of a financial institution failure.

The Claims Plan should include staffing projections. These projections are dependent on the number of uninsured and pass-with-hold deposits, number of Claims Centers and depositor base composition. Although each closing team has a Claims Team, it may be necessary to augment the Team depending on the size of the institution and/or availability of team members. Claims Department management and the RIC should be consulted to assist the CAIC in putting a team together. To provide for an orderly closing process, the CAIC should develop a job assignment matrix so that members of the Claims Team will know to which tasks they have been assigned. Although this job matrix is not part of the Claims Plan, it is for the benefit of the Claims Team and should be attached to copies of the Claims Plan which is forwarded to Claims management. See [Exhibit III-C-1: Claims Team Job Matrix](#).

The final section of the Plan should focus on information that is needed from other closing program areas. While preparing the plan, keep track of requests

made to other members of the closing team for which you are waiting for responses. For example, Claims may have requested that BIS determine whether the interest check data can be electronically loaded into RLS. Or, perhaps Claims is waiting on the Asset Team to provide information on the credit card operation. It is imperative for Claims to have all of its concerns addressed accurately and in a timely manner. Claims' success in the closing arena is judged by how well Claims prepares for the known and how prepared Claims is to handle the unknown. See Exhibit III-C-2: Claims Strategic Resolution Plan for an example of what a final Claims Strategic Resolution Plan looks like.

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## A. Building General Files

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### Contents

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This chapter contains the following information on Building General Files:

Topic Title	Page Number
<u>Overview</u>	<u>IV-A-1</u>
<u>Policy Statement</u>	<u>IV-A-1</u>
<u>Procedures</u>	<u>IV-A-2</u>

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### Overview

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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.

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### Policy Statement

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

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**Procedures**

Building general files should begin during the pre-closing phase, to the extent that the information is known in advance. Preparation of additional files; for example, Uninsured Depositor files and Creditor files; will continue into the closing and post-closing phase.

Each file label should have the following information:

- File Name
- FIN # - Name of Institution
- City, State

The suggested file folders and material to be included in them are shown below. Depending upon the transaction type, some of the following files will not be applicable. The circumstances of a particular closing might necessitate preparation of additional files not listed.

Name of File Folder	Also Called	Suggested Items the File Folder May Contain
Account Holds	Pass With Hold Register	<ul style="list-style-type: none"> <li>• Pass with Hold Register (Including hold requests from Assets, Legal, Investigations, and other program areas)</li> <li>• Disposition of pending Holds (release letters, memos to Acquiring Institution)</li> <li>• List of contact personnel authorized to place/release holds for FDIC and the Acquiring Institution</li> </ul> <p>Source: <u>Section IV-G: Account Holds</u></p>
Closing Information		<ul style="list-style-type: none"> <li>• Closing Information Sheet</li> <li>• Closing Data Sheet</li> <li>• Information Package</li> <li>• Organizational Chart</li> <li>• Hotel Information</li> <li>• Maps</li> </ul>
Collections After Closing	Balancing	<ul style="list-style-type: none"> <li>• Collections After Closing Spreadsheet</li> <li>• Settlement Memorandum</li> </ul> <p>Source: <u>Section IV-M: Overview of Collections After Closing</u></p>
Correspondence File	Reading File	<ul style="list-style-type: none"> <li>• General correspondence between FDIC and Assuming Institution</li> <li>• Exit memorandum to Closing Manager with Claims checklist</li> <li>• Miscellaneous</li> </ul>

Name of File Folder	Also Called	Suggested Items the File Folder May Contain
Corporate Settlement		<ul style="list-style-type: none"> <li>• Due To/Due From Letters</li> <li>• STRS Settlement Reports</li> <li>• Wiring Instructions/Authorization</li> </ul> <p>Source: <u>Section IV-P: Corporate Settlement Process</u></p>
Creditor Files		<ul style="list-style-type: none"> <li>• Individual file for each creditor claim. (The files are not created until a claim is received). File Labels may be generated from RLS. Refer to Section 10 in the RLS User's Manual (Avery Labels 5366)</li> </ul> <p>Suggested Items to be placed in each file</p> <ul style="list-style-type: none"> <li>• Proof of Claim/Supporting documentation with envelope</li> <li>• If applicable; Deficiency letter, Extension letter, and/or Legal Opinion</li> <li>• Allowance letter with Receiver's Certificate or PAV</li> <li>• Disallowance letter</li> </ul> <p>Source: <u>Section V-A: Creditor Claims</u></p>
Directors, Officers, and Employees		<ul style="list-style-type: none"> <li>• List of Directors, Officers, and Employees with mailing addresses</li> <li>• Copy of notification letter sent at closing</li> </ul>
General Trade Creditors		<ul style="list-style-type: none"> <li>• Failed Institution Vendor Listing with mailing addresses</li> <li>• Affidavit of Mailing</li> <li>• Copy of a letter sent to GTC's at closing</li> </ul>
Grouping Reports		<ul style="list-style-type: none"> <li>• Pre-Closing Grouping Report identifying revisions and updates</li> </ul>
Legal Opinions		<ul style="list-style-type: none"> <li>• Memorandums requesting Legal Opinions</li> <li>• Legal Opinion Log for Uninsured Depositors, if utilized               <ul style="list-style-type: none"> <li>• Date of Request</li> <li>• Claim Agent submitting request</li> <li>• Name of Depositor/Creditor</li> <li>• Topic to be reviewed</li> <li>• Date received from Legal</li> </ul> </li> </ul>
Liability Register		<ul style="list-style-type: none"> <li>• Downloaded List of all Deposit Liabilities</li> </ul>
Notice To Depositor And Creditors	Affidavit Of Mailing	<ul style="list-style-type: none"> <li>• Affidavit of Mailing</li> <li>• Copy of a letter sent to insured/uninsured depositors (if applicable)</li> <li>• Listing of Names and Addresses</li> </ul> <p>Source: <u>Section IV-C: Publications and Notices</u></p>

Name of File Folder	Also Called	Suggested Items the File Folder May Contain
Official Items		<ul style="list-style-type: none"> <li>• Outstanding checks</li> </ul> <p>Source: <u>Section IV-D: Download &amp; Reconciliation of Official Items</u></p>
Official Receipts		<ul style="list-style-type: none"> <li>• Receipts for documentation turned over to Acquiring Institution</li> </ul>
Offsets		<ul style="list-style-type: none"> <li>• Loan Trial Balance</li> <li>• Offset Log, if utilized</li> <li>• Legal Opinions</li> </ul> <p>Source: <u>Section IV-N: Overview of Offsets</u></p>
Publications & Notices	Legal Publications & Notices	<ul style="list-style-type: none"> <li>• Correspondence to newspapers</li> <li>• Tear Sheets</li> <li>• Affidavit of publication from newspaper</li> <li>• Check Request/payment information</li> </ul> <p>Source: <u>Section IV-C: Publications and Notices</u></p>
Receivership Dividends		<ul style="list-style-type: none"> <li>• Post Insolvency Interest Dividend Case</li> </ul> <p>Source: <u>Section V-E: Receivership Dividends</u></p>
Secured/ Preferred Accounts		<ul style="list-style-type: none"> <li>• Pledge Agreement</li> <li>• Collateral Documentation</li> <li>• Valuation Spreadsheet</li> </ul> <p>Source: <u>Section IV-O: Secured Accounts/Preferred Claims</u></p>
Stockholders Listing	Shareholders	<ul style="list-style-type: none"> <li>• Listing of Stockholders with addresses</li> </ul>
Strategic Resolution Plan		<ul style="list-style-type: none"> <li>• Claims Strategic Resolution Plan</li> <li>• Uninsured Deposit Estimate Memo</li> <li>• Final Strategic Resolution Plan</li> </ul> <p>Source: <u>Section III-C: Preparation of Claims Strategic Resolution Plan</u></p>
Subordinated Debt Holders		<ul style="list-style-type: none"> <li>• Listing of Subordinated Debt Holders with mailing addresses</li> <li>• Notices to Subordinated Debt Holders</li> </ul> <p>Source: <u>Section V-A: Creditor Claims</u></p>
Transaction Agreement	Purchase And Assumption Agreement	<ul style="list-style-type: none"> <li>• Copy of agreement between FDIC and Acquiring Institution (P&amp;A, IDT)</li> <li>• Appointment of Receiver</li> <li>• Board Resolution</li> <li>• De Novo documents</li> </ul>

Name of File Folder	Also Called	Suggested Items the File Folder May Contain
Unclaimed Deposits		<p>Closing</p> <ul style="list-style-type: none"> <li>• Initial Notice to Depositor</li> <li>• Letter to Acquiring Institution at Closing</li> <li>• DPS Data Structure</li> <li>• DPS File Layout</li> </ul> <p>Post-Closing</p> <ul style="list-style-type: none"> <li>• 14 Month Unclaimed Deposit Letter</li> <li>• 15 Month claims Notice Letter – Final Legal Notice</li> <li>• Affidavit of Mailing</li> <li>• 18 Month Unclaimed Deposit Letter</li> </ul> <p>Source: <u>Section V-D: Unclaimed Deposits</u></p>
Uninsured Depositor Files	Excess Depositor Files	<ul style="list-style-type: none"> <li>• Individual file created for each uninsured depositor. File labels may be generated from RLS. Refer to Section 10 in the RLS User's Manual (Avery Labels 5366)</li> </ul> <p>Originals or copies to be placed in file:</p> <ul style="list-style-type: none"> <li>• Depositor Interview Form</li> <li>• Excess Register</li> <li>• XX/PH Worksheet</li> <li>• Depositor Analysis Worksheet</li> <li>• Signature Card(s)</li> <li>• Certificate of Deposits (CD's)</li> <li>• Official Items</li> <li>• Trust Agreement</li> <li>• Other forms as needed; e.g. Affidavit of Testamentary, Offset form</li> </ul> <p>Source: <u>Section-IV-J: Meeting With Customers of a Failed Institution</u></p>
Uninsured Register	Excess Register	<ul style="list-style-type: none"> <li>• Final Excess Depositor Register</li> </ul>
Verification/ Reconciliation	Download And Reconciliation, Liability Reconciliations, Balancing	<ul style="list-style-type: none"> <li>• Memorandum of reconciliation from DRR Accounting Operations</li> <li>• Ongoing reconciliation adjustment documentation, if applicable</li> <li>• DIRM Deposit Balance Sheet</li> <li>• RLSREG Depositor Data Load</li> <li>• Data Imports Balancing Reports</li> </ul> <p>Source: <u>Section IV-E: Reconciliation (Verification) of Deposit Download</u></p>

**B. RLS Equipment & FIN Setup**

**Contents**

This chapter contains the following information on RLS Equipment & FIN Setup:

Topic Title	Page Number
<u>Overview</u>	<u>IV-B-1</u>
<u>Policy Statement</u>	<u>IV-B-2</u>
<u>Procedures</u>	<u>IV-B-2</u>
<u>Security Rights (RLS Identification "ID") Enforced on a Functional and FIN Level</u>	<u>IV-B-3</u>
<u>Exhibit IV-B-1: RLS Closing Processing Overview</u>	
<u>Exhibit IV-B-2: RLS Application Security Closing Worksheet</u>	
<u>Exhibit IV-B-3: RLS FIN Setup Job Aid</u>	

**Overview**

The Receivership Liability System (RLS) is a menu-driven computer software system which provides a central repository or database for claims data. RLS assists DRR staff in, among other things, calculating estimates of the uninsured depositors pre-closing, in performing the grouping function, both pre-closing and at the closing, and in performing claims processing and tracking post-closing.

**RLS Estimations Platform – FIN Setup**

In order to perform pre-closing grouping and to prepare the Uninsured Deposit Estimate Memo, a designated Claims User must set up the financial institution in the Estimations platform of RLS. Refer to the RLS User's Manual, Section 13.3.1, "Adding a FIN to Estimations". To process subsequent downloads and groupings for the same financial institution, refer to the RLS User's Manual, Section 13.4.3.5, "Perform New Estimation".

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### RLS National Platform – FIN Setup

This Chapter deals with “establishing” the failed institution in the National platform of RLS in order to “receive” the uploaded financial information/data of the institution at closing. See Exhibit IV-B-1: RLS Closing Processing Overview.

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### Policy Statement

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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. RLS supports the following primary business and information functions:

- The grouping of deposit accounts, including brokered accounts and the determination of groups 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.
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### Procedures

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**NOTE:** There will be occasions when the Claims processing function will be conducted in an FDIC office. Therefore, the procedures discussing the shipment and receipt of the RLS equipment will not apply.

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#### Step 1

#### Coordinate Shipment of RLS Equipment

RLS FIN (Financial Institution Number) setup first begins with the shipment of RLS equipment and pre-loaded software to the expected closing proximity, which is a coordinated effort between the CAIC (Claim Agent in Charge), BIS (Business Information Systems), DOA (Division of Administration), Closing Manager and the FM (Franchise Marketing) representative. The RLS equipment will be shipped to a hotel near the location where the resolution activity will take place and will arrive approximately three days prior to the anticipated closing. The method of shipping the RLS equipment and the manner in which the equipment and software will be secured prior to the arrival of the resolution team will be documented in the Strategic Resolution Plan by the Closing Manager and BIS.

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**Step 2                      Receive, Secure, and Access RLS Equipment**

The FM representative will typically be at a local hotel near the institution to be resolved and will receive and receipt for the RLS equipment and provide for secure storage. In the event there is not an FM representative available to receipt for and securely store the RLS equipment, BIS may coordinate with DOA, in an attempt to receipt the equipment to an alternate agent such as a Security Guard Service, Hotel Manager or a representative of a transport company, i.e., Airborne Express. The alternate agent must be able to guarantee secure storage and provide insured coverage for the RLS equipment until arrival of the resolution team. If problems arise and DOA is unsuccessful in arranging an early delivery, BIS will notify and consult with the CAIC and Closing Manager. Alternatives include hand carrying the laptop computers and server, when time is short.

Upon arrival at the hotel or alternate site, BIS will receipt for the RLS equipment and, if necessary, provide for transport to the resolution site at the appropriate time of closing. Equipment may be at a hotel other than the one used by the closing team. If so, BIS will go to that location to receipt for the RLS equipment and arrange for transportation to the closing site through DOA.

At the closing site, RLS runs on a portable LAN (local area network) and can have multiple connections that are called “clients”.

Prior to closing, the CAIC will typically select a RLS Security Administrator, who while at the closing will assign user access to the Claims closing team members.

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**Security Rights (RLS Identification “ID”) Enforced on a Functional and FIN Level:**

**Security Groups/IDs**

There are six separate security groups/IDs associated with RLS which afford the user (s) different access capabilities. Five of these access roles are used at closing and are discussed below.

- RLS Security Access Role – RLS\_Manageradm. Responsible for the set up of a user’s access.
- RLS Claims System Administrator Access Role – CSA1 through CSA10. \*Up to ten users can be assigned to this ID. A CSA can have access to all RLS functions, which includes “Security”, “Setup” and the ability to delete records added after stratification.
- RLS Claims User Access Role – CU1 through CU35. \*Up to 35 users can be assigned to this ID. A CU can have access to most RLS functions.

- RLS DIRM (n/k/a BIS) System Administrator Access Role – DSA1 through DSA5. \*Up to five users can be assigned to this ID. A DSA can have “read/write” access to “Data Imports” only.
- RLS DRR/OPS Washington User Access Role – OU1 through OU5. \*Up to five users can be assigned to this ID. An OU has “read only” access to the functions in RLS.

**\*NOTE: If additional users are needed** for a large closing, the CAIC or the RLS System Administrator should coordinate the addition of User IDs with BIS. Refer to Exhibit IV-B-2: RLS Application Security Closing Worksheet, for the worksheet that should be used to facilitate setting up the security rights.

The RLS FIN Setup function allows authorized users to view and update detailed information about a selected/added receivership. **A receivership must be added in the FIN Setup function before the depositor file from the failed institution can be loaded.**

Refer to Exhibit IV-B-3: RLS FIN Setup Job Aid for specifics on RLS FIN setup.

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**C. Publications and Notices**

**Contents**

This chapter contains the following information on Publications and Notices:

<b>Topic Title</b>	<b>Page Number</b>
<u>Overview</u>	<u>IV-C-1</u>
<u>Policy Statement</u>	<u>IV-C-2</u>
<u>Procedures</u>	<u>IV-C-2</u>
<u>Exhibit IV-C-1: Newspaper Information Job Aid</u>	
<u>Exhibit IV-C-2: Publication Notice to Creditors and Depositors – Payout – RLS7211</u>	
<u>Exhibit IV-C-3: Publication Notice to Creditors and Depositors – All Deposit Purchase and Assumption – RLS7211</u>	
<u>Exhibit IV-C-4: Publication Notice to Creditors and Depositors – Insured Deposit Purchase and Assumption – RLS7211</u>	
<u>Exhibit IV-C-5: Payout Notice to Depositors – RLS72112</u>	
<u>Exhibit IV-C-6: Mailed Notice to Depositors – Insured Deposit Purchase and Assumption – RLS72113</u>	
<u>Exhibit IV-C-7: Mailed Notice to Depositors – All Deposit Purchase and Assumption – RLS72113</u>	
<u>Exhibit IV-C-8: Notice to Subordinated Debt Holders</u>	
<u>Exhibit IV-C-9: Notice to Stockholder</u>	

**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 post-closing phase.

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.

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## **Policy Statement**

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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.

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## **Procedures**

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### **Step 1**

#### **Determine Newspaper to be Used for Publication**

Notice(s) are to be published in a newspaper of general circulation in the city or town where the financial institution is located. If the financial institution has branches outside of the newspaper's general circulation area, a publication should also be done in a newspaper of general circulation where the other branches are located. In some instances when the newspaper of general circulation is known prior to closing, information about publication dates, times, costs, etc., may be gathered pre-closing. However, caution must be exercised during discussions with newspaper personnel so as not to identify the name of the financial institution that might be closed.

**NOTE:** Consider asking the failed institution's staff for a list of newspaper(s) that the bank has utilized for advertising.

Make your initial contact with the newspaper by utilizing the "Newspaper Information Job Aid" form (Exhibit IV-C-1: Newspaper Information Job Aid). This contact should be done as soon as practical after closing in order to publish the notice(s) promptly. However, with most financial institution closings occurring on Fridays, contact with the newspaper is frequently not possible until the following Monday.

**NOTE:** In most instances the newspaper's legal advertising department will publish the "Notice of Publication".

If it is determined that a notice should be published in a language other than English, consideration should be given to publishing in a newspaper of the same language.

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**Step 2 Prepare Publication Notice(s)**

The notice(s) to be published will be determined by the type of closing transaction as follows:

- Payout
- Insured Deposit Purchase and Assumption (P & A)
- All Deposit Purchase and Assumption (P & A)
- Insured Deposit Transfer (IDT)

The actual notice is generated through RLS (See Section 10.2 of the RLS Manual). See Exhibit IV-C-2: Publication Notice to Creditors and Depositors – Payout – RLS7211, Exhibit IV-C-3: Publication Notice to Creditors and Depositors – All Deposit Purchase and Assumption – RLS7211, and Exhibit IV-C-4: Publication Notice to Creditors and Depositors – Insured Deposit Purchase and Assumption – RLS7211 for the standard versions of the published notice. (There is no standard form for an IDT, since that type of transaction has not been used in recent years. If the transaction is an IDT, consult with the Closing Attorney as to the proper form of the published notice.) When a financial institution is closed utilizing more than one type of closing transaction, separate notices must be generated in a word document. (Alternatively, the notices can sometimes be combined. See the Closing Attorney to combine the notices.)

When preparing the publication notice, the BAR DATE must not be earlier than ninety (90) days after the initial publication date. In addition, the BAR DATE should not fall on a Saturday, Sunday, or Legal Holiday. If it does fall on that date, change the BAR DATE to the next succeeding business day.

The publication date and bar date should be recorded in RLS.

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**Step 3 Obtain Legal Review of Notice(s)**

Prepare a cover memorandum to the Legal closing team, requesting review of the appropriate notice. Send the draft of the notice with the cover memorandum to the Legal closing team. The closing Legal staff reviews the notice(s) for compliance with State and/or Federal statutes and regulations and recommends changes as necessary. The Legal staff member then signs/initials the notice(s) and returns the notice(s) to the Claims closing team.

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**Step 4 Forward Notice(s) to Newspaper for Publication**

Prepare a cover memorandum and forward it by fax or e-mail, along with the notice(s), to the newspaper(s) requesting that the notice(s) be published on specified dates. The notice(s) must be published promptly after the financial institution's closing and must be republished approximately one (1) and two (2) months, respectively, after the initial publication date. All publication dates must be the same for all newspapers when publishing in more than one newspaper.

Request that the newspaper provide a "Proof" of the publication for verification prior to publication and the costs to publish the notice(s).

Request that the newspaper provide an **Original Tear Sheet and Affidavit of Publication for each of the three publication dates.**

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**Step 5 Determine Method for Payment of Notices**

There are several ways in which newspapers may request payment.

- a. If payment is requested to be prepaid, arrangements must be made to pay by credit card. Claims must determine the Organization/Program code, location code, and account to be charged (information may be obtained from Budget). Claims will then contact the closing Contracting Manager to arrange for payment. Payment information (codes to be charged, name of newspaper, charges for publication, etc.) is provided to the closing Contracting Manager who will contact the newspaper and provide them with the credit card information for billing purposes.
  - b. If the newspaper agrees to bill the FDIC directly, a check request (PAV) needs to be processed upon receipt of the original invoice and supporting documentation (Original Tear Sheet and Affidavit of Publication). This will normally be done after the Claims closing team returns to the office.
- 

**Step 6 File the Documentation in the Appropriate Claims Legal Notice File**

File copies of all of the material generated in this process (drafts of the published notices, Legal's review of the notice, correspondence with the newspaper(s), tear sheets, published notice, affidavit of publication, etc.) in the appropriate Claims Legal Notice file.

Prepare and send a memorandum to the Closing Manager indicating that the notice has been published. Indicate the name of the newspaper in which it was published and the date of publication. When available, provide a copy of the published notice to the Closing Manager.

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**Step 7**                      **Mailing Notices to Depositors, Creditors and Equity Holders  
(Stockholders)**

The FDIC is required by the Federal Deposit Insurance Act to mail notices to depositors and creditors of a failed financial institution. The purpose of the notice mailed to the depositors is to advise how they may receive payment of their insured deposit account(s), and the process of claiming their account(s).

1. When the closing transaction is a payout, or a partial payout, the FDIC, in its corporate capacity, will, as soon as possible after closing, mail to each insured depositor a deposit insurance check representing the balance in their account as of the Closing Date (up to the deposit insurance limit). The notice to depositor(s) letter (Exhibit IV-C-5: Payout Notice to Depositors – RLS72112) is generated by the DRR Claims closing team within RLS (revised as a word product, if necessary) and forwarded to DRR Accounting Operations (DRR A/O) for mailing with the deposit insurance check.

NOTE: DRR A/O will generally process deposit insurance checks at its FDIC office. However, if management deems it necessary, this process may be done at the closing site.

2. When the closing transaction involves an Acquiring Institution, a notice to depositor(s) letter (Exhibit IV-C-6: Mailed Notice to Depositors – Insured Deposit Purchase and Assumption – RLS72113) or (Exhibit IV-C-7: Mailed Notice to Depositors – All Deposit Purchase and Assumption – RLS72113) is generated by the DRR Claims closing team within RLS (revised as a word product, if necessary). The Mailed Notice to Depositor letter is provided to the Acquiring Institution with instructions to mail the notice to depositors. Instructions for mailing are provided to the Acquiring Institution during the closing process (See Section IV Chapter S – Acquiring Institution Relations).

NOTE: In most P & A transactions, the Acquiring Institution is required to notice the insured depositor(s) of the failed institution that they have assumed their insured deposit accounts. The FDIC's Notice to Depositor letter can be enclosed with that letter; however, in some instances the Acquiring Institution prefers to do a separate mailing for its own letter.

3. The FDIC as Receiver is required, in addition to publishing a notice in the newspaper, to mail a notice to all of the known creditors of the failed financial institution. (See Section V Chapter A - Creditor Claims).

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4. It is the responsibility of DRR Claims to notify each subordinated debt holder and stockholder of the closing of the financial institution, and to request that they notify the FDIC of future address changes. (See Exhibit IV-C-8: Notice to Subordinated Debt Holders and Exhibit IV-C-9: Notice to Stockholder). Notices to subordinated debt holders and stockholders will generally be mailed during the closing process, but if time does not permit, the notices should be sent as soon as possible after the DRR Claims closing team returns to the office.
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**D. Download & Reconciliation of Official Items**

**Contents**

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

Topic Title	Page Number
<u>Overview</u>	IV-D-1
<u>Policy Statement</u>	IV-D-2
<u>Procedures</u>	IV-D-2
<u>Exhibit IV-D-1: Official Items Job Aid</u>	
<u>Exhibit IV-D-2: RLS Procedures for Official Items: Input, Certification, and Import Job Aid</u>	

**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"] also are 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.

Outstanding Official Items that were used to withdraw funds from deposit accounts or to close out deposit accounts will be aggregated with any other accounts or checks for the payee for the purpose of an insurance determination.

## Policy Statement

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It is the policy of the FDIC, at a financial institution closing, to input, certify and import outstanding Official Items into the deposit database prior to preliminary grouping, to ensure that they are included in the insurance determination process.

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## Procedures

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### Tasks to be Performed by Claims

The following tasks are to be performed by Claims. Exhibit IV-D-1: Official Items Job Aid, is provided as an additional reference:

- Locate failed institution records (tissue copies, computer generated reports, etc.) of all types of Official Items.
  - Reconcile all outstanding Official Items to the failed institution's General Ledger. Coordinate with DRR Accounting Operations closing staff performing the Pro Forma function.
  - When in balance, enter the Official Items into RLS **prior to Preliminary Grouping**. Refer to the RLS User's Manual, Sections 6.1.3, and 6.1.3.1, and Exhibit IV-D-2: RLS Procedures for Official Items: Input, Certification, and Import Job Aid.
  - Identify all outstanding Official Items that are associated with Broker deposit accounts.
  - In RLS, print Official Items Report and give to Claims Specialist responsible for Reconciliation of Deposit Download.
  - In RLS, import Official Items into the depositor data for grouping. Refer to RLS User's Manual, Section 6.1.3.2.
  - Make two copies of institution copies of outstanding checks, if they are available. One set to be maintained by Claims and the other given to DRR Accounting Operations closing staff performing the Pro Forma function. Exceptions in making copies due to size of the failed institution and availability of institution copies, or for other reasons, are to be noted, in writing, by the Claim Agent in Charge.
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## **E. Reconciliation (Verification) of Deposit Download**

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### **Contents**

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

<b>Topic Title</b>	<b>Page Number</b>
<u>Overview</u>	IV-E-1
<u>Policy Statement</u>	IV-E-2
<u>Procedures</u>	IV-E-2
<u>Exhibit IV-E-1: Reconciliation (Verification) of Deposit Download to Deposit Trial Balances Job Aid</u>	

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### **Overview**

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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 Accounting Operations (DRR A/O) (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 System (DRR BIS) staff and should be done prior to performing the preliminary grouping function.

The financial institution’s deposit download is entered into RLS, which is maintained by DRR Claims. The financial institution’s general ledger, or Pro Forma (initial closing balances), is maintained by DRR A/O (“Pro Forma staff”) and is ultimately transferred to the FDIC’s Financial Information Management System (FIMS).

Subsequent to the closing, but generally within 45 days of the closing, a **more detailed reconciliation** will be performed by DRR A/O, 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 RLS, FIMS, and Pro Forma continue to be in balance.

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## Policy Statement

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It is the policy of DRR Claims to verify that the failed institution's deposit download (including Official Items), as imported into RLS, balances to the failed institution's deposit account trial balance reports prior to performing the preliminary grouping 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 A/O, so that RLS and FIMS remain in balance.

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## Procedures

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### Balance Verification at Closing

At the closing, all deposit balances (demand deposits, savings accounts, certificates of deposits, IRAs, Official Items, etc.) which are subject to federal deposit insurance determination are imported into RLS. Once this has been done, these totals are compared with the totals provided by DRR BIS from the failed institution's deposit trial balances. DRR Claims and Pro Forma staff research any discrepancies identified during this process, in order to bring the failed institution's systems of record into balance with RLS. This process, including identified adjustments which need to be made, is done prior to the preliminary grouping function being performed in RLS.

If the verification process is unsuccessful in identifying differences in a reasonable amount of time, the Claim Agent in Charge may decide to proceed with the preliminary grouping function. In making this decision, the Claim Agent in Charge must consider time limitations and/or cost effectiveness when deciding whether to spend additional time locating the difference or to proceed with the grouping function. In determining whether it is cost effective to continue with efforts to identify differences, the Claim Agent in Charge should consider the number of staff dedicated to the endeavor, the number of hours expended thus far and the number of additional hours required in resolving the differences.

As part of this verification process, the Claim Agent in Charge will sign off on the BIS Deposit Balance Sheet, provided by DRR BIS, as evidence of the verification process, and provide copies of the signed form to Pro Forma.

As part of the Claims file for each failed financial institution, a **Verification/Reconciliation** folder should be created and maintained by the

Claim Agent in Charge. This folder should contain copies of reports, such as the BIS Deposit Balance Sheet, RLSREG Depositor Data Load, and Data Imports Balancing Reports that were utilized to assist in the initial verification process. The folder should also include any information which explains outages uncovered during the verification process and information which documents research which needs to be undertaken or conclusions reached.

See Exhibit IV-E-1: Reconciliation (Verification) of Deposit Download to Deposit Trial Balances Job Aid for the details as to how to accomplish this verification.

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**Reconciliation  
post-Closing**

A more detailed reconciliation will be performed by DRR A/O within 45 days of the closing. DRR A/O will provide a memorandum to Claims explaining the results of this reconciliation. This memorandum may request that Claims make adjustments to RLS so that RLS continues to be in balance with FIMS and Pro Forma. Claims should attempt to make the adjustments to RLS within 10 business days of receipt of this memo and advise DRR A/O that the adjustments have been made.

This memorandum from DRR A/O, along with any supporting documentation, should be placed in the **Verification/Reconciliation** folder mentioned above.

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**F. Performing the Grouping Function**

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**Contents**

This chapter contains the following information on Performing the Grouping Function:

<b>Topic Title</b>	<b>Page Number</b>
<u>Overview</u>	<u>IV-F-1</u>
<u>Policy Statement</u>	<u>IV-F-2</u>
<u>Procedures</u>	<u>IV-F-2</u>
<u>Exhibit IV-F-1: Procedures for Balancing Deposit Download to BIS Worksheets for Estimations Job Aid</u>	
<u>Exhibit IV-F-2: Pre-closing Grouping Report</u>	
<u>Exhibit IV-F-3: Sample INXS Log - RLS3136</u>	
<u>Exhibit IV-F-4: RLS Screen – Ungroup/Regroup Accounts</u>	
<u>Exhibit IV-F-5: Basic Assumptions for Editing the Grouping Report – Job Aid</u>	
<u>Exhibit IV-F-6: Editing a Grouping Report-Changing a Hold from XX to PH. or Moving Accounts to a New Group</u>	
<u>Exhibit IV-F-7: Editing a Grouping Report- Ungrouping a Group or Accounts Within a Group</u>	
<u>Exhibit IV-F-8: Entering Edits in RLS-Job Aid</u>	
<u>Exhibit IV-F-9: Explanation of RLS Reports Used in the Grouping Function</u>	

**Overview**

The grouping function is the combination or aggregation of accounts based on like title (ownership), address or Social Security Number to determine what depositors are uninsured or potentially uninsured. Grouping is generally first performed during the pre-closing process, but must also be performed when an institution fails. While performing the grouping during the pre-closing phase provides potential uninsured deposit information, once the institution has failed, the deposit information is fixed, and the final determination as to the insured and uninsured is performed.

The grouping process performed in the Receivership Liability System (RLS) is defined as the procedure that automates the grouping of accounts based on the ownership type indicated and the name(s), address, and tax identification number for each account. While this chapter is not intended to duplicate the RLS User's Manual, there will be many references to it and possible duplication of information so that the grouping function can be accurately and clearly described.

The differences between grouping during the pre-closing phase and grouping during the closing phase will be identified in the various procedures that follow. The main difference, in most cases, is that during the pre-closing process, official items information is not available and is not used in performing the grouping function. Once the institution closes, the Claim Agent in Charge (CAIC) will obtain the official items information for entering or downloading into RLS and those items will be aggregated with the deposit account information to determine potentially uninsured accounts.

Accounts are aggregated, assigned group numbers and the uninsured (excess) is calculated if the group amount exceeds the maximum insurance limit.

During the grouping process, RLS reports are used to prepare the Uninsured Deposit Estimate Memo for FDIC's Institution Sales Section. 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**

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It is the policy of DRR Claims to perform the grouping 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.

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## **Procedures**

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### **Obtaining the Deposit Data**

Whether doing the grouping function pre-closing or at the closing, Claims must have a download of the financial institution's deposits. Institution Sales personnel request the data download from the financial institution during the pre-closing process. At the closing, the Business Information Systems (BIS) Section obtains the download from the financial institution. Once received, it is given to the BIS Section who first confirms that the data download balances to the trial balances obtained from Institution Sales. Next, BIS formats the data for upload into RLS.

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**Balancing in  
Estimations  
Database (Pre-  
Closing)**

During the pre-closing process, Claims balances the deposit download to the BIS worksheets that were prepared during the BIS reconciliation. For procedures on the Claims reconciliation, see Exhibit IV-F-1: Procedures for Balancing Deposit Download to BIS Worksheets for Estimations Job Aid.

**FIN Setup**

Before BIS can upload the data into RLS, a Claims Specialist must set up the financial institution in the Estimation platform during pre-closing and the National platform during the closing in RLS.

To establish a FIN in the National platform, refer to Exhibit IV B-3: RLS FIN Setup - Job Aid for further instructions on setting up a financial institution in RLS.

To establish a FIN during the pre-closing process, refer to the RLS User's Manual, Section 13.3.1: Adding a FIN to Estimations. RLS automatically assigns a FIN for the institution in sequential order. When multiple estimations are needed, refer to the RLS User's Manual, Section 13.4.3.5: Perform New Estimation.

**Reviewing the  
Deposit Data  
for  
Irregularities**

The deposit data should be reviewed to ensure that the name, address and tax identification number (TIN) information are in the correct fields. Prior to BIS loading the data into RLS, BIS reviews the data to verify that names are in name fields and addresses are in address fields, as well as joint account indicators are in place (i.e. and/or). This may be performed in conjunction with Claims. Claims must also verify that the interest-bearing accounts reflect an accrued interest amount and that the interest rate is listed correctly; e.g., .0540 or 5.40% as opposed to 540%.

Once the review is completed BIS loads the data to RLS. Claims then reviews the data in RLS for accuracy.

To view the data:

In the Estimations platform:

1. Select Data Imports
2. Select Depositor Data
3. Select the FIN
4. Click on Review RLS Tape Data

In the National platform:

1. Select Data Imports
2. Select Depositor Data
3. Select Review/Certify Depositor Data
4. Select the FIN
5. Select the Review RLS Tape Data tab
6. Scroll the accounts by using the arrows at the bottom of the screen.

The data is in account number order. The depositor information contained under the “Deposit” tab includes the name, address and TIN. Click on the “Account” tab to find information pertaining to the principal and accrued interest balances, interest rate, origination and maturity dates. Use the right facing arrow (>) to scroll through the account information. A sampling of all account types – DDA, SAV, CDS, MMA, NOW, IRAs – should be reviewed to ensure the data is correct.

If the data appears to be accurate, the next step is to perform preliminary grouping and print a grouping report to see if there are any irregularities that did not appear when the data was reviewed online.

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**Producing the  
Grouping  
Report**

Once BIS or the Claims System Administrator (CSA) has performed preliminary grouping, the report can be printed or reviewed to determine if there are any irregularities evident on the grouping report. For an overview of the grouping process as performed in RLS, refer to the RLS User’s Manual, Appendix E – RLS Grouping Process Information. See Exhibit IV-F-2: Pre-closing Grouping Report for a sample of the grouping report.

The Claim Agent in Charge (CAIC) or designee can decide to print all or part of the grouping report to check for irregularities. Before printing the complete grouping report, it is advisable to “Preview” the report to determine if it is useable and then click the “end-of-report button” (>|) to see the number of pages comprising the report.

To preview and/or print the grouping report follow these steps:

In the Estimations and National platform:

1. Select Data Imports
2. Select Depositor Grouping
3. Select FIN
4. Select Pre-Closing Grouping Report (in National it is called Grouping Report)
5. The next screen prompts the information on the report; Extended Families, select All, select Hold Types, select Order, Select Ownership Type, and select Level of Difficulty
6. The screen will prompt you to enter a subtitle (e.g. First Grouping, Second Grouping, just be consistent in your terminology and usage of titles)
7. Select Print or Preview
8. Select option Yes or No on message – Print Each Extended Family on a Separate Page.

**Reviewing the Grouping Report for Irregularities**

After the grouping report is printed, it should be reviewed for the following irregularities.

- Account balance does not include accrued interest. This is evident if the Principal & Interest (P&I) column has numerous even dollar balances for account type CDs. However, if the financial institution paid interest on the day the download was obtained (such as the 30<sup>th</sup> of the month), this may not be an accurate indicator.
- IRAs do not show up on the grouping report. Sometimes institutions do not have a separate account type for IRAs and they might be included with the CDs or Savings accounts. BIS will need to extract the IRAs and give them the account type "IRA."
- There are no joint accounts on the grouping report. This problem usually arises when the account name data is not parsed correctly. BIS may need to add joint account indicators.
- There are no In Trust For (ITF) or Payable on Death (POD) accounts on the grouping report. This problem usually arises when the account name data is not parsed correctly.
- Claimant Name appears last name first. When this occurs, it negatively impacts the building of the name keys.
- Tax Identification Numbers (TINs) for the same depositor are different. If this problem occurs throughout the report, have BIS check the TIN information on the download.
- Truncation of the name field. The name field is 40 characters in length. On occasion, the name field will be truncated at a given length such as 20 characters. For example, an account titled: Collin County Community College may show up on the grouping report as:

Collin County Community

As shown in this example, it is not possible to make an accurate insurance determination based on such limited information.

It is important to confer with BIS on how to correct these problems. Sometimes the data is severely impaired and/or corrupted and cannot be used. When this occurs, a new download should be obtained on the advice of BIS.

Another item that must be addressed is to determine if there are any large groups that should be separated. It is suggested that the CAIC print the INXS Log in RLS, which lists the number of accounts in each group. The INXS Log can be found under the Data Imports header. A sample of an INXS log is attached as Exhibit IV-F-3: Sample INXS Log - RLS3136.

Once a group is identified as having too many accounts, the Grouping Analysis Tool is used to analyze the group for "linchpins". A linchpin is the key that pulls accounts together. For additional information on "linchpins" refer to the RLS User's Manual, Appendix E: RLS Grouping Process Information.

The Grouping Analysis Tool generates a report identifying grouping statistics for the group, commonly occurring grouping keys, and possible linchpins that, if removed from the group, cause the group to be separated into two or more groups during the next grouping. For information on accessing the Grouping Analysis Tool, refer to the RLS User's Manual, Section 6.1.4.4: Grouping Analysis Tool.

Example: Account title: Mary Dean, Rental Property

RLS would build keys as follows:

Name1 Key: marydean

Name2 Key: rental

In this example, the word "property" would not be used to build the key as it is a "Discard"<sup>1</sup> in RLS, so the key would be built on the word "rental". If there were multiple accounts that built a Name2 key of "rental", they would be grouped with Mary's account. If the accounts did not belong together, the CAIC could go into RLS and add "rental" as an "Exclude"<sup>2</sup> Keyword<sup>3</sup> in RLS, and rerun the grouping report. This process should be used only when large groups are created that make the editing process difficult.

Once the linchpins have been identified and input into RLS as Keywords, a CSA should perform the Depositor Data Manager (DDM) function. The CSA will need to:

- Clear Grouping
- Group Data (make sure the "Include Excludes" box is checked)

After the data is grouped, the CAIC should print a new INXS Log to see if there are still large groups that can be separated by identifying additional keywords/linchpins. If additional keywords are input, grouping must be cleared and regrouped.

Once the CAIC determines that the grouping report is manageable, it can be printed. It is suggested that a copy be made or second "clean" report printed unless the report is voluminous. The second copy is available if a clean page is needed to replace a page that was edited incorrectly.

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<sup>1</sup> A Discard or Delimiter is a Keyword which is a term or phrase that is always ignored in the parsing of the owner's name when building the keys for grouping purposes. Some examples of discards are: accountant, incorporated, property, or sharing. Some examples of Delimiters are: attention, custodian, doctor, ITF, POD, or trust.

<sup>2</sup> An Exclude is a Keyword which is used to "exclude" user-selected keys (name keys, address keys and tax identification keys) after the keys are built. Any keys that are "excluded" are not used in the grouping.

<sup>3</sup> A Keyword is a Delimiter, Discard or Exclude word or phrase that is used in the grouping process to filter data and improve the construction of name, address, and tax identification keys. For further information on the building of Keywords refer to the RLS User's Manual, Appendix E: RLS Grouping Process Information.

**Managing the  
Editing Process**

The next step is to edit the grouping report. In editing the grouping report, the Claims Specialist is making a determination (preliminary) of insurance coverage based on the failing (or failed) institution's computer records, and the regulations and laws that govern deposit insurance.

The decision to edit the report on-line or on a hard copy will be determined by the CAIC. Generally, if there is only one account per group (such as a bank like Next Bank, which closed in 2002), the report can be easily edited on-line. An example of a grouping report that could be edited at the computer is attached as Exhibit IV-F-2: Pre-closing Grouping Report. The CAIC must also take into consideration the experience of the Claims Agents editing the report. While the edits can be easily done at the computer for this report, a hard copy should be printed, so that the person performing the second review can see the edits.

Attached as Exhibit IV-F-4: RLS Screen – Ungroup/Regroup Accounts is a screen display for the Ungroup/Regroup (edit) function in RLS. The information is displayed in a different format than the grouping report and the "Claimant Name" field on the account line is truncated. To view the account title in full, one must use the "view account details" function, where the entire name as reflected on the institution's records is revealed.

The focus of instructions for editing the grouping report for this manual will be based on editing the report in hard copy.

Depending on the number of editors, the report is usually distributed in groups of twenty (20) pages. It is very important that each editor initial the upper right hand corner of the pages he is editing. This enables easy identification if there are questions regarding the edits. The CAIC may also require a record of the time to complete the editing. Therefore, each editor should record the time he started and finished each portion of the report. The Claims Specialist doing the second review should initial the report under the first editor's initials. Every page of the report should be initialed by the person editing or reviewing.

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**Holds**

There are two primary hold categories that are reflected in the grouping report. They are Pass with Hold (PH) and Uninsured (XX). Once an institution has failed and there is an acquiring institution, the FDIC passes accounts that may be fully insured with a hold. Those holds are PH. The depositors may need to complete documentation for the Claims Specialist to make a determination. In the case of accounts that are clearly uninsured (excess) regardless of the need for further documentation, the hold code is Excess ("XX") in RLS.

However, if there is no acquiring institution, the FDIC pays depositors directly, so there would be no “passing” of accounts, and all uninsured groups would be XX holds<sup>4</sup>. When completing the grouping report during the pre-closing phase, the CAIC should assume there will be an acquiring institution and code the holds accordingly.

**Note:** At closing there may be other holds placed on accounts, such as for delinquent loans, directors and officers, or litigation. Refer to Section IV-Chapter G - Account Holds of this manual for further information on placing other types of holds.

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**Extended  
Family and  
Ownership  
Categorization  
in RLS**

Before editing the report, the Claims Specialist must understand the makeup of the report. Accounts are separated into ownership categories based on keywords in the title of the accounts.

As an example, if an account is titled “John Dean” and there are no other words or names included in the title, RLS will categorize the account as a Single Ownership Account. If an account is titled “John Dean and Mary Dean”, RLS will categorize the account as a Joint Account, based on the word “and” in the title of the account.

RLS implemented the use of “Extended Family” numbers (For further explanation of “Extended Family,” refer to the RLS Users Manual, Appendix E: RLS Grouping Process Information.). Accounts are grouped together by common keys to form extended families. Extended families are grouped a second time by matching grouping keys and ownership type indicators to form groups. Each group in an extended family is then examined to determine if the sum of the principal and interest exceeds the maximum insurance limit. Members (a depositor or group of depositors based on ownership type) of groups that exceed this limit are assigned a consecutive group number. Otherwise, the members are assigned to group “0”.

If at least one group is formed within an extended family, then the extended family is assigned an extended family number. Otherwise, all members of the extended family are assigned to extended family “0”. After groups are formed, the uninsured is calculated at the group level.

RLS first groups accounts by name, Tax Identification Number (TIN) and address into an “Extended Family”. Within the “Extended Family”, RLS then assigns ownership codes and sorts those into groups. Extended Family numbers are assigned in numerical order starting with 1, and continuing on with 2, 3, 4, etc. Group numbers are assigned in numbering sequences starting with 20, and continuing with 40, 60, 80, etc.

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<sup>4</sup> The hold for Brokered Deposits is PH regardless of the type of resolution.

There are over one hundred keywords in RLS so that accounts can be categorized pursuant to the FDIC Insurance Regulations. The following are additional examples of ownership keyword designators:

- Dean Metals, **Inc.** - the “Inc.” designates a Business account
- **City** of Dallas - the word “City” designates a Public Unit
- John Dean Rev. **Living Trust** - “Living Trust” indicates a Revocable Trust account
- Dean Metals Employee **Profit Sharing Plan** - Profit Sharing Plan indicates the account is an Employee Benefit Plan account
- Jones **Irrevocable** Trust - Irrevocable indicates the account is an Irrevocable Trust account

The following is a listing of the various ownership categories and acronyms in RLS. It is based on federal statutes and the FDIC insurance regulations.

ANC = Annuity Contracts  
BIA = Bureau of Indian Affairs  
BND = Public Bonds  
BRK = Broker  
BUS = Corporate/Partnership/Unincorporated Associations  
DOE = Department of Energy  
EBP = Defined Contributions/Employee Benefit Plan/Defined Benefit  
IRA = IRA/Keogh  
IRR = Irrevocable Trust  
JNT = Joint  
PUI = Public Units – Interest Bearing  
PUN = Public Units –Non-Interest Bearing  
REV = Revocable Trust  
SGL = Single

For accounts that may qualify as Revocable Trusts, RLS categorizes them as Single (SGL) or Single Possible Revocable. Once the Claims Specialist reviews the report, he can change the ownership category to REV. Further discussion on changing ownership categories during the editing process will be discussed later in the Editing Steps.

RLS has various hierarchies for categorizing an account. For instance, if there are two names joined by “and” but the title of the account also includes “living trust” the account is not categorized as a joint account but rather as SGL. Refer to the RLS Users Manual, Appendix E: RLS Grouping Process Information for further information on the ownership categorization and the hierarchy of categorization. The CAIC may also give further instructions that are unique to a particular institution.

**Making Edits  
on the  
Grouping  
Report**

Before beginning the editing of the report, review Exhibit IV-F-5: Basic Assumptions for Editing the Grouping Report – Job Aid (“Assumptions”). The CAIC may have further assumptions which are unique to the specific failing (or failed) institution.

As indicated in the Assumptions, when editing the grouping report on a hard copy, consistency and neatness are critical to ensure that the edits are interpreted correctly by the second reviewer and the person inputting the edits into RLS. A yellow highlighter is used for ungrouping a group or accounts within a group, and a red pen is used for making changes to a group or an account within a group.

It is generally helpful to complete the editing of the report in a group setting, so that less experienced editors have the ability to ask questions and get information from the more experienced staff. When performing the editing function, it may be necessary to review the data in RLS. Because of the limitation of characters in the name field, the “Claimant Name” field may be truncated and the editor may determine that with the additional information available in RLS, the group could be handled differently.

Here is an example of when this may be useful:

\$ 390,000<sup>5</sup> - Jack Horner or Jody Horner or Annette Horner or

After a review of this example, in RLS it is discovered that there is a fourth name and the account would be fully insured, and can be ungrouped.

A more common occurrence is when there are two grantors and two or more beneficiaries listed for a POD account. If the account(s) balance is under \$400,000, the account(s) could be fully insured if the beneficiaries are qualified. The account may read as follows:

\$385,000 - Jack Horner or Jody Horner ITF Annette Horner and

By reviewing the full account title in RLS, the editor will see the second beneficiaries’ name and designate the account as “PH”.

There also may be instances when an account has been put into Group “0” for an Extended Family, and another related account was assigned a group number. By viewing the entire “Extended Family” in RLS, the editor will see additional accounts. There may be instances when an account was put into group “0” incorrectly. An example of this is:

Ext. Family 1, Group 0, \$98,000 Jack Horn & Jody Horn Ttees of the Horn Revoc.

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<sup>5</sup> Grouping examples throughout the chapter assume a single ownership insurance maximum amount of \$100,000 per depositor.

Ext. Family 1, Group 20, \$180,000 Jack Horn ITF Jody Horn  
“Ttees” and “Revoc” were not keywords for Single Possible Revocable (SPR) ownership categorization, the ampersand indicated a joint ownership account, and since the account was under \$200,000, the account was put into group “0”. The editor recognizes that “Ttees” and “Revoc” need to be added as keywords for ownership categorization. However, the account in group “0” needs to be regrouped with group 20. See Exhibit IV-F-6: Editing a Grouping Report-Changing a Hold from XX to PH, or Moving Accounts to a New Group for changing a hold code from XX to PH or moving an account or group of accounts from one group to a new group. See Exhibit IV-F-7: Editing a Grouping Report-Ungrouping a Group or Accounts Within a Group for ungrouping a group or accounts within a group.

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**Second Review**

Once the first edits have been completed on the hard copy of the grouping report, a more experienced Claims Agent will review the report to ensure that the application of the deposit insurance regulations has been completed accurately. This Second Reviewer will initial the grouping report in the upper right hand corner, under the initials of the first editor. Any changes to the edits completed by the first editor should be noted on the report, using the same notations used when doing the first edit, and brought to the attention of the first editor.

The Second Reviewer may review the accounts on the grouping report at the computer in conjunction with the hard copy.

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**Performing  
Joint  
Ownership  
Breakouts in  
RLS**

In RLS, the ownership categorization function recognizes that joint accounts can be insured to more than the individual maximum limit. When grouping is run, joint accounts for 2 times the individual maximum limit and under are ungrouped. If a joint account or group of joint accounts has three (3) owners it is insurable to 3 times the individual maximum limit. Grouping is presently set to ungroup a joint account only if it is 2 times the individual maximum limit or under. If a joint account or group of joint accounts is more than 2 times the individual maximum limit, there is a function in RLS, the Joint Ownership Breakout (“JOB”) that allows the user to determine the insured and uninsured portion for each depositor if there are more than two (2) depositors. If after performing the JOB, a group is determined fully insured, the JOB transaction must be cleared in order to ungroup the group. Once the JOB has been performed, use the “Clear All” button which deletes the JOB. The group can then be ungrouped.

If it cannot be ungrouped, but can be insured for more than 2 times the individual maximum limit, perform JOB and RLS will automatically perform the calculations for additional insurance. At the closing, when doing the edits in RLS, if a JOB is performed, the system will automatically complete the transactions for the joint account(s).

Example:

Jack Horner or Jody Horner or Annette Horner	\$150,000
Jack Horner or Jody Horner	\$200,000

These accounts are insured as follows:

Jack Horner's interest is \$150,000, insured to \$100,000  
Jody Horner's interest is \$150,000, insured to \$100,000  
Annette Horner's interest is \$50,000, fully insured

The entire group is insured for \$250,000 and uninsured for \$100,000.

By performing the JOB prior to stratification, RLS will write the transaction to transfer \$250,000 in a Insured Deposit P&A to an Acquiring Institution. In a payout, it writes the determined insured (DI) transaction to issue payout checks totaling \$250,000.

Note: For further information on writing transactions in RLS, please refer to the RLS User's Manual, Section 8: Liabilities.

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**Entering the Grouping Edits in RLS**

To transfer the edits made on the hard copy of the grouping report into RLS, or to make the edits as the review is completed at the computer, see [Exhibit IV-F-8: Entering Edits in RLS-Job Aid](#).

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**Checking the Edits**

Once all edits have been entered into RLS, a new grouping report is printed. The CAIC generally checks the edits to verify that the hard copy edits were accurately entered into RLS. This process is called "Checking the Edits". The first grouping report is used to compare against the new grouping report. Again, the person checking the edits initials the grouping report in the upper right hand corner. Further changes resulting from errors are indicated on the new grouping report and the edits entered into RLS.

Once all the edits have been entered into RLS and the edits have been checked, the final reports are produced. This process (checking the edits and entering them into RLS) may have to be completed several times, until the CAIC is comfortable that the report has been accurately edited.

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**RLS Reports**

The following reports may be produced when performing the grouping for the pre-closing estimate, and at closing. For further information on producing the reports in RLS, refer to the RLS User's Manual, Section 10: Reports.

- Final Grouping Report (in Estimations, the report is "Pre-Closing Grouping Report")
- Final Excess Register Report-Hold Flag: All
- Final Excess Register Report-Hold Flag: XX

- Final Excess Register Report-Hold Flag: PH
- Liability Register –depending on the size of the institution you may just save this in Excel or print out
- State Grouping Summary (By Branch)
- Signature Card Pull List
- Ownership Type Summary Report
- Uninsured (XX) Totals by Claim Type Codes (not available in Estimations)
- Excess Register Labels (not available in Estimations)
- Uninsured Deposit Analysis (not available in Estimations)
- XX/PH Worksheet (not available in Estimations)

Many of these reports will be used to prepare the uninsured deposit estimate as discussed in Section III Chapter B: Preparation of Uninsured Deposit Estimate Memo.

When performing the grouping function at a closing, some of these reports may be used by the acquiring institution when placing holds or debiting accounts for uninsured funds or by the FDIC in placing holds in a payout. It is important that the Claims Specialist understands the makeup of reports, especially the Final Excess Register Reports. For further explanation of the total pages for each report, see Exhibit IV-F-9: Explanation of RLS Reports Used in the Grouping Function.

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**Obtaining  
Copies of  
Signature  
Cards or CD's**

Once the grouping report has been edited and the Final Excess Register Report is produced, the CAIC may determine it is necessary to obtain copies of signature cards or certificates of deposit (CD's), or a sampling of either, from the failing institution. The decision to obtain those copies may depend on the data that was provided in the download - such as possible inconsistencies, or a large number of groups. As an example, during the review of the data from a recent "failing institution" it was noted that about 200 accounts were coded by the failing institution as "POD" accounts. However, the account titles did not include any designation of a payable on death or in trust for account. The CAIC may want a sampling of the signature cards or CD's for those accounts to determine if the accounts are truly "POD" accounts, or if they were incorrectly coded by the failing institution.

If there are a large number of groups on the report, you may want to get a sampling of the signature cards and/or CD's to see if there are any irregularities in the computerized information from the institution and the signature cards and/or CD's. Once a sampling is obtained, if the irregularities are low, the CAIC may decide copies of all of the signature cards and/or CD's are not necessary and will be obtained on an "as needed" basis (after the closing).

If signature cards or copies of certificates of deposit are obtained, the accounts should be reviewed to see if adjustments can be made in the grouping report. As an example, if an account was indicated as having two joint account owners, but upon review of the signature card, it revealed there were three owners, the account could be insured to 3 times the individual maximum insurance limit per depositor. The uninsured numbers should be adjusted based on the information gleaned from this further review if appropriate.

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**G. Account Holds**

**Contents**

This chapter contains the following information on Account Holds:

<b>Topic Title</b>	<b>Page Number</b>
<u>Overview</u>	<u>IV-G-1</u>
<u>Policy Statement</u>	<u>IV-G-2</u>
<u>Procedures</u>	<u>IV-G-2</u>
<u>Exhibit IV-G-1: Account Hold Report - Blank</u>	
<u>Exhibit IV-G-2: Account Hold Receipt to AI</u>	
<u>Exhibit IV-G-3: Final Excess Register</u>	
<u>Exhibit IV-G-4: Bank Owned Funds Deposit Hold Request</u>	
<u>Exhibit IV-G-5: Credit/Operations Holds Verification Report</u>	
<u>Exhibit IV-G-6: Acquiring Institution Cover Letter</u>	
<u>Exhibit-IV-G-7: Add Account Holds Letter</u>	

**Overview**

Holds placed upon deposit accounts of the failed institution assist 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 Receivership Liability System (RLS).

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."

There are three classifications of holds that may be placed by FDIC personnel on deposit accounts.

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**Claims Holds**

- Placed on the portion of a deposit account that has been determined to be uninsured.
- The inability to immediately determine the insured portion of a deposit account, also known as PH (pass with hold).
- Bank controlled deposit account.

**Credit or Loan Holds**

- Leverage holds. These include delinquent, classified, or charge-off loans (depositor is borrower or guarantor) and deposits pledged as collateral to loans.
- Overdrafts, return or cash items.

**Operations or Investigation Holds**

- Deposit accounts of failed institution directors or officers.
- Deposit accounts affected by litigation.

Credit and/or Operations holds, with the exception of accounts pledged as collateral, should not be placed for amounts less than \$500.00 due to the administrative expense incurred to monitor and process the transaction.

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**Policy Statement**

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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.

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**Procedures**

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**Note: All account holds must be placed on the respective deposit accounts in RLS prior to stratification.**

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**Claims Holds  
Pre-  
Stratification**

There are three types of Claims holds that can be placed against deposit liabilities of a failed institution. It is the responsibility of the Claims Specialist to establish and record all Claims holds in RLS.

- XX holds, (uninsured) for the portion of a deposit liability that exceeds the deposit insurance limit

- PH holds, when the Claims Specialist is unable to determine if the deposit liability is fully insured without additional information. The placement of a DO/Non-DO flag will activate a PH hold for the entire balance of a Brokered group.

XX and PH holds, as applicable, are placed upon each deposit liability account reflected in RLS during the Grouping Function. Refer to Section IV Chapter F of the Claims Manual and RLS User's Manual, Section 6.1.4.3 for placing of PH holds during the Ungroup/Regroup process. PH holds and DO/Non-DO flags must be placed manually, while XX holds are automatically placed on all deposit liabilities that meet the criteria for uninsured.

- BC holds, for **Bank owned/controlled** funds.

BC holds must also be placed manually, not as part of the Ungroup/Regroup process, but as part of the Holds At Closing process. Refer to the RLS User's Manual, Section 6.1.2, Holds at Closing.

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**Claims Holds  
Post-  
Stratification**

During the meeting with deposit customers of the failed institution, information may be obtained which results in the Claims Specialist's need to place a XX hold upon a previously fully insured deposit. It is the responsibility of the Claims Specialist to contact the Acquiring Institution to determine if the funds in question are still on deposit and available to FDIC. If funds are available, the Acquiring Institution is to place a FDIC XX hold upon the account. Initial contact will probably be by telephone, however, a follow up request in writing must be made. Refer to Exhibit-IV-G-7: Add Account Holds Letter. Refer to Claims Manual, Section IV Chapter P Corporate Settlement Process, for the procedure of returning funds to FDIC.

---

**Credit or Loan  
Holds**

There are five types of Credit or Loan holds that can be placed against deposit liabilities of a failed institution.

- CO holds, placed on deposits associated with **charged off** loans;
- CP holds, placed on deposits that are **pledged** as **collateral** for a loan;
- DL holds, placed on deposits associated with a **delinquent** loan;
- GU holds, placed on deposits that are owned by a **guarantor** of a loan;
- OD holds, placed on **overdrafts, return** and **cash items**.

It is the responsibility of the Asset Manager to provide the Claims Specialist a complete listing of all the Credit or Loan holds that are to be placed upon deposit liabilities prior to stratification. It is suggested that prior to the closing, the Claim Agent In Charge (CAIC) provide the Asset Manager with a blank Account Hold Report form, Exhibit IV-G-1: Account Hold Report - Blank. Once the complete listing of all Credit or Loan holds is returned to the Claims Specialist, it is his responsibility to input the loan data into RLS. Refer to RLS User's Manual, Section 6.1.2, Holds at Closing.

**Operations Holds**

There are two types of Operations holds that can be placed against deposit liabilities of a failed institution.

- DO holds, placed on deposits of **Directors** and **Officers** of the failed institution;
- LH holds, placed on deposits for **legal** and/or **investigative** purposes.

It is the responsibility of the DRR Investigator In Charge and Legal Closing Attorney to provide the Claims Specialist a complete listing of all Operations holds that are to be placed prior to stratification. It is suggested that prior to the closing, the CAIC provide the Investigator In Charge and Legal Closing Attorney with a blank Account Hold Report form, Exhibit IV-G-1: Account Hold Report – Blank. Once the complete listing of all Operations Holds is returned to the Claims Specialist, it is his responsibility to input the operations data into RLS. Refer to RLS User’s Manual, Section 6.1.2, Holds at Closing.

**Final Excess Register Report**

The RLS report that provides the information for XX and PH holds (which includes Brokered flagged accounts) is the **FINAL EXCESS REGISTER REPORT, RLS7123**. Refer to Exhibit IV-G-3: Final Excess Register. Three separate Final Excess Register Reports are to be provided to the Acquiring Institution to assist in the placing of the claims account holds. One, in the HOLD FLAG sort order of “**ALL**”; the second in the HOLD FLAG sort order of “**XX**”, and the third in the HOLD FLAG sort order of “**PH**”.

**NOTE:** There may be an instance when the Acquiring Institution has been authorized to open for business prior to final grouping. If final grouping has not been performed a FINAL EXCESS REGISTER is not yet available. In order to facilitate the placing of XX and PH holds in a timely manner, the Claims Specialist is to receipt over to the Acquiring Institution the most recent EXCESS REGISTER available in RLS. Excess Registers are available through the DATA IMPORTS in RLS during the Preliminary Grouping function.

**Hold At Closing Reports**

The complete listing of all Bank Owned/Controlled Funds, Credit and Loan, and Operations holds that are placed through the Hold At Closing process are standard RLS reports and should be printed using the path outlined below:

Receivership Liability System → REPORTS → HOLDS →  
Bank Owned Funds(BC) Deposit Hold Request; RLS7192, Exhibit IV-G-4: Bank Owned Funds(BC) Deposit Hold Request  
Credit/Operations Hold Verification Report; RLS7191, Exhibit IV-G-5: Credit/Operations Hold Verification Report

**Receipt of Holds to Acquiring Institution**

Once final grouping has been performed and the deposit liabilities have been stratified, the CAIC is responsible for receipting over to the Acquiring Institution reports of all holds that are to be placed upon individual deposit accounts. A receipt similar to Exhibit IV-G-2: Account Hold Receipt to AI is to be prepared by Claims and the signatures of both the authorized representative of the Acquiring institution(s) and the CAIC are to be obtained.

In a Payout or partial Payout, there is no Acquiring Institution, and the information in this chapter referring to Acquiring Institution matters and responsibilities does not apply.

**NOTE:** Depending on the type of transaction you may not need to provide all of the reports listed. If there are multiple acquirers, each acquirer should only receive the reports for the branches/accounts they are assuming.

These listings are to be in the hands of the Acquiring Institution prior to the first business day that the failed institution is reopened and deposit accounts are made available to deposit holders of the failed institution.

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**Acquiring Institution Responsibility**

It is the responsibility of the Acquiring Institution to place all FDIC holds upon the individual deposit accounts.

The CAIC should strongly suggest to the Acquiring Institution that the portion of a deposit account that has XX holds placed on them be removed or debited from the deposit account. This will eliminate the possibility of deposit holders gaining access to uninsured deposit dollars.

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**Monitoring of Account Holds**

To minimize the potential of unauthorized releases of FDIC holds by the Acquiring Institution, it is the responsibility of the Claims Specialist to monitor the status of all holds, at least every 90 days, with the Acquiring Institution(s), FDIC Investigations, and the current FDIC Loan Officer noted in RLS.

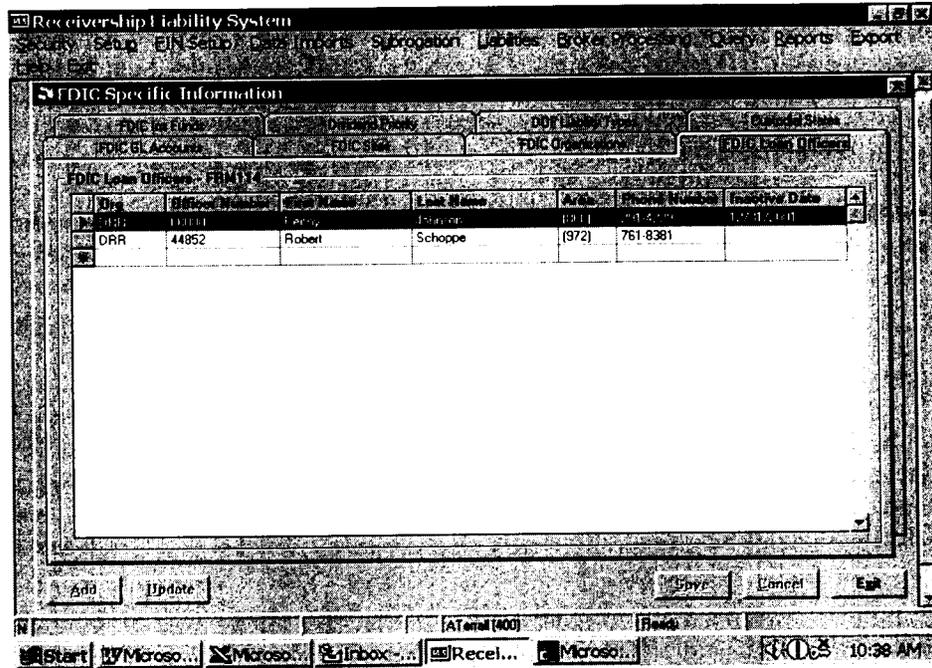
The Claims Specialist is to print a current Pending Holds Report, RLS 7197. A copy is to be sent to the designated representative of the Acquiring Institution for his review and verification that the deposit account holds contained in the listing are still active on the books of the Acquiring Institution. For sample verbiage see Exhibit IV-G-6: Acquiring Institution Cover Letter.

The Claims Specialist is to email a copy of a current Pending Holds Report, RLS 7197, to the current FDIC Asset Team Manager, as designated in RLS, SETUP, FDIC Specific Information, as shown on page 6. The FDIC Loan Officer is responsible for identifying the appropriate Credit Account Officer assigned to each claimant and forwarding the report to him for review and verification. A copy is also to be emailed to a representative of Investigations Unit, and Legal Department, if applicable. Notations are to be made indicating when the hold(s) might be released.

NOTE: It may be necessary to follow up with the Acquiring Institution, FDIC Investigations and the FDIC Loan Officer if the response to Claim's request is not made in a timely manner.

**FDIC Loan  
Officer Tab**

To access this tab, from the RLS main menu, select SETUP, then select FDIC Specific Information. It is the responsibility of Credit to notify a RLS Claims System Administrator when the designated FDIC Loan Officer is changed.



**H. Stratification – “Going Final”**

**Contents**

This chapter contains the following information on Stratification – “Going Final”:

<b>Topic Title</b>	<b>Page Number</b>
<u>Overview</u>	<u>IV-H-1</u>
<u>Policy Statement</u>	<u>IV-H-2</u>
<u>Procedures</u>	<u>IV-H-2</u>
<u>Certifications</u>	<u>IV-H-3</u>
<u>Stratification</u>	<u>IV-H-4</u>
<u>Exhibit IV-H-1: Procedures for Claim Type Mapping Certification</u>	
<u>Exhibit IV-H-2: Procedures for (Pro Forma) Balancing Certification</u>	
<u>Exhibit IV-H-3: Procedures for Assigning Acquirers/Liabilities</u>	
<u>Exhibit IV-H-4: Procedures for Stratification “Going Final”</u>	

**Overview**

Stratification is commonly referred to as “Going Final”, is the process of assigning unique claim numbers for all deposit liabilities (including Official Items), writing transactions based on the resolution agreement, and recording holds on the liabilities, as appropriate for a failed institution, in the Receivership Liability System (RLS).

During stratification, RLS will assign a unique claim number to each deposit account. Most deposit accounts (Savings, Checking, Certificate of Deposits, etc.) are assigned a 10000000 series claim number. Retirement accounts (IRA’s, Keoghs) are assigned a 20000000 series claim number and Official Items (Interest checks, Cashier Checks, etc.) are assigned a 3000000 claim number. Once established, the claim number can be used as a search tool and may not be edited.

RLS 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, RLS 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 (IP) for the insured portion of the deposit when the deposit insurance checks have been processed through the Subrogation module. 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 (TR) for the amount which is transferred to the Acquiring Institution.

Prior to stratification, all processing in the Data Imports and FIN Setup modules in RLS must be completed. After the stratification process is completed, all functions become read-only and liabilities can only be processed using the Subrogation and Liabilities functions in RLS.

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## Policy Statement

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

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## Procedures

### Pre-Stratification

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Before stratification can occur, specific tasks must be completed. Official Items must be downloaded, balanced, imported and certified. See [Section IV, Chapter D “Download and Reconciliation of Official Items”](#) for detailed procedures. The depositor data must also be downloaded and balanced. A detailed discussion on this process is located in [Section IV, Chapter E “Reconciliation of Deposit Download”](#) in the Claims Manual. Claims mapping must be performed before grouping.

After these tasks are performed, certifications can be completed. There are four certifications that must be performed in RLS:

- Claim Type Mapping
- Balancing
- Official Items
- Assign Acquirers/Assign Liabilities

After certifications are completed, final grouping and stratification can be performed.

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## Certifications

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### **Claim Type Mapping**

The Claim Type Mapping process is used to ensure that each of the account type codes that were loaded from the institution’s deposit download match to the appropriate Claim Type Code. A listing of active Claim Type Codes that are used within RLS can be found in Section 4.2.2 “Claim Type Codes” in the RLS User’s Manual. The Claim mapping data may be certified and uncertified at any time prior to grouping. However, prior to stratification, mapping must be certified. See Exhibit IV-H-1 Procedures for Claim Type Mapping Certification. For a detailed discussion of Claim Type Mapping, refer to Section 6.1.1.1 “Update/Certify Claim Type Mapping” in the RLS User’s Manual.

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### **Balancing**

The Balancing process is used to compare the deposit download with the failed institution’s deposit trial balances as of the date of closing. The data can be certified and uncertified as often as is necessary prior to grouping. However, prior to stratification, balancing must be certified. See Exhibit IV-H-2: Procedures for (Pro Forma) Balancing Certification. For a detailed discussion of Balancing certification, refer to Section 6.1.1.4 “Balancing” in the RLS User’s Manual.

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### **Official Items**

The Official Items process allows the user to certify the Official Items that have been input into RLS. The data can be certified and uncertified prior to grouping. However, prior to stratification, balancing must be certified. For a comprehensive discussion of the Official Items process, please refer to Section IV, Chapter D “Download and Reconciliation of Official Items” in the Claims Manual and Section 6.1.3 “Official Items” in the RLS User’s Manual. Specific instructions on the certification process are located in Exhibit IV-D-2: RLS Procedure Checklist for Closings, Steps #40-49, in the Claims Manual.

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### **Assign Acquirers/ Assign Liabilities**

The Assign Acquirers/Assign Liabilities process allows the user to perform a final certification of the information on the Assignment of Liabilities screen. Prior to certification, the acquirer must be assigned. Once the acquirer is assigned, the liabilities of the failed institution can be allocated to the selected acquirer via the assignment of liability screen. A comprehensive discussion on the assignment of acquirers and liabilities can be located in Section 5.7 “Acquirers” and Section 5.7.2 “Assignment of Liabilities” in the RLS User’s Manual. See Exhibit IV-H-3: Procedures for Assigning Acquirers/Liabilities.

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## Stratification

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**Mixed Groups** Stratification cannot be performed if there are mixed brokerage account designations in a group (e.g. brokered and non-brokered accounts, DO and Non-DO brokered accounts). Additionally, stratification cannot be performed if there are groups with Broker ownership type that do not have a DO or Non-DO brokered account designation or there are groups with a DO or Non-DO brokered account designation that do not have a Broker ownership type. If any of these conditions are met, a message will appear indicating the particular group/account that needs to be resolved. The DDM Stratification Problem Groups report will list the problem group/account. Refer to Section 3.4 “Ungroup/Regroup Accounts Screen” in the Deposit Broker Processing RLS User’s Manual for information on identifying or updating the designation of a brokered account (e.g. change a brokered account to a non-brokered account).

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**Going Final** Once the four certifications are completed, stratification can be performed. During stratification, beginning balance transactions (BB) are written along with transferred amounts and claims numbers are assigned to each liability. If the resolution is anything other than a Payout (PO), transfer transactions (TR) are also written at stratification. See Exhibit IV-H-4: Procedures for Stratification “Going Final”. For a detailed discussion, refer to Section 6.3.4 “Stratify Depositor Data” in the RLS User’s Manual.

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**Liabilities** Once stratification is completed, liabilities can be accessed through the Liabilities - Process Liabilities component of the Main Menu within RLS.

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## I. Corporate Funding

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### Contents

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This chapter contains the following information on Corporate Funding:

Topic Title	Page Number
<u>Overview</u>	<u>IV-I-1</u>
<u>Policy Statement</u>	<u>IV-I-2</u>
<u>Procedures</u>	<u>IV-I-3</u>
<u>DRR Claims Role in Corporate Funding Process</u>	<u>IV-I-3</u>
<u>Exhibit IV-I-1: Steps in the Corporate Funding Process</u>	

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### Overview

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DRR Claims has a small, but important, role in the Corporate Funding process. This chapter focuses on DRR Claims' role. However, additional information on the overall process can be found in the exhibits to this chapter.

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 (WAV's) 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 (either BIF - Bank Insurance Fund **or** SAIF - Saving Association 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), (i.e., BIF or SAIF). The type of institution determines the accounting fund charged. Normally, savings institutions will be charged to the SAIF 9988 fund, and all others are charged to the BIF 9999 fund.

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### 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.

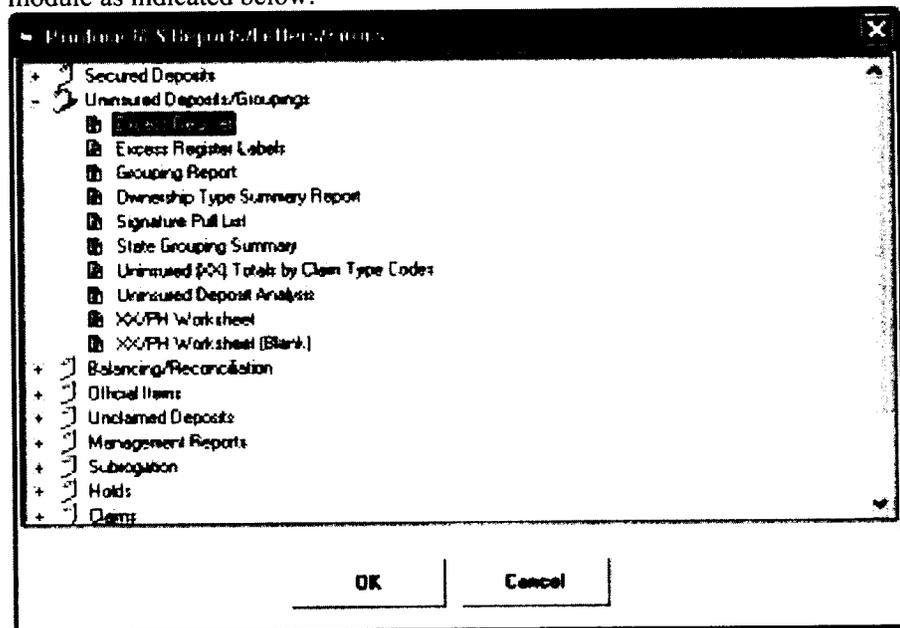
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## Procedures

### DRR Claims Role in Corporate Funding Process

**Insured Deposit Transfer** In an insured deposit transfer transaction, for the **first wire**, **DRR Claims** provides the Final Excess Register Report (All Holds) to DRR Accounting Operations. **DRR Claims** provides no information to DRR Accounting Operations for the **second wire**.

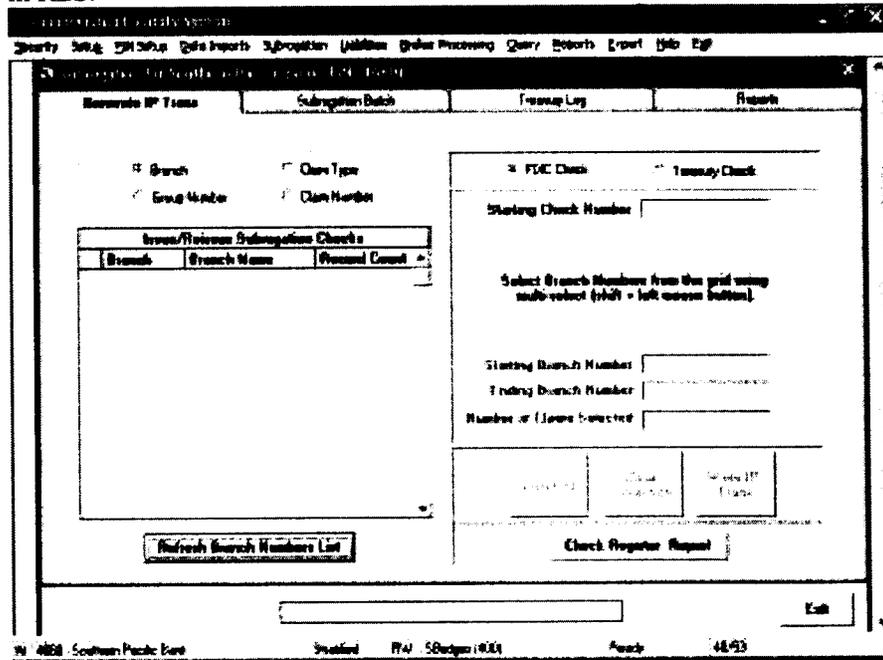
The Final Excess Register Report can be found in RLS, under the Reports module as indicated below:



**Payout**

In a payout, **DRR Claims** provides to DRR Accounting Operations the dollar amount of estimated insured deposits to be funded from the last page of the Subrogation Check Register Report generated by RLS under 'Subrogation'. DRR Accounting Operations will also be supplied with the entire report in an exported Excel format.

Below is the RLS screen indicating where to find the Check Register Report in RLS:



**All Deposit Transfer**

In an all deposit transfer, **DRR Claims** does not provide any information to DRR Accounting Operations, as DRR Accounting Operations calculates the first and second wire amounts, using the most current general ledger balances.

**Funding Deadline**

The funding is performed by a WAV on the first business day after the closing of a failed financial institution and it is imperative that the information and forms are received in Dallas and Washington by 7:00 a.m. EST. A Friday closing requires the funds to be wired on Monday. The timing of the wire is critical if closing occurs Monday-Thursday, as the wire will need to be calculated closing night and sent the first business day after closing.

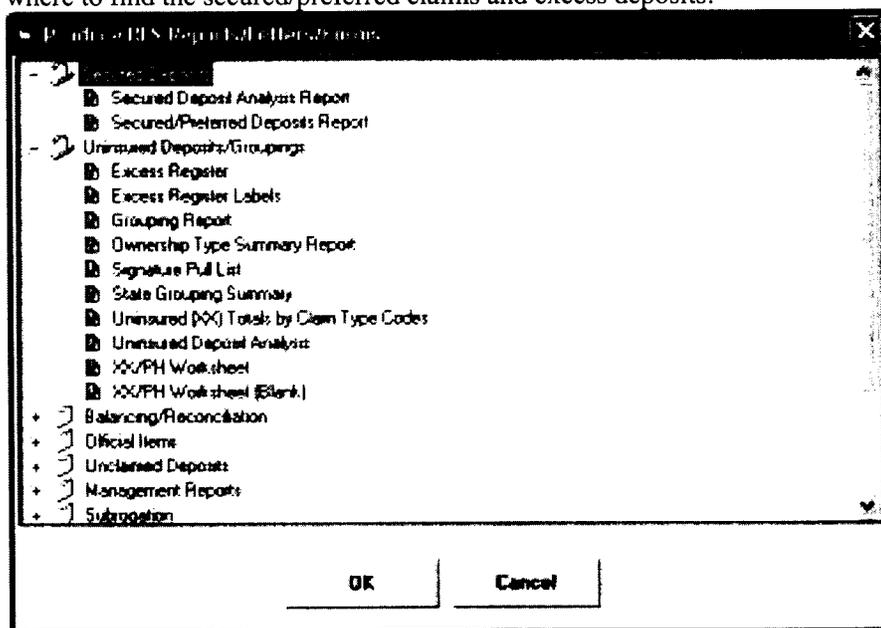
**Initial Dividend (At Closing)**

If declared, this will adjust the **second wire** to the Receiver.

If the Receiver (or resolution transaction) has **sold 50% or more of the assets** to the Acquiring Institution (et al) and there is no apparent fraud or other similar issues surrounding the closing of the failed institution, DRR Accounting Operations, in coordination with **DRR Claims** and Legal, will

discuss the possibility of paying an Initial Dividend. If all parties are in agreement to pay an initial dividend, **DRR Claims** will supply to DRR Accounting Operations the estimated secured and preferred accounts/claims and estimated excess deposits, while Legal will supply any legal reserve amounts. Market values of the secured deposits will most likely be unknown at this time, so **DRR Claims** would provide the estimated figures based on the Information Package, securities records and/or general ledger; all of which will be used to identify the secured accounts. Refer to Section IV Chapter O: Secured Accounts/Preferred Claims for specific procedures.

Once the secured deposits/preferred claims have been analyzed and computed, this information is input into RLS (Refer to Section IV Chapter O: Secured Accounts/Preferred Claims). Below is the RLS screen indicating where to find the secured/preferred claims and excess deposits:



As mentioned earlier in this chapter, DRR Claims' role in the Corporate Funding process is limited. For details as to how the information provided above by DRR Claims to DRR Accounting Operations fits into the bigger picture, see Exhibit IV-I-1: Steps in the Corporate Funding Process.

## **J. Meeting With Customers of a Failed Institution**

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### **Contents**

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

<b>Topic Title</b>	<b>Page Number</b>
<u>Overview</u>	<u>IV-J-1</u>
<u>Policy Statement</u>	<u>IV-J-2</u>
<u>Procedures</u>	<u>IV-J-2</u>
<u>Exhibit-IV-J-1: XX/PH Worksheet Before Adjustments</u>	
<u>Exhibit-IV-J-2: Uninsured Deposit Analysis</u>	
<u>Exhibit-IV-J-3: Depositor Interview Form</u>	
<u>Exhibit-IV-J-4: Affidavits &amp; Declarations – Job Aid</u>	
<u>Exhibit-IV-J-5: XX/PH Worksheet With Adjustments</u>	

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### **Overview**

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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.

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## **Policy Statement**

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

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## **Procedures**

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### **Pre-Closing Phase Preparations**

As part of the standard Pre-Closing Phase procedures, the Claim Agent in Charge (CAIC) performs a preliminary analysis of the deposits of the targeted failed financial institution. Based on that analysis and in discussion with the Closing Manager, the Receiver in Charge, and other management and closing personnel, a Claims Strategic Resolution Plan is prepared. The Claims Strategic Resolution Plan addresses such issues as:

- Number of Claims Specialists to be involved in the closing, and whether they will work in the field or in an FDIC office location (or some in each location).
  - Whether there is adequate space in the facilities of the failed institution to accommodate meetings with uninsured depositors or whether hotel or other space needs to be rented near the location of the failed institution. (Coordinating with DOA Contracting may be necessary.)
  - Whether a Call Center will be instituted for the closing, in conjunction with DRR Customer Service, and the details of how that will operate (scheduling appointments via phone, etc.)
  - Determining where depositor records (such as signature cards) are located at the failed institution, and how and what information will be copied for the depositor files which will be created.
-

**Closing Phase  
Preparations**

After the closing occurs and all of the daily work has been processed, BIS downloads the bank's deposit database into RLS. The Claims closing team enters the failed institution's Official Items into RLS and balances the deposits prior to determining which accounts are, preliminarily, uninsured. After the deposit download has been balanced, the Claims closing team completes the grouping process of the uninsured accounts.

After the grouping report has been completed the following tasks are performed:

1. In the Claims' general files, place copies of the following reports:
  - a. Excess Register Report for the Pass with Hold (PH) accounts
  - b. Excess Register Report for the Excess (XX) accountsBoth reports come from RLS.
2. In the file for each uninsured group, place the following reports and information:
  - a. Labels for each file, which labels can be printed from RLS
  - b. XX/PH worksheet for that group (see Exhibit-IV-J-1: XX/PH Worksheet Before Adjustments) from RLS
  - c. Uninsured Deposit Analysis form (see Exhibit-IV-J-2: Uninsured Deposit Analysis) from RLS
  - d. A blank Depositor Interview Form (see Exhibit-IV-J-3: Depositor Interview Form)
  - e. Official Items (as applicable).
  - f. Copies of signature cards and/or CDs (only if the attribute test performed for the Claims Strategic Resolution Plan deemed the electronic records to be unreliable or if the customer disagreed with the ownership represented by the electronic records).

NOTE: In some instances, the building of uninsured files is started during the Pre-Closing phase based on uninsured estimation records. An update to this work will need to be done at closing to determine additional files that need to be built, or to pull files no longer needed.

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**Contacting  
Depositors**

Depositors are made aware of the failed institution closing a number of different ways, including:

1. Through the required Notices which are published and mailed to depositors, all as discussed in Section IV Chapter C - Publication & Notices.
2. Through press releases issued by the FDIC and reported in the media, whether television, radio, or print media.
3. By accessing the FDIC website and discovering information about the failed financial institution.
4. By Notices posted at the branches and other facilities of the failed financial institution.
5. Telephone contact initiated by the FDIC.

Regardless of how the depositor becomes aware of the failed institution closing, it is preferable that an appointment be arranged for the depositor to discuss his situation with Claims. While it is inevitable that some depositors will just walk into a facility of a failed financial institution without having made a previous appointment, such walk-ins should not disrupt the scheduled appointments with other depositors.

**Meeting with  
Uninsured  
Depositors**

This can be a very stressful time for the depositor(s); therefore it is extremely important that a Claims Agent be sensitive to their concerns and approach each depositor and interview with understanding and helpfulness.

The following guidelines should be considered when meeting with uninsured depositors:

1. Review the file immediately prior to meeting with the depositor(s).
2. Introduce yourself as a Claim Agent for the FDIC at the beginning of the meeting.
3. Request the depositor(s) identify themselves by providing an ID, (such as a driver's license, passport, etc.).
4. Verify that you are meeting with an authorized individual (signer) on the account. If the authorized signer is not present, the individual must have a letter signed and notarized by the authorized signer(s), giving permission to the representative to discuss their accounts with the FDIC; or have a copy of the power of attorney allowing him to transact business on behalf of the account owner.
5. Tell the depositor(s) the date that the institution was closed by the appropriate regulatory agency and the FDIC has been appointed receiver.
6. Explain that the FDIC has made a preliminary insurance determination of their account(s) from the information available, and the purpose of the meeting is to obtain additional information which may change the insurance determination.
7. Use the Depositor Interview Form to guide the discussion. This will aid you in determining if the depositor might have adjustments to their accounts, such as Collections after Closing (CAC), Offsets, and Secured Accounts. Make notes of your discussion on the interview form as this information is very helpful to someone reviewing the file later (second review, etc.).
8. Inquire about additional documentation to finalize the insurance determination (trust agreements, legal documents, etc) and request that the information be provided, if applicable. Explain the necessity for the information and what effect it may have on the final insurance determination.
9. After reviewing the files and talking with the uninsured depositor(s), determine whether additional documents such as affidavits, declarations, etc., may be necessary to complete your deposit determination. Provide the depositor(s) with the affidavits, declarations, documents, etc (See [Exhibit-IV-J-4: Affidavits & Declarations – Job Aid](#)), and assist them with completing the forms during the interview process.

10. Explain their rights as an uninsured depositor, and the issuance of a Receiver's Certificate, which represents their approved claim against the receiver.
  11. Advise them of the dividend process by explaining that dividends are paid based on the order of priority of claims against the receivership, and are generated from the liquidation of the assets of the failed financial institution.
  12. The Claims Specialist should advise the depositor that a second review may be necessary before the final insurance determination is made.
  13. Advise the depositor to keep the FDIC informed as to changes of address.
  14. Upon completing the interview process with the depositor(s), the Claims Agent records the deposit adjustments on the XX/PH worksheet (See Exhibit-IV-J-5: XX/PH Worksheet With Adjustments).
  15. After the interview with uninsured depositor(s) is complete the Claims Specialist should record comments on the interview sheet about what was discussed during the interview. **This should be completed prior to meeting with the next depositor(s), while the interview is fresh in your mind.**
- 

**Meeting with  
Insured  
Depositors**

In most instances an insured depositor has made an appointment out of concern that an account is uninsured. Sometimes, an insured depositor simply has questions about deposit insurance. The Claims Specialist (or Customer Service representative) should attempt to answer these questions and/or concerns over the phone when the insured depositor is calling. However, should the insured depositor still want to meet with a Claims Specialist, the following procedures should be followed:

1. Prior to meeting the customer, the Claim Agent or a member of the claims closing staff should search the claims' liability system to identify any deposit account(s) that the customer had with the failed institution.
2. Have the depositor provide an ID, (such as a driver's license, passport, etc.).
3. If the customer is concerned about his account(s) being uninsured, discuss the customer's account(s) and the deposit insurance determination with him.

NOTE: In most cases, the customer will be fully insured, and the Claim Agent can advise him of that fact. However, there might be instances when an account(s) may not have been grouped properly with other account(s), and, the customer is, in fact, uninsured. In those instances, the Claim Agent will need to get information about all of the accounts, and proceed with the interview as an uninsured depositor(s).

4. If the customer is insured, there are no holds on the account(s), and the closing transaction involves an Acquiring Institution, refer the depositor(s) to the Acquiring Institution to claim his funds.

5. If there are non-Claims holds (Investigations, Credit, etc.) on the account(s), the customer should be placed in contact with a closing team member from the other Program Area or Department which originated the hold to further discuss the hold(s).
6. If the closing transaction is a payout, advise the depositor that the FDIC will issue deposit insurance checks and the depositor will receive a check for his insured funds by mail. However, in certain instances, such as if the customer is located in a foreign country; the Claim Agent should request how the depositor wants his funds paid. This procedure allows the depositor to have the insured funds wire transferred to an account in another financial institution. This enables the depositor to receive his insured funds in a timely manner, as mail service to foreign countries may not be reliable.

**NOTE:**

- a.) If not sent in a separate mailing, the depositor will also receive a Notice to Depositor letter with his deposit insurance check
- b.) Provide the customer with an FDIC designated toll free telephone number to call if he should not receive his insurance check(s) within a specified number of days.

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**Responding to  
Customer  
Inquiries**

Claims' responsibility also includes responding to inquiries regarding liabilities of the failed institution. These inquiries are not limited to deposit insurance questions. Such inquiries should be documented, as they may result in the initiation of a claim, litigation, Congressional inquiry, etc.

The following are steps to utilize when responding to contacts initiated by the non-deposit customer:

1. Determine the purpose of the inquiry/complaint, and if possible, answer the caller's question or forward to the appropriate department. An explanation of the law or regulation may be enough to satisfy the inquiry and/or complaint.
2. Determine if the inquiry relates to a potential claim. A person making an inquiry may not be aware of the claims process and the deadlines. Follow up with a "proof of claim" letter with instructions to the person making the inquiry, if it can not be determined whether the inquirer has a claim.
3. Explain the steps necessary to file a claim. Filing a claim for uninsured funds is not required; however, if the customer's account is not found in the bank's deposit data base (and RLS), then a customer may be required to file a claim for a potential "discovered" deposit claim. If the claim pertains to a creditor claim, the customer should be advised to file a claim. A "proof of claim" form with instructions should be mailed to the customer. (For detailed information on general creditor claims, refer to Section V Chapter A - Creditor Claims.)

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## K. Account Hold Release Process

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### Contents

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

Topic Title	Page Number
<u>Overview</u>	<u>IV-K-1</u>
<u>Policy Statement</u>	<u>IV-K-2</u>
<u>Procedures</u>	<u>IV-K-2</u>
<u>Exhibit-IV-K-1: Account Holds – Assets</u>	
<u>Exhibit-IV-K-2: Authorization Signatures For Account Hold Releases</u>	
<u>Exhibit-IV-K-3: Release Notifications (With Seven Attachments)</u>	

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### Overview

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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.

All Account Hold releases **MUST BE** coordinated through Claims. The authorization to release all deposit holds is to be directed to the Claim Agent In Charge (CAIC) at closing, and the Claims Specialist, after the Claims function is consolidated into the Field Office. These individuals will act as liaison with the Acquiring Institution, if applicable.

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## Policy Statement

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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.

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## Procedures

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### Claim Agent In Charge Responsibility

The CAIC, or designee, is responsible for preparing a letter of instructions to the Acquiring Institution for the releasing of deposit holds. Only designated FDIC personnel, usually the CAIC, Claims Specialists, and Claims Supervisory Specialists, are authorized to approve hold releases with an Acquiring Institution.

The CAIC will prepare an Account Holds – Assets letter with an attached Authorized Signatures For Account Hold Releases specimen signature page. See [Exhibit-IV-K-1: Account Holds – Assets](#) and [Exhibit-IV-K-2: Authorization Signatures For Account Hold Releases](#).

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### Release of Claims Holds

Account Holds are to remain against deposit liabilities where insurance determinations have not been finalized. The Claims Specialist is to make contact with the depositor before funds can be considered for release or before a payout check can be issued. Refer to [Section IV Chapter J Meeting with Customers of a Failed Institution](#).

There may be instances when not only a Claims hold, but also Credit, Operations, Investigations, or Legal holds have been placed against the same deposit liability. When this occurs, the Claims hold is to remain until such time as all the other holds have been removed. When the insurance determination is made, the Claims Specialist may place a comment in the liability Comments field in the Receivership Liability System (RLS), stating that Claims is waiting for the other hold(s) to be removed before proceeding with either releasing the funds or issuing a Receivership Certificate.

All Account Holds are to be released in RLS which is the system of record. The authorization to process the appropriate uninsured (XX) and/or Pass With Hold (PH) holds in RLS is evidenced on the XX/PH worksheet, RLS 71261, by the initialing of both the first and second reviewers.

Refer to RLS User's Manual, Section 8.2.2, Summary Holds Information, for a description of two methods of processing a hold release. Following the section, a Matrix listing some common hold adjustment and release combinations is provided. Also refer to RLS User's Manual, Section 8.2.2.2 for additional Claims hold adjustment information.

**Release of Credit, Operations, Investigations, and Legal Holds**

The authorization to release all non-claims holds resides with the originating department who authorized the placing of the deposit hold. Once the decision to release a hold is made, the originating department is to email the Claims Specialist responsible for processing the release on the specific receivership involved. Such email is to contain pertinent deposit liability information contained in the Credit/Operations Holds Verification Report, RLS 7191 – Claim number, Claimant Name, Hold Type Code, and Hold Amount. It is to also include the reason for the release; e.g., deposit held in error, collateral liquidated and loan paid off, asset sold, litigation resolved, etc.

Refer to Section IV Chapter N Overview of Offsets for specific documentation that must be provided to support the release of holds due to voluntary/involuntary loan offsets.

**Notifying Acquiring Institution, Broker, and Depositor of Account Hold Releases**

It is the responsibility of the Claims Specialist to inform the Acquiring Institution of the release of FDIC holds placed upon deposit accounts. The frequency of notification should be based upon the volume and urgency of the respective Account Hold release(s). It is suggested that a minimum of a daily notification routine be established between the Claims Specialist and the Acquiring Institution contact during the first weeks of a closing.

The source documents to be used to notify the Acquiring Institution may vary, based upon the type of Account Hold that was originally placed upon the deposit liability. Notification can be by mail, fax, email, or in person. Whatever method is used, written confirmation or acknowledgement of the request is to be received and maintained by the Claims Specialist. Refer to Exhibit-IV-K-3: Release Notifications (With Seven Attachments) for a listing of Account Holds and suggested methods of notification to the Acquiring Institution and the depositor.

The Claims Specialist may also notify the depositor when holds have been released. Most of the time this notification occurs in a phone conversation after the XX or PH hold has been researched and a decision made as to the insurance determination. In certain circumstances the notification to the depositor will be in writing. Sample forms of some notification letters to depositors are also included in Exhibit-IV-K-3: Release Notifications (With Seven Attachments). Non-Claims hold release notification to the depositor is the responsibility of the department placing the original hold.

Exhibit IV-K-3 contains seven separate attachments. These attachments are various form letters to be used to communicate with the Acquiring Institution, the Broker, or the depositor concerning the disposition of account holds. Four of the seven attachments are standard letters which are generated within RLS. The other three letters are not found within RLS and the forms of the letters found within this manual may be used, adjusted to the particular situation.

**NOTE: The printing of an Account Hold Release letter in RLS is by individual deposit liability CLAIM NUMBER. Therefore, it is helpful to obtain the CLAIM NUMBER for the account(s) being released from the Liability Maintenance screen prior to going to the REPORTS function and printing the letter.**

**If there are multiple liability account hold release letters to be generated, you may choose to go to the Liabilities function of RLS, to Process Liabilities, selecting the appropriate FIN, entering the Group Number or Name if part of Group Zero, and selecting FIND to view the required Claim Numbers. Print the "Select Claim" screen through the "Help" function.**

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**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
<u>Overview</u>	<u>IV-L-1</u>
<u>Policy Statement</u>	<u>IV-L-2</u>
<u>Procedures</u>	<u>IV-L-3</u>
<u>Notification</u>	<u>IV-L-4</u>
<u>Insurance Determination</u>	<u>IV-L-5</u>
<u>References</u>	<u>IV-L-8</u>
<u>Exhibit IV-L-1: Illustration of Brokered Deposits</u>	
<u>Exhibit IV-L-2: Process Flowchart for Insurance Determination of Brokered Deposits</u>	
<u>Exhibit IV-L-3: E-Mail from Claims to Depository Trust Company (DTC)</u>	
<u>Exhibit IV-L-4: Letter from Claims to Deposit Brokers</u>	
<u>Exhibit IV-L-5: Section 29 FDIC/FDIA</u>	

**Overview**

A broker is defined as one who acts as an agent for others in negotiating contracts, purchases, or sales. 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, Peninsula Bank, Frost National Bank, Entrust Services Group, Keep & Co.

**NOTE: Many of the brokers invest in *BOTH* categories i.e., DO and Non-DO e.g., Bear Stearns, Salomon Smith Barney Inc., 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. If retirement plan brokered deposits were accepted and/or renewed or rolled over during an ineligible time period there is no "pass-through" insurance afforded to the actual owner(s) i.e., plan participants/beneficiaries, rather the employee benefit plan remains the owner of the funds.

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. **NOTE: The Broker Processing Module of RLS may also be used to make insurance determinations on attorney client funds or other agent, nominee, custodian or conservator relationships.**

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## Policy Statement

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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. Brokered deposits are not “passed” to the acquirer, except for instances of an All Deposit P & A.

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## Procedures

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### Manual Identification of Brokered Accounts

When the initial Estimations data downloads are received and grouped/ungrouped, DRR Claims **manually** identifies the brokered accounts. At closing, DRR Claims **manually** identifies the brokered accounts **and** “flags” the accounts as a DO or Non-DO. This is accomplished by looking for Cede & Co., broker names, accounts styled “as agent for others” (AAF or AAFO), “as custodian for others” (ACF), etc. Refer to Exhibit IV-L-2: Process Flowchart for Insurance Determination of Brokered Deposits, which shows the sequence of events from identification of brokered accounts through the determination of deposit insurance.

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### Broker Accounts Under Insurance Limit

Broker accounts *UNDER* the insurance limit are also “flagged” DO or Non-DO and retained by FDIC with a hold in place. This is due to the fact that until the underlying investor (owner of the funds) is identified, it is unknown as to whether the account is insured or not.

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### Holds/ Payments

A “hold” is placed on the **full** account balance. FDIC will then payout the insured brokered deposits separately from any other insured deposits transferred to an acquirer. Brokered deposits are not ‘passed’ to the acquirer, except for instances of an All Deposit P & A. Therefore, payment of the insured portion of a brokered account will be paid directly to DTC/Cede & Co. or the Non-DO broker. **NOTE: Post-closing interest is not paid to brokers by FDIC. As each broker package is processed and the insurance determination made, insured deposits are then funded via wire transfer.**

---

### Order of Application of Deposit Insurance

Since the actual “owner” of a brokered account is unknown at the time of closing, it can **not** be determined whether any of the brokered accounts are, in fact, insured. Deposit insurance is afforded **first** to the account(s) transferred to the acquirer (if any) and then to any subsequent brokered identified accounts. The FDIC will then allocate insurance coverage to a broker’s client included in any **completed** broker information package received. “Common funds” (those held in the same right and capacity) will be subject to the same deposit insurance coverage and insured up to the insurance limit.

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**Broker Fund  
Ownership  
Documentation  
Processed on a  
FIFO Basis**

All fund ownership information packages submitted to the FDIC by deposit brokers are date and time-stamped upon receipt. The FDIC processes broker submitted documentation on a first in/first out (FIFO) basis provided that all required documentation is presented and the deposit balance on the submission agrees with bank records. The FIFO process may affect brokers who may have one or more clients in common and who have deposited their common client's funds in the same failed institution. Again, insured funds are paid first on the deposits directly placed at the institution by the depositor. Thereafter, the FDIC will allocate insurance coverage to broker's clients funds included in the completed broker's package submitted first. Thus, common client's funds included in subsequent packages will be subject to the insurance coverage afforded to the previously processed packages. **NOTE: Incomplete packages will be set aside pending receipt of the missing information and the broker then loses its position in the processing sequence.**

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**Notification**

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**Claims Notifies  
Brokers,  
Provides CUSIP  
Number to  
DTC, Requests  
SPL's**

Immediately after closing, Claims will notify the brokers. If DTC (Cede & Co.) is a depositor, they are telephoned, told of the closed institution and location, and supplied the CUSIP number (an identifying nine-digit number) from the failed bank records generally found on the Certificate of Deposit or safekeeping receipt. CUSIP is the numbering system for securities instruments developed by the American Bankers Association through the Committee on Uniform Security Identification Procedures. The CUSIP numbers are issued by Standard & Poor's Corporation's CUSIP Service Bureau. DTC is requested to fax\* the Security Position Listing (SPL) for each master certificate of deposit held at the failed institution. The SPL will list the associated CUSIP numbers and all participating brokers. DTC is then sent a follow-up E-mail, restating the telephone conversation. Exhibit IV-L-3: E-mail from Claims to Depository Trust Company (DTC) shows an example.

**\*NOTE: FDIC and DTC are currently in the process of arranging for the electronic computer to computer facility (CCF) transfer of the SPL/reports.**

Once it is determined that the SPL's balance to the failed bank's deposit records, Claims can then send a Notice of the closing to the participating brokers and request the needed documentation. Exhibit IV-L-4: Letter from Claims to Deposit Brokers shows an example.

If there are Non-DO brokers identified, then they are also notified.

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**Individual  
Investors and  
Sub-Brokers  
Information**

Within the Notice, Claims asks the deposit brokers to provide individual investor information which may, in turn, contain additional deposit brokers (sub-brokers). The “first-tier” broker is responsible for collecting documentation from any sub-brokers (“second-tier”, “third-tier” etc.). DTC (Cede & Co.) is the only party **not** responsible for obtaining the individual investor information for their participating brokers.

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**Insurance Determination**

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**Pass-through  
Insurance**

“Pass-through” insurance is afforded to several insurance categories such as testamentary, custodial and retirement accounts. Although this insurance is afforded to many, “pass-through” insurance coverage relative to **employee benefit plans** is contingent on the capitalization of the insured depository institution.

Effective December 19, 1992, every FDIC-insured depository institution was deemed to be within one of five capital categories for purposes of the prompt corrective action (PCA) rules. An insured depository institution is:

- Well Capitalized – if it significantly **exceeds** the required minimum level for each relevant capital measure
- Adequately Capitalized – if it **meets** the required minimum level for each relevant capital measure
- Undercapitalized – if it **fails to meet the required minimum level** for any relevant capital measure
- Significantly Undercapitalized – if it is **significantly below** the required minimum level for any relevant capital measure
- Critically Undercapitalized – if it **fails to meet any level** specified under the FDIC Federal Deposit Insurance Act, Section 38, subsection (c)(3)(A)

Deposit insurance is afforded on a “pass-through” basis to the **beneficial owner** under the retirement plan as follows:

	And	Pass-Through Insurance
If "Well Capitalized"		YES
If "Adequately Capitalized"		NO – Ineligible
If "Adequately Capitalized"	With a *Waiver from FDIC	YES
If "Adequately Capitalized"	With a written statement from the insured institution to the depositor.	YES
If "Undercapitalized"		NO – Ineligible
If "Significantly Undercapitalized"		NO – Ineligible
If "Critically Undercapitalized"		NO – Ineligible

\*FDIC can issue a "waiver" on a case-by-case basis and upon application by an insured depository institution, which is adequately capitalized. If granted, the Corporation "waives" this capitalization requirement upon a finding that the acceptance of such deposits (brokered) does not constitute an unsafe or unsound practice.

Brokered deposits are insured pursuant to Section 29 of the Federal Deposit Insurance Act (Exhibit IV-L-5: Section 29 FDIC/FDIA). On a brokered deposit, the "pass-through" insurance would "flow" through the broker to either the plan or down to plan participants, based on the capitalization. "**Acceptance**" of the funds is defined as a **new, rolled-over or renewed deposit** of employee benefit plan funds. Deposits made after/during the applicable "troubled capitalization" date shall not be eligible for "pass-through" coverage.

If the employee benefit plan deposit were placed within the insured depository institution during an **eligible time period**, "pass-through" insurance coverage on a brokered account would flow as follows:

Broker            →            Plan                    →            \*\*Owner

\*\*This means that the deposits are insured up to the insurance limit for the non-contingent interest of **each plan participant**.

If the employee benefit plan deposit were placed within the insured depository institution during an **ineligible time period**, "pass-through" insurance coverage on a brokered account would flow as follows:

Broker                    →            Plan

In order to determine when a deposit was “accepted”, you can access the Receivership Liability System (RLS) National database by going to:

- Start
- All Programs
- RLS
- Select the National database and enter Password, then hit “OK”
- Data Imports
- Depositor Data
- Review/Certify Depositor Data
- Enter FIN (Financial Institution Number), hit Find, Select, then “OK” button
- Go to Review RLS Tape Data tab
- Binoculars button
- Enter Group number, account number or name on account
- Hit Search
- Go to Account tab
- On the right side of the screen you will see Origination and Maturity Information
- This will show the:
  - Origination Date
  - Maturity Date
  - Reissue Date (if applicable)

From this screen, you will be able to ascertain the date of acceptance.

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**Completion of Insurance Determination**

Once Claims has identified all of the accounts for a single deposit broker and divided these accounts into individual investor accounts, Claims can complete the insurance determination process for that deposit broker. Refer to the DRR Receivership Liability System (RLS) – Deposit Broker Processing User’s Manual for complete processing details.

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**Processing**

After the insurance determination (grouping/ungrouping/certification) has been performed within the Broker module of RLS, and the Payment reports have been printed from the Reports module of RLS, you will then release the holds and write the transactions in the Liability module of RLS.

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**To Be Determined (TBD)**

When insurance determinations can not be made until additional documentation is received, the account(s) are **manually** “flagged” within the RLS Broker module as “TBD”. By flagging an account with this designation, the insurance determination has not been performed and the flagged account will be excluded from the summary screen and reports, and essentially placed on “hold” until documentation is received that will enable us to perform an insurance determination and release the TBD “hold”.

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**Redetermination** Redeterminations are used to perform insurance determination adjustments *after*, and in addition to, the **group certified** excess determination. A redetermination will be required when a broker/investor later supplies additional information that will afford additional deposit insurance on their specific account(s).

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**Redetermination Period** This time period is **not** defined, but is based on the judgment of the supervisor, Claims Agent in Charge (CAIC) and/or the Claims Specialist processing the broker packages. A redetermination period could be classified as the “waiting period” for additional documentation from the broker/investor which could be used to increase the deposit insurance on a particular account. If there is a single ownership account for \$100,000, plus accrued interest, there would be no need to establish a redetermination period prior to issuing the Receivership Certificate (RC). If on the other hand you had an account that appeared to be a joint account in the amount of \$200,000, plus accrued interest, but the new account set-up sheet provided by the broker gave an indication that this was a Trust account, then additional documentation would need to be supplied by the broker/investor in order to properly insure to the insurance limit, within the correct insurance category.

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## References

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**Deposit  
Brokers  
Processing  
Guide**

Refer to the Deposit Brokers Processing Guide located on the Deposit Brokers Web Site for **ALL** required information, dependent on the type of account. e.g., Trust. See the direct links below and/or the section entitled “Other Reference Material”.

Direct links to the **BASIC** information in the **Deposit Brokers Processing Guide** are provided as follows.

- [Deposit Broker Submission Checklist](#)
  - [Affidavit of Agency Account](#)
  - [Documentation Requirements](#)
  - [FDIC Broker Input File Requirements](#)
- 

**Other  
Reference  
Material**

- RLS Deposit Broker Processing User's Manual
  - Deposit Brokers Web Site <http://www.fdic.gov/deposit/deposits/brokers>
  - Broker Procedures
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**M. Overview of Collections After Closing**

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**Contents**

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This chapter contains the following information on Overview of Collections After Closing:

Topic Title	Page Number
<u>Overview</u>	<u>IV-M-1</u>
<u>Policy Statement</u>	<u>IV-M-1</u>
<u>Procedures</u>	<u>IV-M-2</u>
<u>Exhibit IV-M-1: Check Product Information Guide</u>	
<u>Exhibit IV-M-2: CAC Settlement Spreadsheet</u>	
<u>Exhibit IV-M-3: CAC Memorandum for Depositor Group</u>	
<u>Exhibit IV-M-4: Receivership Settlement Memorandum</u>	

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**Overview**

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Collections After Closing (CAC) represents deposits that were deposited prior to an institution's closing and which remain "uncollected" as of the date the financial institution closed. As used within this chapter the term "Collections after Closing" refers only to "uncollected" funds in accounts which may **exceed** the deposit insurance limit, i.e. uninsured deposits. The concept and application of CAC does not apply to funds at or below the limit of deposit insurance. The collections after closing process will commence during the closing, but most of the work process will be completed after the closing team returns to the office. Most customer interviews, reviews of customer account histories and correspondent bank account information, etc., should be initiated during the closing process.

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**Policy Statement**

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Collections after Closing are reviewed for the benefit of uninsured depositors to determine if funds are collected as of the closing date, and whether additional funds are due the depositor from the Receiver.

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## Procedures

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### Step 1 Identify the Contact Person

Identify and contact the institution employee (contact person) who was responsible for handling the institution's proof operations and/or transit (outgoing) cash letters. This will normally be the operations officer; however, it could be another staff member.

Note: The name of the contact person may be identified pre-closing by FDIC Claims personnel who go to the institution to obtain account and signature card information or the FDIC Franchise Marketing team. If not determined prior to closing, the contact person should be identified as soon as possible during the closing phase.

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### Step 2 Obtain a Copy of the Institution's Availability of Funds Schedule

From the contact person obtain a copy of the institution's availability of funds schedule (float schedule). In most instances the institution will have a copy of the schedule ([Exhibit IV-M-1: Check Product Information Guide](#)) from its correspondent bank. If not, a schedule will need to be requested from the correspondent bank through which the cash letters are forwarded and processed. This will normally be a Federal Reserve Bank; however, it may be a correspondent bank.

**NOTE:** The appearance and information included in the availability or float schedule of a Federal Reserve Bank or other correspondent bank may look materially different from that which appears in Exhibit IV-M-1. Pricing information is not needed by Claims to determine float. The "Endpoint" or city on which the check is drawn is required. The "Availability" time is also required. Some float schedules may have detailed information as to when (i.e., the time of day or night) the transit items must be received.

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### Step 3 Determine Uninsured Depositor Recent Activity

The depositor interview form ([Exhibit-IV-J-3: Depositor Interview Form](#)) utilized during the interview process requires the Claims Specialist to inquire of the uninsured depositor whether any deposits were made to their account(s) in the three business days prior to the financial institution's closure. If so, the Claims Specialist should ask the depositor to provide copies of the checks that were included in their deposit(s). If the depositor is not able to provide copies of the checks, then the deposit information and an account history must be obtained from other sources.

Other sources include the following:

- a. If the closing transaction is a payout, FDIC's Records Management department will retain the microfilm, microfiche, etc., of all bank deposit records and research will need to be arranged through them.
- b. If there is an acquiring institution, request an account history (bank statement) of the account(s) to determine the date(s) of deposit(s), and copies of the deposit slip(s) and the check(s) that were deposited.
- c. In some instances check processing is done through a servicer. In those instances copies of checks, etc., will need to be requested from the servicer.

**NOTE:** Items identified as cash, ACH entries, wire transfers or checks drawn on the failed financial institution are considered immediate availability and have no float.

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**Step 4**

**Prepare CAC Settlement Spreadsheet**

Prepare a Collections after Closing settlement spreadsheet (Exhibit IV-M-2: CAC Settlement Spreadsheet) for each uninsured depositor group, identified through the interview process as having deposit(s) within three business days, to determine the amount of funds that were uncollected at closing. For each item included in the deposit, the spreadsheet should reflect the date of deposit, ABA/routing number, number of days float based on the availability schedule, amount of each item, and the date funds were/are available (collected) from the clearing institution.

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**Step 5**

**File the Documentation in the Appropriate Claims File**

Prepare a memorandum (Exhibit IV-M-3: CAC Memorandum for Depositor Group) to DRR/Accounting Operations and send it along with the settlement spreadsheet (Exhibit IV-M-2: CAC Settlement Spreadsheet) which details the amount of uncollected funds at closing for each uninsured depositor group. The memorandum should specify the amount to be paid to the uninsured depositor(s) and whether it is to be paid by check or transferred to the customer's account(s) at the Acquiring Institution. In either case, payment of a CAC claim is considered "preferred", and funding for such is the ultimate responsibility of the Receiver. Determining the method of payment to the depositor(s) who are entitled to CAC, should be discussed with the closing DRR Accounting Settlement representative and the Pro Forma Team Leader at each closing. Transferring of funds to the customer's account(s) will only be applicable when there is an Acquiring Institution.

File a copy of the memorandum and the settlement spreadsheet in the customer's file, the General File and forward a copy to the CAIC. When there are funds that are uncollected at closing, payment to the customer should be processed as follows:

- a. If the closing transaction is a payout, prepare a PAV from the Receiver (or request that DRR Accounting Operations prepare a check), for the lesser of the uninsured or CAC amount, payable to the depositor and forward to DRR Accounting Operations for processing.
  - b. If the closing transaction involves only insured deposits (either a P&A or an IDT), process a Preferred Claim Payment (PF) transaction in RLS (See RLS User's manual, Section 8.3.4 – Liability Transactions) to decrease the customer's account balance. Unless determined otherwise by the CAIC and the Closing Pro Forma Team Leader, the Receiver should be instructed to make the funds available to the depositor through the Acquiring Institution. The CAIC, or designee, will be responsible for providing the Acquiring Institution with a letter instructing them to make the funds available to the Depositor (Exhibit IV-M-4: Receivership Settlement Memorandum).
  - c. If the closing transaction involves only insured deposits (either a P&A or IDT) and the total amount of the CAC passed to the Acquiring Institution (deposit account passed with hold), the FDIC should request that the uninsured portion of the funds be returned to FDIC-Corporate by processing a Due To (DT) transaction in RLS. This process allows FDIC-Corporate to recover deposit insurance funds; however, FDIC-Receiver is obligated for payment of the funds to the depositor. Refer to items (a) and (b) above for the payment process, however, a PF transaction should not be completed.
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**N. Overview of Offsets**

**Contents**

This chapter contains the following information on Overview of Offsets:

Topic Title	Page Number
<u>Overview</u>	<u>IV-N-1</u>
<u>Policy Statement</u>	<u>IV-N-4</u>
<u>Procedures</u>	<u>IV-N-4</u>
<u>Offset</u>	<u>IV-N-4</u>
<u>Cash Applications</u>	<u>IV-N-7</u>
<u>Exhibit IV-N-1: Notice to Depositor/Loan Holder</u>	
<u>Exhibit IV-N-2: FDIC Voluntary Deposit Offset</u>	
<u>Exhibit IV-N-3: Documentation Request Job Aid</u>	
<u>Exhibit IV-N-4: Offset Documentation Check List Job Aid</u>	
<u>Exhibit IV-N-5: Procedures For Offset Determination Job Aid</u>	
<u>Exhibit IV-N-6: Processing Offset Application Job Aid</u>	
<u>Exhibit IV-N-7: FDIC Involuntary Deposit Offset Form</u>	
<u>Exhibit IV-N-8: RLS Input Offset Worksheet Job Aid</u>	
<u>Exhibit IV-N-9: Accounting Offset Memorandum</u>	
<u>Exhibit IV-N-10: Offset Log Job Aid</u>	

**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 that definition, 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). 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 – “**mutuality of parties**” and “**mutuality of obligation**”. **Both parts must be present in order to do an offset.**

**Mutuality of parties** exists when the mutual debts (in the typical example, 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 all of the names on a joint name deposit account do not exactly match all 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 can not 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.

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## Policy Statement

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

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## Procedures

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### Offset

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#### Step 1 Determine Whether Offset Is Permissible

DRR Claims should notice uninsured depositor(s), either through the deposit interview process or by mailing a written notice, that to the extent the uninsured depositor has obligations to the receivership, he may be entitled to and may request from the receiver a voluntary offset of his deposit(s) against such obligations. As part of the interview process with uninsured depositor(s) the existence of loans may be established. The Claims Specialist should explain the general rules of offset to the depositor(s).

The mailed notice to uninsured depositor(s) (Exhibit IV-N-1: Notice to Depositor/Loan Holder) states that the depositor will have sixty (60) days to effectuate an offset, if applicable; however, the potential for offset exists as long as the obligation remains outstanding. The potential to offset is important to the Asset Marketing unit, as loans may have to be withheld from a loan sale, if the loan has the potential for offset.

When a debtor/depositor(s) exercises their right to a voluntary offset, the FDIC Voluntary Offset Form (Exhibit IV-N-2: FDIC Voluntary Deposit Offset) needs to be completed. The depositor must sign the form, and other necessary information and signatures need to be obtained to complete the process.

The following procedures are applicable when completing the voluntary offset form:

- a. When the Claims Specialist, during the deposit interview process, initiates an offset request, deposit information is entered on the form and the depositor(s) is requested to sign the form.

- b. Forward the form to the Closing Asset Manager, or designee, with a request to complete the loan/asset information, sign the form, and to provide copies of all applicable loan/asset documents (Exhibit IV-N-3: Documentation Request Job Aid) to the Claims Specialists and/or Claims closing team.
- c. Upon receipt of the loan/asset information from the Asset Manager, or designee, the Claims Specialist reviews the documentation for completeness (Exhibit IV-N-4: Offset Documentation Check List Job Aid), to determine mutuality and whether an offset is permissible (Exhibit IV-N-5: Procedures For Offset Determination Job Aid). The CAIC, or designee, will request a legal opinion for all voluntary offsets when mutuality is not readily determined.
- d. If an offset is permissible, the Claims Specialist completes the offset form, and continues the offset process (Exhibit IV-N-6: Processing Offset Application Job Aid).
- e. If an offset is **not** permissible, the Claims Specialist will notify the person who made the original request and discuss a possible "cash application."

**NOTE:** If a voluntary offset is requested by the debtor/depositor during loan discussions, the **Credit Account Officer will initiate the FDIC Voluntary Deposit Offset form** by completing the loan information, will have the debtor/depositor sign the request, and will forward it along with copies of all pertinent loan/asset documents to the Claims Specialist or Claims closing team.

To affect an **involuntary** offset, because the loan(s) is past due and owing or matured, the FDIC Involuntary Deposit Offset Form (Exhibit IV-N-7: FDIC Involuntary Deposit Offset Form) will be completed. Completion of the form will be initiated by the Credit Account Officer. **The involuntary offset form does not require the signature of the debtor/depositor, since an involuntary offset can only be applied to obligations that are due and owing or matured on the date the financial institution closed.** The Credit Account Officer will request the legal opinion as to whether mutuality exists and whether a demand letter is required prior to forwarding an involuntary offset request to Claims for processing.

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## Step 2

### Compute the Offset Amount and Process

Offsets are computed as of the date of closing even when the actual offset may not be effected for several weeks after closing. The following procedures are utilized for determining and processing the offset amount:

- a. Determine the amount of both obligations at the time of closing, using trial balances for both the loan and deposit account(s) as of the financial institution closing date.
- b. When sufficient funds are not available to offset the debt in full, the available amount(s) should first be applied to interest, and the remaining funds, if any, to principal.

- c. If the deposit is larger than the debt, only the principal and interest through the day of closing can be offset.
- d. Process an involuntary offset only for the amount needed to bring the account current. The legal opinion should detail the amount of funds to be offset.
- e. If the funds in question have been passed to the acquiring institution with a hold, the FDIC should request the return of the funds being offset (insured or uninsured/passed with hold) to FDIC-Corporate by processing a Due To (DT) transaction in RLS. (Exhibit IV-N-8: RLS Input Offset Worksheet Job Aid) 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.
- f. If the closing transaction is a pay out, determine if the credit hold balance is equal to the deposit balance.
  1. If the credit hold amount equals the deposit balance, no deposit insurance check will print and no funds will be due the depositor.
  2. If the credit hold for the loan balance does not equal the deposit balance, RLS will print a payout check for the deposit, net of the loan amount.
- g. If the loan is participated, contact DRR Financial Accounting/Asset Marketing for the names, addresses and percent of participation for each loan participant. Process an RC to the loan participant(s) for their percentage of the offset amount. The RC would be issued as payment of a creditor claim.

**NOTE:** The offset process is calculated prior to the determination of deposit insurance. Therefore, since the Claims closing team has already made a preliminary deposit insurance determination, the amounts of the RLS generated deposit insurance checks, the funds transferred to an Acquiring Institution, and/or the RC may need to be adjusted after an offset is processed.

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### Step 3

#### Document Offset Files

- a. Verify that documentation of the offset decision is in the file folder prepared for each offset, and commence the offset process.
- b. Prepare and send a memorandum (Exhibit IV-N-9: Accounting Offset Memorandum) along with the supporting documentation to DRR Accounting Operations requesting the offset amount be posted. In addition, request that upon completion, the acknowledgement be signed and a copy returned to the CAIC.
- c. Advise the Credit account officer of the disposition of the request.
- d. Enter the offset information into the offset log (Exhibit IV-N-10: Offset Log Job Aid) Completion of this form will be optional to the CAIC.
- e. File copies of the offset transaction in the individual offset files.

## Cash Applications

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### Step 1

#### Process Cash Applications

Cash applications of funds are permitted by 12 U.S.C. § 1822 (d). A cash application is processed when the deposit account is pledged to a loan or is security or the depositor has guaranteed the loan, and **mutuality does not exist**. Cash applications are normally a post closing function. **Only insured funds can be utilized in a cash application.**

The request for a cash application should be initiated by the Asset closing team and/or Credit account officer. However, in some instances, Claims will be required to process hold releases in RLS, adjust payment amount to depositor(s), the Receiver, etc. and advise the Acquiring Institution to issue a check for the amount of the cash application.

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**O. Secured Accounts/Preferred Claims**

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**Contents**

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

Topic Title	Page Number
<u>Overview</u>	<u>IV-O-1</u>
<u>Policy Statement</u>	<u>IV-O-2</u>
<u>Procedures</u>	<u>IV-O-2</u>
<u>Secured Accounts with Securities as Collateral</u>	<u>IV-O-2</u>
<u>Secured Liabilities with Loans as Collateral</u>	<u>IV-O-5</u>
<u>Preferred Claims</u>	<u>IV-O-5</u>
<u>Exhibit-IV-O-1: Secured Deposits</u>	
<u>Exhibit-IV-O-2: Secured Deposit Analysis Report</u>	
<u>Exhibit-IV-O-3: XX/PH Worksheet</u>	
<u>Exhibit-IV-O-4: Secured Deposit Examples</u>	

**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. 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. 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.

Preferred claims are paid before other claims against the Receivership are considered. Preferred claims depend on applicable state law.

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## Policy Statement

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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.

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## Procedures

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### Secured Accounts with Securities as Collateral

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#### Task 1

#### Identify And Document Secured Accounts

Both deposit and non-deposit accounts must be reviewed to identify secured accounts. If there is a non-deposit account with securities as collateral, consult with Legal for the appropriate course of action. The following procedures should be utilized to identify and document secured accounts and the related securities:

- a. Review the institution's deposit liability register, the securities records and General Ledger to identify and list accounts that have securities pledged to them. Generally, the institution will have deposits coded on their liability register that will aid in identifying a secured deposit. This includes state funds, Federal Borrowings and Treasury, Tax and Loan (TT&L) accounts. For additional information see the section of this chapter on Preferred Claims.
- b. Identify from the financial institution's individual account records (General Ledger, Securities/Bond registers, etc.) each security pledged and match it to the deposit account(s) it secures.
- c. Place a copy of all documentation (pledge agreements, deposit trial balances, collateral documentation, etc.) in the secured deposit file.
- d. Prepare a list of accounts which are determined to be secured by pledged securities and/or loans and provide the list to the DRR

Accounting Operations team. DRR A/O Closing team will request the market value of the securities from the DRR Analysis and Evaluation Section in Washington, D.C. and prepare a securities spreadsheet (Exhibit-IV-O-1: Secured Deposits) with detailed information on the pledged securities. Market values are provided as of the date the failed institution closed and will be used to determine the value of assets pledged to secure the deposits. The securities spreadsheet will be placed in the settlement jacket.

- e. Claims should request a copy of the securities spreadsheet from the DRR A/O Closing team.

The DRR A/O Closing team will normally prepare the securities spreadsheet at the closing site. However, if the closing is a large financial institution, preparation of the securities spreadsheet may not occur until the closing team returns to the office.

The current resolution agreements are written so that in most transactions the public unit deposits and pledged securities are passed with a hold (PH) to an acquiring institution. The Claims staff is responsible for determining the amount of the deposit that is secured.

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## Task 2

### Compute the under/over-pledged amounts for secured deposits

- a. Using the securities spreadsheet provided by DRR A/O in Task 1e (above), input the securities information into RLS and match the securities to the appropriate liability, in accordance with the RLS User's Manual, Section 8.3.11 – Securities and Section 8.3.11.1 – Search Securities.
- b. In RLS, generate a Secured Deposit Analysis Report (Exhibit-IV-O-2: Secured Deposit Analysis Report). This report provides secured deposit information for each secured depositor group.
- c. Make the deposit insurance determination for the group and record the transaction on the RLS XX/PH worksheet (Exhibit-IV-O-3: XX/PH Worksheet).
- d. File all supporting documentation in the secured deposit file.

Note: Public entities located in the same state as the failed institution can have up to \$200,000.00 deposit insurance coverage. Deposit insurance is allowed for \$100,000.00 for non-interest bearing accounts (checking accounts) and \$100,000.00 for interest bearing accounts (NOW accounts, MMA accounts, savings and CDs). See (Exhibit-IV-O-4: Secured Deposit Examples)

Although rarely exercised, public entities do have the right to self-help. This is the process where a public entity takes the initiative to sell the security pledged to secure the account. This will result in an adjustment or a repayment to the Receivership. Calculation of the secured deposit would remain the same, with deposit insurance being applied first. Legal and DRR Franchise & Asset Marketing/DC should be contacted for proper procedures when the public entity exercises its right to self-help.

**Task 3**

**Transfer or payment of secured deposits**

- a. When the closing transaction is a payout, the depositor is issued a deposit insurance check for the insured amount immediately, and the secured is paid by the Receiver after the security has been liquidated. DRR Franchise & Asset Marketing/DC is responsible for liquidating the security, unless the Public Unit exercises its right of self-help. Contact DRR Franchise & Asset Marketing/DC (email address [DRRValCoordinators@fdic.gov](mailto:DRRValCoordinators@fdic.gov)) to coordinate the transfers of book entry securities to FDIC's custodial account and physical securities to the DOF Securities Operations Vault in Washington, D.C.
- b. When the closing transaction is a P&A or IDT, the pledged asset(s) is generally purchased by the Acquiring/Agent Institution at the market value of the security. However, specific language in the agreement may affect the handling of each case.

At closing, the related secured deposit accounts will generally be passed to the Acquiring/Agent Institution, with a hold on all funds in excess of the deposit insurance amount. If it is later determined that a deposit account is fully insured and/or secured, the account hold is released in RLS and a hold release letter generated. The Acquiring/Agent Institution is notified to release the account hold on its records and make the funds available to the depositor. Refer to Section IV - Chapter K Account Hold Release Process for details.

If a portion of the deposit account(s) is under pledged, a DUE TO FDIC (DT) entry will be processed in RLS and a letter generated to the Acquiring/Agent Institution requesting the return of funds that are not insured/secured. A Receiver's Certificate will be issued for the uninsured portion. An account hold release letter should be generated in RLS and the Acquiring/Agent Institution notified to release the hold on the insured amount of the account and make the remaining secured funds available to the depositor.

Note: If the funds in excess of the deposit insurance limit were not passed (with a hold) at closing, the FDIC as Receiver, will either transfer the funds to the Acquiring/Agent Institution or pay the funds directly to the depositor when it has been determined that the funds are secured.

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## Secured Liabilities with Loans as Collateral

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### Task 1 Process claims of liabilities secured by loans

Some states allow liabilities to be secured by loans rather than by securities. If a liability has been identified as secured by a loan, an opinion should be obtained from the Closing Attorney as to whether the pledge is valid within the state where the failed institution is located.

The following procedures should be utilized to identify and document secured accounts and the related loans:

- a. Review the institution's deposit trial balances and General Ledger to identify and list accounts that have loans pledged to them. Generally, the institution will have deposits coded on the trial balances that will aid in identifying a secured deposit. This includes state funds, Federal Borrowings, and Treasury, Tax and Loan (TT&L) accounts.
- b. Identify from the financial institution's individual account records (General Ledger, Pledged loan registers, etc.) each loan pledged and match it to the deposit account(s) it secures.
- c. Place a copy of all documents (pledge agreements, deposit trial balances, collateral documentation, etc.) in the secured deposit file.
- d. Notify the Asset Closing Manager and DRR Closing Financial Manager which loans are collateral for liabilities.
- e. Claims should request a copy of the securities/loan spreadsheet from the DRR A/O Closing Team.
- f. If the proceeds of the liquidation of the pledged loans are less than the secured claim amount, issue a Receiver's Certificate.

It is recommended that Claims obtain from the Asset Manager the value of the pledged asset(s), as of the date of closing.

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## Preferred Claims

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### Task 1 Process preferred claims

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 (1) the institution was acting as trustee for the claimant, and (2) the specific property or cash realized from the specific property must pass into the hands of the Receivership.

The following procedures should be adhered to when a preferred claim has been received and/or identified:

- a. Collect documentation to establish preferred status. Documents include ledger sheets, signature cards, transit letters, transcripts of correspondent institution accounts, deposits tickets, and any other documentation on claim.
- b. If necessary, request an opinion from Legal as to whether preferred status is proved.

Note: Refer to Section IV - Chapter M Overview of Collections After Closing of the Claims manual for procedures.

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**P. Corporate Settlement Process**

**Contents**

This chapter contains the following information on Corporate Settlement:

<b>Topic Title</b>	<b>Page Number</b>
<u>Overview</u>	<u>IV-P-1</u>
<u>Policy Statement</u>	<u>IV-P-2</u>
<u>Procedures</u>	<u>IV-P-2</u>
<u>Exhibit IV-P-1: RLS Due From FDIC Letter - RLS7232</u>	
<u>Exhibit IV-P-2: RLS Due To FDIC Letter - RLS7231</u>	
<u>Exhibit IV-P-3: RLS Due To/Due From Corporate Settlement Summary - RLS7195</u>	
<u>Exhibit IV-P-4: STRS SATF Due To FDIC</u>	
<u>Exhibit IV-P-5: STRS SATF Due To Assuming Bank</u>	
<u>Exhibit IV-P-6: STRS SATF Settlement Interest Due for Corporate Settlement</u>	
<u>Exhibit IV-P-7: STRS Recap of All Settlement</u>	
<u>Exhibit IV-P-8: STRS All Settlements Summary</u>	
<u>Exhibit IV-P-9: Due To FDIC Wiring Instructions</u>	
<u>Exhibit IV-P-10: Wire Authorization Voucher</u>	

**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, 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. It is also applicable in an Insured Deposit Transfer transaction.

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## Policy Statement

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It is the policy of FDIC to have a Corporate Settlement within six (6) months of closing to settle the 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. Likewise, in the case of a very large failing institution, it may take longer than the six (6) month period to complete a final Corporate Settlement.

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## Procedures

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Because the wire at closing which was sent from FDIC Corporate to the Acquiring Institution was made on initial deposit insurance determinations, there will be occasions when adjustments to the initial wire will be made. These adjustments will occur when an account was passed with a hold and later determined to be uninsured or was initially determined to be uninsured and later found to be insured.

---

### Initial Meeting

In the initial meeting with the AI, the Claim Agent in Charge (CAIC) or designee instructs the AI to establish a general ledger account on its books to facilitate the Corporate Settlement process. The AI uses the Corporate Settlement Account when additional insurance funds need to be transferred to the AI or insurance funds need to be returned from the institution.

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### The "Corporate" Settlement Account

The "Corporate" Settlement Account should not be co-mingled or confused with the "Receiver" Settlement Account. Corporate Settlement deals strictly with deposit insurance funding and is distinct from Receivership Settlement.

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### Due From FDIC

If additional insurance funds are to be transferred to the AI, a "Due from FDIC" letter is generated through RLS and sent to the institution. An example follows:

At the time of institution failure there are three accounts styled as follows:

Anne Depositor	\$100,628.27
Anne Depositor	\$100,623.25
Anne Depositor	\$104,197.95

The three accounts were passed to the bank for only \$100,000. After closing, a review of the signature cards indicated that the accounts were actually in trust for her four children and would qualify for additional insurance. The AI is notified to pay the depositor the additional funds and to enter the transaction in the AI's Corporate Settlement Account for settlement at a later date. See [Exhibit IV-P-1: RLS Due From FDIC Letter - RLS7232](#).

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**Due To FDIC** Likewise, if funds are due back from the institution, a “Due To FDIC” letter is generated through RLS and sent to the institution. An example follows:

At the time of institution failure there are three accounts styled as follows:

Anne Depositor ITF Brian Depositor	\$48,194.62
Anne Depositor ITF Marcy Depositor	\$18,043.09
Anne Depositor	\$51,434.46

The three accounts were passed to the bank for the full value, but with a hold in place. After closing it is determined that the two named beneficiaries are actually the nephew and niece of the depositor; an invalid totten trust. These accounts are added to her individual account and she is uninsured for \$17,672.17. The AI must pay this money back to FDIC. The depositor’s account would be debited and the amount entered into the AI’s Corporate Settlement Account for settlement at a later date. See Exhibit IV-P-2: RLS Due To FDIC Letter - RLS7231.

These letters are hand carried to the designated person within the AI, if Claims and the AI Representative are still on site. If they are no longer on site the letters should be faxed to the AI Representative daily. Claims may also wish to request that a signed copy of the letter be returned to Claims on a daily basis. The *net* of the Corporate Settlement Account, plus interest, will be settled on periodically and not as each item (letter) is processed, as described in detail on page IV-P-4. The letters should be placed in a Pending Corporate Settlement File.

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**Due To/Due From** Each Due To or Due From transaction generated in RLS writes a transaction to the Due To/Due From Corporate Settlement Report to maintain a record of all adjustments being made with the AI. This RLS report provides a listing of all Due To/ Due From transactions for a user selected time period. See Exhibit IV-P-3: RLS Due To/Due From Corporate Settlement Summary - RLS7195.

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**Corporate Settlement** Unless there is a significant amount of money due to the AI, Claims may wait until the fifth month to begin preparing for a Corporate Settlement. Some AI’s request an early settlement if there is a significant amount due to them. Claims might then be required to complete an additional interim Corporate Settlement before final settlement.

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**Interest Calculations** The Purchase and Assumption Agreement or Insured Deposit Transfer Agreement, as the case may be, between the AI and the FDIC will address the calculation of the settlement interest rate. While the language in the agreement may vary, the following language is typical:

“**Settlement Interest Rate**” means, for the first calendar quarter or portion thereof during which interest accrues, the rate determined by the Receiver to be equal to the equivalent coupon issue yield on twenty-six (26)-week United States Treasury Bills in effect as of Bank Closing as published in *The Wall Street Journal*; provided, that if no such equivalent coupon issue

yield is available as of Bank Closing, the equivalent coupon issue yield for such Treasury Bills most recently published in *The Wall Street Journal* prior to Bank Closing shall be used. Thereafter, the rate shall be adjusted to the rate determined by the receiver to be equal to the equivalent coupon issue yield on such Treasury Bills in effect as of the first day of each succeeding calendar quarter during which interest accrues as published in *The Wall Street Journal*.

The information specific to the failed financial institution is input into the Settlement Tracking Reconciliation System (STRS). Upon the failure of the financial institution the Settlement Interest Rate *for the date of bank failure* is input into STRS. This interest rate will be used for the quarter in which the institution failed. Thereafter, the interest rate is input once per quarter for all failed institutions.

The Purchase and Assumption Agreement or Insured Deposit Transfer Agreement, as the case may be, between the AI and the FDIC will also outline the calculation for payment of interest by FDIC or the AI. The agreement should be reviewed before completing a Corporate Settlement. While the language in the agreement may vary, in most instances the following language is typical:

**“Interest”**. Any amounts paid under *Payments or Subsequent Adjustments*, shall bear interest for the period from and including the day following Bank Closing to and including the day preceding the payment at the Settlement Interest Rate.

Therefore, settlement interest is calculated from the date following bank closing to the day preceding the day of settlement, for each settlement.

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**Settlement  
Tracking  
Reconciliation  
System (STRS)**

A Settlement Account Transaction Form (SATF) for the amount "Due To" FDIC (See [Exhibit IV-P-4: STRS SATF Due To FDIC](#)) and a separate SATF for the amount "Due From" FDIC (See [Exhibit IV-P-5: STRS SATF Due To Assuming Bank](#)) should be created for execution by the AI and the FDIC. In order to generate a SATF the Claims Specialist must have access to STRS. STRS calculates the interest due to or from FDIC and also generates a SATF for the interest (See [Exhibit IV-P-6: STRS SATF Settlement Interest Due for Corporate Settlement](#)), an All Settlement Summary of the Due To or Due From FDIC (See [Exhibit IV-P-7: STRS Recap of All Settlement](#)) and a Recap of All Settlement (See [Exhibit IV-P-8: STRS All Settlements Summary](#)). The date for the settlement should be coordinated with DRR Accounting Operations so that the Claims Specialist will allow adequate days to have the AI sign and return the documents and time to allow the wire to be sent on the appropriate date. Interest is calculated to the day preceding the date the wire is sent.

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**Acquiring  
Institution**

Each SATF (See [Exhibit IV-P-4: STRS SATF Due To FDIC](#), [Exhibit IV-P-5: STRS SATF Due To Assuming Bank](#) or [Exhibit IV-P-6: STRS SATF Settlement Interest Due for Corporate Settlement](#)) and the final report indicating the total Due To or Due From FDIC (See [Exhibit IV-P-8: STRS All Settlements Summary](#)) must be signed by an authorized representative of the AI and an FDIC employee with the appropriate delegated authority.

If the amount Due To FDIC is larger than the amount Due From FDIC, the AI will need to wire funds to FDIC. See [Exhibit IV-P-9: Due To FDIC Wiring Instructions](#). The FIN number will be the only change on the wiring instructions you provide to the AI. On the date the wire is expected, notify DRR Accounting Operations. They will notice the DOF Treasury Group in Washington, DC and advise them where funds are to be applied.

If the amount Due From FDIC is larger than the amount Due To FDIC, the Claims Specialist will need to prepare a Wire Authorization Voucher. The AI will be required to provide wiring instructions, in writing and on their letterhead. A copy of the wiring instructions must be provided to DRR Accounting Operations.

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**Wire  
Authorization  
Voucher**

If there are funds due to the AI, the Claims Specialist will be required to prepare a Wire Authorization Voucher (WAV) and present this document to DRR Accounting Operations. This form needs to be prepared according to current procedures. See [Exhibit IV-P-10: Wire Authorization Voucher](#). Supporting documentation for the WAV would include:

1. STRS Recap of All Settlement (See [Exhibit IV-P-7](#))
2. STRS All Settlement Summary (See [Exhibit IV-P-8](#))
3. RLS Due To/Due From Corporate Settlement Summary (See [Exhibit IV-P-3](#))
4. STRS SATF Due To Assuming Bank (See [Exhibit IV-P-5](#))
5. RLS Due From FDIC letter (See [Exhibit IV-P-1](#))
6. STRS SATF Due To FDIC (See [Exhibit IV-P-4](#))
7. RLS Due To FDIC letter (See [Exhibit IV-P-2](#))
8. STRS SATF Settlement Interest Due for Corporate Settlement (See [Exhibit IV-P-6](#))
9. Wiring instructions provided by the AI, in writing, on their letterhead.

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**Corporate  
Settlement  
Folder**

All documents, which include the Due To/Due From letters, the signed and executed SATF's and copies of the WAV should be maintained in a folder labeled with the bank name and number and the title "Corporate Settlement". These are the identical items that were provided to DRR Accounting Operations as support for the WAV.

**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
<u>Overview</u>	<u>IV-Q-1</u>
<u>Policy Statement</u>	<u>IV-Q-2</u>
<u>Procedures</u>	<u>IV-Q-2</u>

**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:

- 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 or all deposits) or an Insured Deposit Transfer, 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

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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.

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## Procedures

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Upon closure of the institution, the Financial Manager (Pro-Forma) will be responsible for locating another insured depository institution to accept the federal government ACH payments. The Claim Agent will need to know the name of the institution accepting the payments, address, phone number, and contact person. The Financial Manager will be responsible for contacting the Federal Reserve Bank and the U.S. Treasury advising where the federal government ACH payments should be redirected. It is strongly suggested that the CAIC or designee sit in on the calls to both agencies.

The Financial Manager will provide to the CAIC or designee a recap of any federal government ACH payments that may be expected immediately following the closing.

DRR Claims is responsible for notifying the failed institution's depositors of the name of the depository institution which has agreed to accept the federal government ACH deposits, its address, phone number, and contact person. This information is included in the payout notice sent to depositors at the time of closing. See Section IV Chapter C: Publications and Notices and specifically Exhibit IV-C-5: Payout Notice to Depositors.

For more information regarding U.S. Department of the Treasury ACH deposits, refer to their web site at [www.fms.treas.gov](http://www.fms.treas.gov).

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## R. Printing Of Deposit Insurance Checks (Payout Only)

### Contents

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

Topic Title	Page Number
<u>Overview</u>	<u>IV-R-1</u>
<u>Policy Statement</u>	<u>IV-R-1</u>
<u>Procedures</u>	<u>IV-R-2</u>
<u>Pre-Closing</u>	<u>IV-R-2</u>
<u>Closing</u>	<u>IV-R-2</u>
<u>Post Closing</u>	<u>IV-R-3</u>
<u>Exhibit-IV-R-1: Printing Deposit Insurance Checks by FDIC (Procedures to Create the RLS Export File)</u>	
<u>Exhibit-IV-R-2: Printing Deposit Insurance Checks by Treasury (Procedures to Create the RLS Export File)</u>	

### Overview

A payout occurs when the Federal Deposit Insurance Corporation cannot find an 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. 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, 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 account 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 or in

person, 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.

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## **Procedures**

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FDIC deposit insurance checks are printed and mailed by the Liability Accounting Unit (LAU) of DRR Accounting Operations. The Claims Department will provide to LAU copies of any attachments that are to be included in the mailing of the checks. Via fax or email, LAU will advise Claims that checks have been printed. LAU will also send an email to Claims advising of the date and time checks were delivered to the post office. Treasury checks will be printed by the Treasury after they receive the Receivership Liability System (RLS) export file

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## **Pre-Closing**

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**Check Payout** In preparation for the check payout process, the following information must be provided by Claims to the LAU:

- Approximate number of checks to be issued
  - The fund the checks will be drawn on, i.e. Bank Insurance Fund (BIF) or Savings Association Insurance Fund (SAIF)
  - Claims will meet with the LAU to determine if redetermination checks will be printed in the office or the field
- 

## **Closing**

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**Check Number Assignment** LAU will provide to Claims the starting check number(s) for checks printed by the FDIC. Claims will then input the check number into the starting check number field within RLS. Treasury assigns the check number(s) for checks printed by Treasury. Insurance Payment (IP) transactions for Treasury checks will have a BLANK check number until the feedback file containing the Treasury check numbers is received from Treasury and loaded in RLS. Treasury checks cannot be voided until the check number is populated in RLS.

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**Check Printing** In order to initiate the printing of checks, Claims must generate a "check file". The Subrogation function in RLS allows authorized users to generate the file necessary to print payout checks. The function supports the printing of checks by the FDIC or Treasury. When the FDIC prints the check, the check is printed by LAU through the Dividend Processing System (DPS) based on the IP transactions in RLS. See Exhibit-IV-R-1: Printing Deposit Insurance

Checks by FDIC (Procedures to Create the RLS Export File) and Exhibit-IV-R-2: Printing Deposit Insurance Checks by Treasury (Procedures to Create the RLS Export File). For a detailed discussion on FDIC printing, refer to Section 7.1 “Generate IP Transactions” and 7.1.1 “FDIC Check Printing” in the RLS User’s Manual. For a detailed discussion on Treasury Check Printing, refer to Section 7.1.2 “Treasury Check Printing” in the RLS User’s Manual.

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**Redetermination Checks Printed in the Field**

If redetermination checks are to be printed in the field, Claims must perform the following steps:

- Enter the check number, provided by LAU, and the corresponding transaction for the redetermination into RLS
  - Create a daily batch file in RLS
  - Print “Check to file”
  - Request that the Business Information Systems Unit (BIS) run a DPS payout batch file, encrypt the file and forward to LAU.
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**Post Closing**

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**Redetermination Checks Printed at the Office**

If redetermination checks are to be printed in the office, Claims must enter the check number, provided by LAU, and the corresponding transaction for the determination into RLS.

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**Stop Payments**

In the event a stop payment is requested on an FDIC or a Treasury check, Claims will provide, via email, the following information to LAU:

- Check number
- Claimant name
- Check amount
- Issue Date
- Reason for stop payment

Claims will void the check in RLS only after receiving an email confirmation from LAU. Treasury checks cannot be voided until the check number is populated in RLS.

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**Check Reissuance**

Checks that will be reissued, due to stop payments, will be printed by LAU following previously discussed procedures. Checks that were initially printed by the Treasury will be reissued by the FDIC.

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## S. **Acquiring Institution Relations**

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### Contents

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This chapter contains the following information on Acquiring Institution Relations:

Topic Title	Page Number
<u>Overview</u>	<u>IV-S-1</u>
<u>Policy Statement</u>	<u>IV-S-1</u>
<u>Procedures</u>	<u>IV-S-2</u>
<u>Reports Distributed and Explained at Meeting</u>	<u>IV-S-2</u>

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### Overview

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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. 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 area and that 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.

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### Policy Statement

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It is the policy of the FDIC for the Claim Agent in Charge (CAIC) or designee to meet with appropriate representative(s) of the Acquiring Institution 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.

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## Procedures

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Many of the duties and responsibilities of the AI and the FDIC are explicitly outlined in the P & A agreement or other resolution documents. Those sections of the documents relating to the Claims function should be reviewed in order to reduce confusion and problems later. In addition to a review of those sections of the documents, the CAIC or designee will provide a number of reports to the AI and will explain procedures for various Claims processes impacting both the AI and the FDIC Claims function.

The following topics should be discussed at the meeting:

1. Procedures for placing and releasing account holds. This discussion will include which FDIC staff members are authorized to release account holds.
  2. Procedures for unclaimed deposits and their ultimate return to the FDIC.
  3. The mailing of the Notice to Depositors by the AI. (Refer to Section IV, Chapter C - Publications and Notices for specific details concerning the Notice to Depositors.)
  4. Procedures relating to the Corporate Settlement Process.
  5. Establishment of a contact (or contacts) at both the FDIC and the AI for the various procedures.
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## Reports Distributed and Explained at Meeting

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**Account Holds** During the meeting with the AI, the importance of placing all account holds prior to reopening for business can not be stressed enough. An Account Hold List, which includes Credit holds, Investigation holds, and Legal holds, as well as Claims Holds must be receipted over to the AI. Claims should explain to the AI that various FDIC departments place holds on accounts because of a delinquent loan status, a collateral issue whereby accounts are pledged as collateral, or due to litigation or professional liability actions. No account holds can be released without written authorization from the FDIC. Contacts should be designated at both the FDIC and the AI and sample signatures of authorized signers from both the FDIC and AI must be obtained and exchanged. The AI must understand that only designated FDIC staff members are allowed to release holds and that this must be documented in writing.

It may be necessary to place additional holds after closing. The same contact people must be utilized to authorize and place holds. This should be documented in writing and/or faxed. Signatures by both the FDIC and the AI are required. Phone numbers, e-mail addresses, and fax numbers should be exchanged at closing.

For larger institution closings, it may be more efficient to place holds electronically. The FDIC may provide an electronic file with the hold data.

**Note: If an electronic file is provided to the AI, a hard copy listing must still be simultaneously provided to the AI.**

Refer to Section IV Chapter G – Account Holds and Section IV Chapter K – Account Hold Release Process for detailed information concerning account holds.

**Final Excess  
Register Report  
Hold Flag XX –  
RLS7123**

During the meeting with the AI for an Insured Deposit P & A, Claims should explain the deposit insurance determination process and how it affects the AI and its new customers. The Final Excess Register Report Hold Flag XX, also called the Excess Register, is the result of grouping accounts and applying insurance regulations to determine which groups are in excess of the insurance limit and therefore, uninsured. The code XX refers to excess or uninsured. When the Excess Register is given to the AI, the CAIC must explain information on the report including the original account balance, what is insured and therefore passed to the AI, and what is uninsured. The CAIC should also inform the AI that the dollar amount that is uninsured will not be passed to it and cannot be made available to the depositor. If uninsured funds are released without the FDIC's authorization, the AI will be responsible for the loss of those funds.

Finally, it is important to also explain that principal and interest must be debited from the customer's accounts exactly as represented in the Excess Register. If not debited exactly, both principal and interest, the uninsured depositor may receive a 1099, which reflects more interest paid than what was actually received.

Refer to Section IV Chapter G – Account Holds and Section IV Chapter K – Account Hold Release Process for detailed information concerning account holds.

**Final Excess  
Register Report  
Hold Flag PH –  
RLS7123**

When meeting with the AI for an Insured Deposit P & A, the Final Excess Register Report Hold Flag PH (pass with hold) is another important document that needs to be reviewed. This report is also referred to as the Pass With Hold Report. Claims must explain that this report lists accounts that may or may not exceed the insurance limit. It will be in the same format as the Excess Register but it represents groups for which the FDIC has transferred **and a hold must be placed on the amount over the insurance limit.** Claims should discuss that these accounts require further research in order to determine insurability but, generally, it is believed that these accounts will be fully insured. The AI can not pay out on funds that are on hold for these accounts until the amounts are released by the FDIC in writing. After Claims has determined whether the accounts are insured or not, the AI will be notified in writing either to release funds to the customer or to pass the funds back to the FDIC.

Accounts which most often appear on the Pass with Hold Report are payable on death (POD) accounts, trust accounts, or employee benefit accounts. All funds for these depositors are transferred to the AI, (Holds must be placed on

the amounts over the insurance limit) because releasing a hold is easier than transferring additional funds to the AI on behalf of the depositor.

Other accounts that are typically included on this report are brokered accounts. Claims needs to explain which of those accounts are actually being passed to the AI. This will be determined by reviewing the Purchase and Assumption Agreement or other transaction documents. The general rule regarding brokered accounts for an Insured Deposit P & A is that brokered accounts are not assumed by the AI and they should not appear on the Final Excess Register Report Hold Flag PH report of deposits being passed to the AI. The FDIC retains those funds and deals directly with the brokers to determine which deposits are insured and/or uninsured.

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**Liability  
Register Report  
– RLS71108**

This report is provided to the AI when the transaction is an All Deposit P & A. It contains a listing of all depositor and official item liabilities as of the closing date.

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**Unclaimed  
Deposits**

During the meeting with the AI, Claims must provide a letter outlining the process for depositors to claim funds. This letter is called the “Notice to Depositors.” This letter is to be mailed to all depositors by the AI. A second letter, “Unclaimed Deposits”, is also given to the AI by the CAIC. This letter details the requirements related to unclaimed deposits that the AI needs to follow. It is important to note that in addition to giving the AI these letters, an “Unclaimed Deposit Contact” at the AI must be established at closing. It is essential that the AI designate a contact person to work with Claims for returning and resolving unclaimed deposits. Having the AI designate an “Unclaimed Deposit Contact” early on will work to Claims benefit as the reporting and remittance time approaches.

Also to be distributed to the AI is a disk with the format that needs to be used in compiling the list for unclaimed deposits. The list needs to include the name, last known address, account number, account type, and account balance.

This process and a copy of this letter are detailed explicitly in Section V Chapter D Unclaimed Deposits.

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**Corporate  
Settlement**

Corporate settlement is also discussed at the meeting and sample “Due To” and “Due From” letters are provided to the AI. It should be explained that adjustments to the initial funding wire will be made, since the initial wire was based partly on initial deposit determinations and some of those deposit determinations will change, once all of the relevant information is received. As an example, a “pass with hold” account may later be determined to be uninsured. In this case, Claims sends the AI a “Due To” letter since the funds are now due to the FDIC.

Conversely, Claims will send the AI a "Due From" letter if funds are due from the FDIC. This usually occurs when an account is determined to be insured and was flagged as excess. The AI needs to track all Due To/Due From actions in their corporate settlement account.

For detailed information on the corporate settlement process, see Section IV Chapter P Corporate Settlement Process.

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**A. Creditor Claims**

**Contents**

This chapter contains the following information on Creditor Claims:

<b>Topic Title</b>	<b>Page Number</b>
<u>Overview</u>	<u>V-A-2</u>
<u>Policy Statement</u>	<u>V-A-3</u>
<u>Procedures</u>	<u>V-A-3</u>
<u>Exhibit-V-A-1: Identifying Financial Institution Creditors – Job Aid</u>	
<u>Exhibit-V-A-2: Notice to Creditor/Proof of Claim – RLS7212</u>	
<u>Exhibit-V-A-3: Affidavit of Mailing</u>	
<u>Exhibit-V-A-4: Notice to Discovered Creditor/Proof of Claim – RLS7222</u>	
<u>Exhibit-V-A-5: Checklist for Reviewing Proofs of Claim, Invoices, etc – Job Aid</u>	
<u>Exhibit-V-A-6: Deficiency Letter</u>	
<u>Exhibit-V-A-7: Request for Extension – RLS72111</u>	
<u>Exhibit-V-A-8: Legal Request Memorandum</u>	
<u>Exhibit-V-A-9: Notice of Allowance of Claim-RC – RLS7213</u>	
<u>Exhibit-V-A-10: Notice of Allowance of Claim-PAV – RLS5142A</u>	
<u>Exhibit-V-A-11: Disallowance of Claim – RLS7218</u>	
<u>Exhibit-V-A-12: Reasons for Disallowance of Claim – Job Aid</u>	
<u>Exhibit-V-A-13: Disallowance of Claim as Untimely Filed</u>	
<u>Exhibit-V-A-14: Rejection of Request to File Claim after Bar Date</u>	
<u>Exhibit-V-A-15: Acceptance of Expedited Claim</u>	
<u>Exhibit-V-A-16: Denial of Request for Expedited Claim</u>	
<u>Exhibit-V-A-17: Guidelines for Accepting Reclamations – Job Aid</u>	
<u>Exhibit-V-A-18: Request for Research - Reclamation</u>	
<u>Exhibit-V-A-19: Request for Repayment of Reclamation – Merchant</u>	

Exhibit-V-A-20: Request for Repayment of Reclamation - Depositor	
Exhibit-V-A-21: Worthlessness Determination Letter	

## 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

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. Much of this work begins during the closing phase of a resolution. However, the analysis, allowance, disallowance, and/or partial allowance of a claim is typically done back in the office during the post-closing phase of a resolution.

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. The FDIC attempts to make a determination as to whether it will allow, disallow, or partially allow a claim

within 180 days of receipt of the claim from the claimant.

In rare situations, a **Determination of Worthlessness** may be made for a receivership. Such a Determination may be made when it is evident that a certain category of claimant will not receive any dividends even if a claim is allowed. Such a Determination is made through preparation and approval of a case. This case will indicate which category of claimants will have a worthless claim against a receivership. Such cases are typically prepared by DRR Receivership Oversight.

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## Policy Statement

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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.

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## Procedures

### Step 1

#### Identifying Potential Creditors

This step will address tasks during the **closing phase** that relate to general creditor claims. DRR Claims is responsible for identifying all potential non-deposit insurance creditors of a failed financial institution. These may include vendors who provide services, supplies, equipment leases, utilities, etc. Other examples of potential creditors are litigants, attorneys, IRS, FDIC Assessment division, employees, state and local taxing authorities, subordinated debt holders and stockholders.

Under 12 U.S.C. Section 1821 (3)(C)(i), after its appointment as Receiver, the FDIC must promptly mail a notice similar to the published notice (See Section IV Chapter C - Publications and Notices) to all creditors shown on the institution's books and records. The notice must be mailed to the creditor's last address as appearing on the books of the failed financial institution.

The following procedures should be followed to identify creditors:

1. Obtain copies of various bank records which will assist in identifying creditors of the failed institution. See Exhibit-V-A-1: Identifying Financial Institution Creditors - Job Aid for a listing of creditors that may require notification.
2. Contact DRR/BIS for a download of vendor data from the records of the financial institution.

DRR/BIS will contact the Servicer or Manager of the in house payable system to determine whether an automated vendor data system is available and can be downloaded into RLS. Claims will request that DRR/BIS attempt to limit vendor data to activity covering six months preceding the financial institution's closure.

If the vendor data can be downloaded, DRR/BIS will send a data file to claims.

- a. Claims reviews and edits the vendor data file for errors and missing information. Edits may include duplicate records, incomplete addresses (claims should attempt to locate complete addresses), and/or name order reversals.
- b. Locate additional vendor information and manually input to the data file.
- c. Return the data file to DRR/BIS. DRR/BIS will download the data into RLS. Refer to Section 6.2.1 (Import Data) of the RLS User's Manual of the download process.

If the vendor data cannot be downloaded, then the vendor information from the failed financial institution's accounts payable records and other financial institution records must be entered manually into RLS. See Section 6.2.3 (Insert/Edit Data) of the RLS User's Manual for entering data into RLS.

- d. Generate a final listing of creditors and stratify in RLS. Refer to Section 6.2.4 (Stratify/Load GTC Vendor Data) in the RLS User's Manual.
3. Within RLS, generate a creditor letter and Proof of Claim form with instructions.

Use the following procedures in RLS to produce the letter for all creditor claims in system:

- a. Click on reports
- b. Click on standard reports
- c. Click on Letters/Notices/Forms
- d. Click on Claims
- e. Click on Notice to Creditors Letter (includes POC & instructions).
- f. Click on OK
- g. Input FIN number and click on find
- h. Click on Select all
- i. Click on generate new letter

Prior to printing the cover letter and POC for each creditor, the Claims Agent, or designee should review the documents of one creditor claim to ensure the information is accurate and aligned correctly in RLS.

RLS will print out a cover letter (Exhibit-V-A-2: Notice to Creditor/Proof of Claim – RLS7212), and a Proof of Claim form with instructions for each creditor listed for the FIN.

**NOTE:** DRR Receivership Benefits will notify each employee of the closing of the financial institution. The notice will direct the employee to contact DRR Claims if they determine they have a claim against the failed institution or FDIC/Receiver. DRR Claims would then provide the employee with a Proof of Claim (POC) form and instructions for filing a claim.

DRR Claims will notify each subordinated debt holder and stockholder of the closing of the financial institution; however they are not sent a POC. (See Section IV, Chapter C - Publications and Notices and Exhibit IV-C-8: Notice to Subordinated Debt Holders and Exhibit IV-C-9: Notice to Stockholder.)

4. The CAIC, or designee, signs the letter(s) and places the documents in envelopes and gives to DOA/Acquisition Services Branch for mailing.
5. The CAIC, or designee, prepares an affidavit of mailing (Exhibit-V-A-3: Affidavit of Mailing) and attaches it to a creditor listing w/copy of POC. After obtaining the signature of the DOA Contracting person responsible for mailing the notices, file the affidavit in the general files.
6. Forward a copy of the affidavit to the Closing Manager.

**NOTE:** The noticing of creditors is generally done while at the closing site; however, it may not be done until the Claims' closing team returns to the office. Notices should be mailed as soon as possible after closing as the Bar Date has already been established through the publication notice. Likewise, the affidavit may not be completed until the closing team returns to the office.

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## Step 2

### Noticing of Discovered Creditors

Claims will be aware of most potential claims at the time the financial institution closes because of its efforts as discussed in step 1 above. However, some claims may be discovered later, either from information in the institution's records or through contact from a claimant. The Receiver shall mail a notice to a claimant within **thirty** days after discovery of the name and address of a claimant not appearing on the institution's books.

**Section 1821 (3)(c)(ii) of the U.S. Code requires a notice to be sent to claimants whose claims were not apparent from the books and records of the institution at closing, but were discovered later.**

1. When a potential claimant is discovered, the claimant name and address is entered into RLS and a Notice to Creditor, with a Proof of Claim form with instructions is generated and mailed to the claimant. Refer to Section 8.1.3 (Adding a Liability) of the RLS User's Manual.

**NOTE:** Discretion should be used when determining the time that a discovered creditor has to file a claim (the determined Bar Date). If a creditor is discovered before the original Bar Date (example: less than thirty days prior to the original Bar Date), the creditor may not be able to file his/her claim within the allotted time. Thus, the discovered creditor should be sent a “DISCOVERED CREDITOR LETTER” and Proof of Claim form with instructions (Exhibit-V-A-4: Notice to Discovered Creditor/Proof of Claim – RLS7222), allowing them to file a claim within ninety days from the date of the letter.

2. In many instances the failed financial institution will have contracts, lease agreements, equipment rental agreements, etc. in place with various creditors. The FDIC as Receiver may elect to repudiate these contracts, agreements, etc., if they are determined to be burdensome. Repudiation letters are generally sent post-closing but could be mailed during the closing process. The creditor may feel they have been damaged by the repudiation and should therefore be allowed the opportunity to file a claim against the Receiver. This type of claim could be in addition to any other claims the creditor may have already filed or be entitled to file against the receivership.

A creditor who files litigation against the Receiver generally is required to go through the claims process prior to initiating a lawsuit (or continuing litigation of a pending lawsuit) against the Receiver. The filing of a claim against the Receiver is the first step in this process.

**NOTE:** The repudiation of contracts, rental agreements, lease agreements, service agreements, etc., will be handled by DRR Accounting Operations (a settlement procedure) or DRR Assets. DRR Accounting Operations or DRR Assets will advise the holder of the contract, rental agreement, lease agreement, etc., that is being repudiated, to contact the Claims department if they believe they have a claim against the Receiver. If a request to file a claim is then received, follow the Discovered Creditor procedures above.

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### Step 3

#### Processing Claims

The Claims Specialist is responsible for processing creditor claims as they are received. During the closing function, Claims will have mailed a notice similar to the publication notice, along with a Proof of Claim (POC) form to all known creditors of the failed institution, at the creditor’s last address appearing on the institution’s books.

While the claimant may submit a Proof of Claim form with supporting documentation for Claims to analyze, there is no legal requirement that a claim be submitted on the standard POC form. The submission of any document which requests payment (or other relief) can, conceivably, be construed as the filing of a “claim”. Thus, the submission of an invoice detailing the services rendered or goods provided by a vendor can constitute a

claim. Just like a POC, such a submission must be date stamped (see Step 4 below).

If Claims receives a claim submitted on something other than the standard POC form and if Claims is unable to determine whether the claimant had been “noticed” as indicated in Step 1 above, Claims must send to the claimant the standard notification letter and POC form (Exhibit-V-A-2: Notice to Creditor/Proof of Claim – RLS7212). This is because the notice contains important language outlining certain timeframes of importance to both the claimant and the FDIC. If the notice is not sent, the claimant may be able to assert, in a court of law, that its rights as a potential creditor of the receivership were violated.

The receipt of the POC or other documentation e.g. invoices, as noted above, begins the 180 day period during which Claims either allows, disallows, or partially allows the claim.

**NOTE:** Handling of a claim in this manner is consistent with the recommendation from Legal allowing claims to be submitted on forms other than the FDIC’s POC form. Current procedures allow the Department of the Treasury to use their “Reclamation” form and the IRS to use its 4490 form as an official claim.

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**Step 4**

**Tracking Creditor Claims**

The following procedures should be followed upon receipt of a claim:

1. All incoming claims and/or correspondence **must** be date stamped. It is extremely important that the claim document be stamped, since the filing of a claim may become date sensitive due to the Bar Date and/or the discovered creditor filing deadline. This date determines the date the claim is filed, and thus starts the 180-day period in which claims has to complete the claim.

**NOTE:** There may be instances where a claim is received in the mail room and not delivered to the Claims department until a day or two later. The mail room will date stamp incoming correspondence, however Claims’ personnel should also date stamp incoming mail. There may be circumstances whereby Claims will need to utilize the date the correspondence is received in the FDIC mail room to determine if the claimant has filed their claim timely. An example is when a claimant who overnights their claim the day prior to the FDIC’s specified Bar Date or hand delivers the claim on the Bar Date to ensure it is received timely by the FDIC. In these instances, the claim will probably not be delivered to Claims until after the Bar Date.

2. All claims must be entered into RLS. A claimant's name which was entered into RLS in the vendor stratified download at closing will remain in the system. Therefore, information regarding the claim can be entered into the desired data fields by utilizing the update button. However, if a claim has not been previously entered into RLS, the new creditor information will need to be established by utilizing the ADD button.

Many creditors which have been established in RLS from the closing download will not file a claim. Thus, after the initial Bar Date has passed, the Claims Specialist, or designee, should process each of these claims to a Status 6 in RLS.

The following procedures need to be performed in RLS to accomplish this:

- a. Access the transaction screen by clicking on the Transaction button in the Liability Maintenance screen and click on the ADD button. The system will automatically enter today's date as the Tran date.
- b. Using the drop down box in the Trans Code field, click on the Not Applicable (N/A) bar, and press the Tab key. This will take you to the Deter Code field.
- c. Using the drop down box in the Deter Code field, the Claims Specialist will find the following code bars:

(D) – Disallowed  
(NA) – None  
(NC) – No Claim  
(NR) – No Response

In most instances the claims Specialist will use the determination code of NR when a claim has not been filed. Click on the NR bar and press the tab key. This will take the Claims Specialist to the Pay Method field.

- d. Using the drop down box in the Pay Method field, click on the NA bar, and press the Tab key three times. This will take you to the DOF LTC (Liability Transaction Code) field.
- e. Using the drop down box in the DOF LTC field, click on the appropriate OC bar and press the Tab key. This will take you to the GL Code field. Click on the 171120 (Discovered Liability) bar. Click SAVE. No further entries are required in Transactions. Click EXIT.

There will be situations where a claimant may have filed a claim, but then requested the claim be withdrawn or did not provide additional information as requested by the Claims Specialist to further evaluate the claim. In these situations, the Claims Specialist should process a disallowance letter for the claim. See Step 9 below for processing disallowance letters.

**Step 5**                      **Evaluating Claims**

When a POC, invoice, or other request for payment is received, the claim and supporting documentation must be reviewed for completeness and correctness. If anything is missing, the claimant must be given an opportunity to provide it. If the claim is complete, a decision must be made on the merits of the claim. Claims must adhere to the claims process time frames established by the FDI act. The following procedures should be followed upon receipt of a claim:

1. Upon receipt of a claim, establish a file for the claimant and enter the claim information into RLS.
2. Review the POC, invoice, etc. for completeness and correctness. (See Exhibit-V-A-5: Checklist for Reviewing Proofs of Claim, Invoices, etc - Job Aid).
3. Determine if enough information (documentation) is received with the Claim to make an allowance or disallowance decision. Supervisory approval is required prior to processing.
4. If an immediate claim determination can not be made, annotate the file and take action to obtain whatever is needed to complete the claim.

NOTE: If additional information is needed from the claimant to make your determination, the claimant may be contacted by telephone, via e-mail or by written request to provide the additional information. If subsequent information is required to make the determination, make written request (Exhibit-V-A-6: Deficiency Letter). Specifically state a deadline within which the requested information must be received (preferably 30 days), to ensure you have ample time to complete your claim determination. The missing or corrected information must be received before the bar date deadline or within the allotted time given to the claimant for filing a corrected POC or sending needed documentation. **Requesting additional information from the claimant will not extend the 180-day claim determination time period.**

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**Step 6**                      **Processing Extensions**

Because of the complexity of some claims presented, it may be necessary to request from the claimant an extension of the 180-day deadline for processing a claim. The Claims Specialist should review the RLS pending claims report on a regular basis to monitor outstanding claims. Sufficient time should be allowed to obtain an extension when it is required.

**Extensions must be sought based on the substance of the claim and not because of workload backlogs. The extension request must be completed and agreed to by both parties prior to the expiration of the 180-day determination period. If the extension agreement is not received, the claim is automatically disallowed, and no disallowance letter sent.**

**If a claim is in litigation, consult with Legal for actions concerning an extension. Do not send an extension letter or agreement without Legal's concurrence.**

Following are procedures to complete this task:

1. Conferring with the claimant and Legal (if required) may be desirable, determine the length of the extension required. The time required for the extension period will depend largely on the nature of the claim or the reason for the extension.
2. Obtain approval for the extension. (Approval should come from a Claims Supervisor).
3. Document the approval and place in the claimant's file.
4. Update the extension records and generate an extension letter and agreement in RLS (Exhibit-V-A-7: Request for Extension – RLS72111). Send or fax the letter and the extension agreement to the claimant for signature(s).
5. When the signed agreement is received, update the RLS records to show the extension date. A faxed copy of the signed extension is acceptable. Continue to process the claim following usual procedures.

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## Step 7

### Requesting Legal Opinions

From time to time, Claims may need to contact Legal on any allowance or disallowance decision if a claim presents special problems.

Before requesting a legal opinion it is the responsibility of the Claims Specialist to review all documentation provided by the claimant(s). The Claims Specialist must be able to identify specific legal issues/problems/questions to be addressed by Legal. A simple request of "Is this a valid claim" is not sufficient, as the specific issue requiring attention from Legal should be defined.

The following procedures must be followed when requesting a legal opinion:

1. Complete the Standard Legal Request Memorandum (Exhibit-V-A-8: Legal Request Memorandum).
2. The Claims Specialist will then update RLS to reflect the information and to indicate that a legal opinion is pending. When updating RLS the claim status should initially be at a status 3. Click the "Update" button. The Legal Opinion box will appear in the middle of the screen. Input the date you sent the request to Legal. Updating RLS is essential because it will allow tracking legal requests for pending claims by printing the Pending Claim Report. It is the responsibility of the Claims Specialist to monitor the due date for the completion of the claim.

3. When the legal opinion has been completed, Legal will send it to the Claims Specialist. The Claims Specialist will need to update RLS. Since the claim is sitting at a status 4, the Claims Specialist select the stat 3 tab; input the date the opinion was received and click the "Save" button.
4. Refer to Step 8 & 9 below, as appropriate.

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## Step 8

### Processing Allowed Claims

When a claim is received, the Claims Specialist will make a determination as to whether the claim should be allowed, partially allowed<sup>1</sup>, or disallowed. Often times the claim will include both pre-closing and post closing expenses. Unless it has been determined that an expense should be paid as an administrative expense, the pre-closing (through the date of closing) expenses are approved and paid by issuing a Receiver's Certificate (RC). Post closing expenses (if approved for payment) are paid in cash.

In the most common situation an RC is issued. Issuance of the RC entitles the claimant to a share of any dividends that are declared and paid by the Receiver. The priority of dividends paid on allowed claims is determined by law. The administrative expense would be settled with a direct payment (Check request/wire) or through the Settlement process.

All receiverships established after August 10, 1993 must follow priorities established in the national deposit insurance amendments to the Federal Deposit Insurance Act (FDIA), regardless of state law. (See [Section II Chapter A – A Broad Overview of Claims](#))

Following the August 10, 1993 amendments to the FDIA, the first payment priority for all receiverships is administrative expenses of the Receiver. The FDIA Board has determined this priority includes certain pre-closing costs that the Receiver determines are necessary to facilitate the smooth and orderly transfer of banking operations to a purchasing institution or to obtain an accounting and orderly disposition of assets of the institution.

Administrative expenses may include the failed financial institution's last payroll, data processing services, guard services, utilities and expenses related to leased facilities. They do not include expenses such as severance pay claims, golden parachute claims and claims arising out of repudiations.

The following procedures should be followed when an RC is issued for payment of a claim:

1. Enter payment information in RLS through the transaction screen.
2. Print corresponding cover letter with associated payment document ([Exhibit-V-A-9: Notice of Allowance of Claim-RC – RLS7213](#)).

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<sup>1</sup> Partially allowed" claims refer to claims for which the FDIC has allowed part of the claim and disallowed part of the claim. Within RLS, there is no transaction code for "partially allowed". A "partially allowed" claim typically will be processed as two separate transactions - as an "allowed claim" and also as a "disallowed" claim.

When the payment to the claimant is through the issuance of an RC, the appropriate tax code (DPC) must be entered and saved in RLS prior to printing the cover letter and the RC.

3. Print the RC on the **designated colored paper**, and have someone with proper delegated authority sign the RC. The signature of the signer must be on file with DRR Accounting Operations.
4. Make a copy of the signed RC and forward it to DRR Accounting Operations for input into DPS.
5. Mail the original RC and cover letter from RLS to the claimant.
6. File a copy of the correspondence in the claimant's file.

The following procedures should be followed when paying a claim by methods other than issuing a RC:

1. Enter the payment information in RLS through the transaction screen.
2. If payment is made in cash a Payment Authorization Voucher (PAV) or a Wire Authorization Voucher (WAV) is completed and forwarded to DRR Accounting Operations for processing.
3. Print corresponding cover letter with associated payment document (Exhibit-V-A-10: Notice of Allowance of Claim-PAV – RLS5142A).
4. Mail the cover letter from RLS to the claimant along with the check and a copy of the POC. (DRR Accounting Operations may request that the Claims Specialist provide them with the cover letter which they would mail to the claimant after the check processing has been completed).
5. When payment of claim is made through the Receivership settlement process, notify DRR Accounting Operations with instructions for payment.
6. File a copy of the correspondence in the claimant's file.

If there is a partial disallowance of the claim, enter disallowance information in the RLS transaction screen. See procedures for processing disallowance of a claim in the Processing Disallowed Claims. (**Step 9**)

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## Step 9

### Processing Disallowed Claims

When a claim is disallowed, the disallowance letter must inform the claimant of his right to file a law suit within sixty (60) days of the date of the FDIC's disallowance letter. If the claim is processed under the expedited claims procedures (Step10), the claimant has only 30 days from the date of the disallowance letter in which to file a law suit. The same procedures apply whether the claim is disallowed on its merits, or is disallowed because the claimant failed to submit additional information which might have been sufficient to prove the claim. **There is no right to file a lawsuit for claims disallowed as untimely filed.**

1. Enter disallowance information in the RLS transaction screen.

2. Generate a disallowance letter in RLS, (Exhibit-V-A-11: Disallowance of Claim – RLS7218) and insert reason(s) for disallowance of claim (Exhibit-V-A-12: Reasons for Disallowance of Claim – Job Aid) and obtain approval from a supervisor with appropriate delegated authority. If changes to the letter are recommended, make those changes in RLS, and mail the letter.
  
3. There will be occasions when the FDIC receives a claim from a creditor which was not filed by the specified Bar Date. Unless the FDIC and the claimant have agreed upon an extended filing date, the claim should be disallowed as “**untimely filed**”. Thus the creditor is precluded from any further proceedings, rights, or remedies of their claim. The disallowance letter (Exhibit-V-A-13: Disallowance of Claim as Untimely Filed) mailed to the claimant should advise that “**The Receiver has received your Proof of Claim after the specified Bar Date; it was not postmarked on or before the Bar Date (or received via hand delivery by close of business of the Bar Date). Accordingly, your claim is automatically DISALLOWED as untimely filed. Such determination is final (12 U.S.C. 1821(d)(5)(C)(i), and your failure to timely file a claim by the Bar Date precludes any further proceedings, rights or remedies on your claim.**”

The FDIC may receive a late filed Proof of Claim requesting an exception to the Bar Date. If the exception is denied, a disallowance letter (Exhibit-V-A-14: Rejection of Request to File Claim after Bar Date) should be sent to the claimant advising that the Receiver rejects the request to file a claim after the Bar Date and the claimant is precluded from any further proceedings, rights, or remedies on their claim.

Disallowance letters should be sent certified mail, except in cases where delivery through this means is not available (foreign countries, et. al.). In these situations the Claims Specialist must work with DOA/Acquisition Services Branch to ensure proper delivery to the claimant.

File a copy of the disallowance letter in the claimant’s file.

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Step 10

Handling Expedited Claim Determinations

1. Creditors may request an expedited determination of their claim if they allege the existence of legally valid and enforceable or perfected security interests in assets of the failed depository institution, and allege that irreparable injury will occur if the routine claim procedure is followed, See 12 U.S.C. § (d) (8). The receiver must determine whether to (i) grant expedited relief and, if receiver grants expedited relief, it must also (ii) determine to allow or disallow the claim within 90 days from its filing. The claimant must file suit (a) within 30 days of the date or postmark of the letter of disallowance; or b) within 30 days after expiration of the ninety (90) day claim determination period.

Following are procedures to complete this task:

- a. Receive and analyze request for expedited determination.
- b. If a claim qualifies for the expedited process, mark the POC clearly for identification, “**Request Under Expedited Claims, received (date).**” Notify claimant of the decision (Exhibit-V-A-15: Acceptance of Expedited Claim).
- c. If the claim does not qualify for the expedited claims process, notify the claimant in writing the request is disallowed (Exhibit-V-A-16: Denial of Request for Expedited Claim).
- d. Periodically review the RLS pending claims report to determine whether any claims are nearing the time limits within which a decision must be made. The oldest claim should be reviewed first to determine what action should be taken or whether a decision to allow or disallow can be made.

NOTE: To qualify for an expedited claim, a claimant must allege and the Receiver agree as to the existence of a legally valid and enforceable or perfected security interest, and allege irreparable injury will occur if the routine claims procedure is followed.

2. Process all claims as expeditiously as possible. Notify claimant within 90 days from date the claim was filed to allow or disallow the claim or determine that the Claimant will not be irreparably injured if the Receiver takes up to 180 day to make its determination.

If a definite decision cannot be made within the time limits, be sure there is a written agreement with the claimant to extend the time. The agreement must be signed by all parties before the expiration of the existing time limit, refer to **Step 6**.

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**Step 11 Handling Post Closing Claims**

A post closing claim is defined as a claim relating to an act or omission by the Receiver such as a liability resulting from injury occurring on Receiver property. If the claim arises from the actions of the failed bank, then the claim is considered pre-closing and is handled as outlined in the Processing Claims section of this chapter.

NOTE: There is a distinction between a post closing claim and a late filed claim. A late filed claim is a claim arising from the actions of the failed bank but filed after the Bar Date. A post closing claim arises from an event occurring **AFTER** closing.

Upon discovery of a potential claim, ensure that the creditor notice and POC have been sent. The completed POC and supporting documentation must be received by the Receiver no later than 30 days from the date or post-mark of the notice letter, whichever is later. If anything is missing, the claimant must be given the opportunity to provide it. After the claim has been received, follow the claims process procedure.

NOTE: Since a post-closing claim is for an event that occurred after the closing, the claim will be against the FDIC as Receiver of the failed financial institution; therefore, payment of a post-closing claim is paid in cash.

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**Step 12 Handling Non Asset Defensive Litigation (NADL) Claims**

There will be occasions whereby the FDIC becomes aware of a claim through the litigation process. If the litigation does not involve an asset of the failed financial institution, the claim will be handled by the Non Asset Defensive Litigation (NADL) Unit. However, the assigned Claims Specialist will provide assistance to the NADL Account Officer in resolving the claim. The NADL account officer will initially request that the Claims Specialist verify whether the claimant had previously been noticed and sent a POC.

If the claimant had not been noticed, the Claims Specialist will send the claimant a "Discovered Creditor" letter and a POC. The Claims Specialist will handle the claims through the normal claims process, and will keep the assigned NADL account officer informed.

If the claim is disallowed, then the claimant may commence litigation (or continue an existing lawsuit) against the Receiver. The NADL account officer will be responsible for any judicial proceedings that occur.

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**Step 13 Processing of Reclamations**

“Reclamation” is a procedure through which the Department of the Treasury recovers money deposited in depository institutions on behalf of particular depositors. The money might represent Social Security or other federal benefits. If the depositor is deceased or otherwise incapable of receiving such benefits, the money must be returned to the Treasury Department after a “reclamation” request.

A reclamation, for purposes of Claims, is a claim made by the Department of the Treasury against a failed institution because the failed institution accepted a deposit, cashed a United States Treasury check or U.S. bond to which the depositor had no right. The most common types of reclamation requests presented by the Department of Treasury involve requests for reimbursement of:

- a. Forged U.S. Treasury checks, U.S. bonds, etc., that were cashed by a failed institution prior to closing
  - b. Direct deposits where the recipient or beneficiary is deceased
1. When a Reclamation Request is received from the Department of the Treasury, a determination should be made as to whether the Reclamation Request represents a valid claim. The Reclamation Request must be reviewed to ensure that it was presented under the timeframes (Exhibit-V-A-17: Guidelines for Accepting Reclamations – Job Aid) established by the Treasury. Then these questions should be answered: (1) is there an Acquirer? (2) does the depositor still have an account that can be debited to pay the Reclamation? If the answer to both is yes, send the request to the Acquiring Institution for research and processing (Exhibit-V-A-18: Request for Research – Reclamation). If the Acquiring Institution notifies you that the funds were debited from a deposit account and forwarded to the Department of the Treasury, processing of the reclamation is complete.

If the answer to both is no, or if there is an Acquiring Institution but no recovery available, the following procedures should be utilized to complete the task of handling a “reclamation” request:

2. When the reclamation request is received, determine if it is a valid claim, i.e., did transaction occur prior to closing.
3. If the Acquiring Institution is unable to debit a deposit account, it is necessary to attempt to determine who received the funds.
4. Identify from the records, if available, or from information received from the Acquiring Institution the name(s), addresses and account information of the merchant and/or depositor who received the funds. Forward a request for repayment of reclamation to the merchant (Exhibit-V-A-19: Request for Repayment of Reclamation – Merchant) or the depositor(s) (Exhibit-V-A-20: Request for Repayment of Reclamation – Depositor).

5. Complete the back of the reclamation form and forward it with the name and address of the person who withdrew funds to the Department of the Treasury.
6. Forward the letter to the person who received the funds stating that the Department of Treasury will contact him for payment of reclamation.
7. When the Receiver approves a reclamation claim, the Department of the Treasury is treated as general creditor, and an RC issued as payment of the claim.

An attempt should be made to recover the funds on all Reclamations received provided that the dollar amount is significant enough as determined by FDIC management.

NOTE: Payment of reclamations can not be offset against securities pledged to the U.S. Government.

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**Step 14**

**Determining Worthlessness of Receivership**

The FDIC as Receiver of a failed financial institution may issue a determination of “worthlessness” of a receivership. This can be done at the outset of a financial institution closing; however, it will generally be done post-closing after the valuation of assets has been completed. A determination of worthlessness is completed by DRR Receivership Oversight. Claims is responsible for noticing creditors, subordinated debt holders, and stockholders after a “worthlessness” determination is made.

National Depositor Preference laws currently in affect establish the priority of claimants from a failed financial institution as follows:

- a. Administrative expenses of the Receiver
- b. Deposit claims (includes uninsured deposits and FDIC’s subrogated deposit insurance claims)
- c. General creditor claims
- d. Subordinated debt holders
- e. Stockholders

A worthlessness determination will typically state that assets of the failed financial institution are not sufficient to pay the priority claims for administrative expenses and deposit claims. Therefore creditor claims, subordinated debt holder claims, and stockholder claims are determined to be worthless.

The Claims Specialist, or designee, is responsible for mailing letters to all claimants below the depositor priority class advising that their claim is now worthless. (Exhibit-V-A-21: Worthlessness Determination Letter).

**B. Processing & Issuance Of Receiver's Certificates**

**Contents**

This chapter contains the following information for Processing & Issuance of Receiver's Certificates:

Topic Title	Page Number
<u>Overview</u>	<u>V-B-1</u>
<u>Policy Statement</u>	<u>V-B-2</u>
<u>Procedures</u>	<u>V-B-2</u>
<u>Issuance of Receiver's Certificates</u>	<u>V-B-2</u>
<u>Signatory and Transmittal to DRR Accounting Operations</u>	<u>V-B-5</u>
<u>Assignment of the Receiver's Certificate</u>	<u>V-B-5</u>
<u>Name Changes on Receiver's Certificates</u>	<u>V-B-6</u>
<u>Address Changes on Receiver's Certificates</u>	<u>V-B-7</u>
<u>Voiding a Receiver's Certificate</u>	<u>V-B-7</u>
<u>RLS Reports</u>	<u>V-B-7</u>
<u>Common Mistakes</u>	<u>V-B-8</u>
<u>Exhibit V-B-1: Dividend Priority Codes</u>	
<u>Exhibit V-B-2: Claimant Name and/or Address Change Form</u>	

**Overview**

Allowing a claim by a creditor (be it an uninsured depositor or a general creditor) is the first step in the process of issuing a Receivership Certificate (RC), also commonly known as a Receiver's Certificate. The Receiver must determine those parties having a valid claim and if payment will be in the form of an RC. For more details on allowing claims for uninsured depositors, please see Section IV Chapter K: Account Hold Release Process. For more particulars on allowing general creditor claims, see Section V Chapter A: Creditor Claims.

## Policy Statement

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Receiver's Certificates for general creditors will be issued as soon as practicable after the approval of the claim. RC's for uninsured depositors (other than Brokers) will be issued as soon as the insurance determination is complete. RC's for Brokers will be issued after **redeterminations** have been completed. The format and content of the RC may change over time at the discretion of the Manager of Claims, DFOB.

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## Procedures

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### Issuance of Receiver's Certificates

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Once all information regarding the claim has been verified and the Claim allowed, a RC will be issued. The Claims Specialist will use the Receivership Liability System (RLS) to issue the RC. Please refer to Section 8.2.3 – Liability Transactions of the RLS User's Manual for specific transactions up to the point of issuing the RC.

The following is a summary of the stages and status codes within RLS which must occur in order for the processing of an RC to be completed.

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#### Status Code 1    **Discovery/Acquisition**

The Claims Specialist will go into RLS to the Liability Maintenance screen for the specific liability. The liability should be at a "Status 1". For General creditors, the date input into the "Claimant Notified Date" field is the date the Proof of Claim is printed and mailed to the claimant. For Uninsured Depositors, the field is populated with the date of the financial institution closing.

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#### Status Code 2    **Notification to Claimant**

For General creditors, the date input in the "Claim Received" field is the date the Proof of Claim form was received by the FDIC and date stamped.

For Uninsured Depositors, the date input in the "Claim Received" field is the date of the financial institution closing.

Verify and make any changes necessary on the name, address and Tax ID number/social security number (TIN/SSN) as supplied by the claimant on the Proof of Claim (in the case of General creditors) or during the depositor interview (in the case of Uninsured Depositors).

The Claims Specialist reviews the "SSN/TIN" field to verify that the number and indicator are populated. If this is a foreign creditor, the Claims Specialist should enter nine "9's" in the field. (999999999)

The "Claimant Name" is automatically populated by the information in the "Name 1" field. There may be times that this name is not descriptive of the ownership of the account. The Claims Specialist may change the "Claimant Name" when the liability is at "Status 2".

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**Status Code 3      Proof of Receipt of Claim**

This tracks Legal Requests and litigation relating to claims. (See RLS User's Manual.) This is also the status at which uninsured deposit liabilities start."

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**Status Code 4      Determination Complete**

The "Determination" field will have already been populated with an "A" for Allowed because of information input through the related Liability Transaction screens.

The "DPC#" reflects the depositor preference or dividend priority code. The DPC represents a uniform numeric classification system used to identify and describe claims filed against the failed institution. This number consists of three primary numbers followed by a decimal, then one secondary number. The latter number is intended solely to identify the tax authority reporting status, i.e., reportable/non-reportable tax of dividends paid on individual claims. All DPC codes are a part of the RLS Code Tables in Appendix E of the RLS User's Manual and Exhibit V-B-1: Dividend Priority Codes. After selecting the appropriate DPC# and/or tax code, select the "SAVE" button to lock in the input. Failure to save the input at this point will result in the RC not having a DPC# and/or tax code.

The "Tax Code" is entered in the blank space following the DPC#.

Tax Codes:

0 – Non-reportable. No IRS Form 1099 will result.

- Principal portions of uninsured deposits
- Taxes and related obligations
- Purchase of goods
- Claimant is a corporation (Corp., Inc., or PC is usually in the name)
- Total is less than \$600
- Subordinated debt principal
- Non US Citizens Principal or Interest

1 – Reportable.

- Non-corporation, for services, and \$600 or more
- Unpaid salaries and wages
- Interest portion of excess deposits

The “Receiver Certificate” button allows the Claims Specialist to produce an RC for the claimant. When the button is selected the Claims Specialist is allowed to print the RC, and the transmittal letter to the creditor, to accompany the RC. Select the button “Receiver Certificate”. This allows the Claims Specialist to select the “Print Letter/Notice”. Next select “Preview”. The next box reads, “Please enter the Claims Department address to be used at the end of this letter”, select “OK” unless working from a field office location for an extended period and the Claims Specialist would want the letter to list a different address than the Dallas Office. Before printing, review the letter and the RC for the correct name, address and Tax Identification Number, DPC# and Tax Code. After review, print the RC. The Claims Specialist will then be prompted “Did the Receiver Certificate print correctly?” If answered “no”, the Claims Specialist will be given an opportunity to make corrections and print another RC. If the Claims Specialist answers “yes”, and saves, the claim is ready to be automatically advanced to Status 5.

“Date Referred to DOF” is the date on which the determination of the depositor’s claim was referred to DRR Accounting Operations for processing. The value for this field was automatically set by the Dividend Processing System (DPS) interface the Claims Specialist printed and the saved RC in the previous step.

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**Status Code 5      Discharge/Payments to DRR Accounting Operations (formerly DOF)**

RLS automatically sends liability data to the Dividend Processing System (DPS). RLS checks for claims that meet a certain criteria, and then transfers information about those claims to DPS. A successful transfer of information is required for those liabilities to move from Status Code 4 to Status Code 5.

In the interface process, RLS checks for claims that meet the following criteria on a nightly basis:

- Status of the Claim = 4
- Balance of the group is zero
- Determination = A (Allowed),
- Payment Type = RC (Receiver’s Certificate),
- DRR Accounting Operations LTC is populated, and
- RC has been printed.

When a claim is sent to DPS, RLS:

- Populates the Date to DOF field with the transmission date, and
- Sets the claim to a status 5.

DPS will send a return file to RLS to confirm that the claim was received and has all of the required data. If a record is unsuccessfully transmitted the following occurs:

- The liability is reset to status code 4, and
  - The value for the Date to DOF field will be deleted.
- 

#### **Status Code 6      Completion**

Once a record is successfully transmitted to DPS, the record must be approved in DPS. DPS sends RLS information on approved records in the nightly interface. When RLS receives the approval, RLS:

- Sets the claim to status 6,
- Updates "Date Paid/Recorded" with the date provided by DPS, and
- Updates "Date Completed" with the date the approval was received from DPS.

The RESET STATUS button on the Status 6 tab allows the Claims Specialist to reset the status of the liability back to a previous processing state, if necessary.

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#### **Signatory and Transmittal to DRR Accounting Operations**

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Once the RC has printed, ensure that a signature is obtained from the FDIC employee with the appropriate delegated authority. Make two photocopies of the RC. Mail the original RC with the transmittal letter to the creditor or depositor. Provide one copy of the RC to DRR Accounting Operations. Place the second copy of the RC, along with a copy of the transmittal letter to the depositor or the creditor, in the file that was created for that specific claim.

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#### **Assignment of the Receiver's Certificate**

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The Creditor or Uninsured Depositor may assign the RC by signing and dating the bottom portion of the RC that is titled "ASSIGNMENT OF RECEIVER'S CERTIFICATE", and returning the original RC (if available) to FDIC Claims. The Claims Specialist may assign a percentage of the RC to multiple parties. The assignment of the RC is completed by Claims by obtaining the signature of an FDIC employee in the Claims area with the

appropriate delegated authority. A copy of the RC, after the assignment, is submitted to DRR Accounting Operations along with the DRR Accounting Operations form "Claimant Name and/or Address Change" (Exhibit V-B-2: Claimant Name and/or Address Change Form). It is mandatory to include the tax identification number of the new holder of the RC on the form. A copy of the assigned RC and a copy of the completed Claimant Name and/or Address Change form is placed in the appropriate uninsured depositor's file or general creditor's file. The original assigned RC (if available) is mailed to the newly assigned owner of the RC.

The Claims Specialist should go into the specific liability related to the RC and place a comment in the "Comments" field stating on the "date" the RC was assigned to "whomever". On the liability maintenance screen, do a print screen of the listed owners at that time. After making certain the screen printed, update the name one, name two, address, city, state and zip, along with the tax identification number/social security number (TIN/SSN) for the new owner of the Receiver's Certificate. Next go into the Status Two tab and replace the claimant name and TIN/SSN with the new owner's information. The Claims Specialist should go to the tab "Interested parties" and list the name, address and TIN/SSN of the new holder of the RC. The "Type Code" would be "Assignee=Third Party Assignment of RC". Also list the name, address and TIN/SSN of the previous holder of the RC (from the print screen you produced earlier). The "Type Code" will be "original=owner of RC".

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### Name Changes on Receiver's Certificates

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When it is necessary to change the name on a RC (other than an assignment), the Claims Specialist must have received sufficient documentation, such as the request from an individual along with the death certificate and beneficiary information. The DRR Accounting Operations form "Claimant Name and/or Address Change" (Exhibit V-B-2: Claimant Name and/or Address Change Form) must be completed and forwarded DRR Accounting Operations, along with a copy of the supporting documentation. A copy of the completed "Claimant Name and/or Address Change" form and supporting documentation should be placed in the appropriate uninsured depositor's file or general creditor's file and forwarded to the Claims Specialist's Supervisor.

The Claims Specialist should go into the specific liability related to the RC and place a comment in the "Comments" field stating the "date" on which the name on the RC was changed. The Claims Specialist should go to the tab "Interested Parties" and list the name, address and TIN/SSN of the new holder of the RC. The Type Code" will be "RCTO=Payee for Dividends/RC".

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## Address Changes on Receiver's Certificates

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When it is necessary to change the address on a Receiver's Certificate (other than an assignment), the Claims Specialist must complete the the DRR Accounting Operations form "Claimant Name and/or Address Change" (Exhibit V-B-2: Claimant Name and/or Address Change Form) and forward this document to DRR Accounting Operations by email or hard copy, along with a copy to the Claims Specialist's supervisor. A copy of the completed "Claimant Name and/or Address Change" form and supporting documentation should be placed in the appropriate uninsured depositor's file or creditor's file.

The Claims Specialist should go into the specific liability related to the RC and place a comment in the "Comments" field stating the "date" on which the address on the RC was changed.

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## Voiding a Receiver's Certificate

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When it is necessary to void a RC, if the original has been mailed to the depositor or general creditor, the Claims Specialist should request that the document be returned to FDIC. Notify DRR Accounting Operations by email that the RC has been voided. The Claims Specialist should mark "VOID" over the face of the RC and make a photo copy of the voided certificate. A copy of the voided RC should be provided to DRR Accounting Operations and a copy placed in the file of the depositor or general creditor. Appropriate corresponding transactions should be made in RLS per existing RLS procedures.

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## RLS Reports

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Below are two standard reports that provide information relative to the issuance of the RC's. The reports are available in Standard Reports under the Claims submenu.

- **Payment Reports**
  - Payments by RC for General Creditors – Pulls all RC transactions with the payment type "RC" and a DOF Liability Type Code between "OC1" and "OC8".
  - Payments by RC for Excess Depositors – Pulls all RC transactions with the payment type "RC" and DOF Liability Type Code "OA2" or "OA6".
  
- **RLS RC Void Reissue Log**
  - The RC Void/Reissue Log provides a list of the RC's that have been voided and reissued.

Below are three standard reports that provide information about the **DPS Interface** status. The reports are available in Standard Reports under the DPS Interface submenu.

- **RC DPS History**
  - Report provides summary information about all RCs that were passed to DPS and information on whether or not the transfer was successful.
- **RC Status Report**
  - Report provides information on changes in liability status that occur as a result of a DPS transmission (e.g., if a liability goes from Status 4 to Status 5 as the result of a successful transmission, it will be recorded in the RC Status Report.)
- **Transmission Log Report**
  - Provides information about DPS transmissions within the selected date range, including a description of any errors that occur.

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## Common Mistakes

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The following are some common mistakes to avoid during the processing and issuance of Receiver's Certificates.

- Printing the RC after entering the DPC# and/or Tax Code but before saving the input. This will result in the RC not having a DPC# and/or tax code. The Claims Specialist must first "save" the input, then print the RC.
- Immediately after issuing the RC but before sending the RC to DRR Accounting Operations, the Claims Specialist voided the RC because the name, address, and/or SSN/TIN were incorrect or missing. The information that was sent over the DPS interface will be inaccurate but it is not necessary to void the RC. The Claims Specialist may correct the RC and send the new RC to DRR Accounting Operations a notation that the information that was originally automatically transmitted had errors.
- The tax codes were set incorrectly. This is most common when a foreign depositor has uninsured funds. The tax code for the interest MUST be "0". All other uninsured depositors have a tax code for the interest as a "1". If the Claims representative makes this mistake, Select the **Reset Status** on the *Status 5* tab.  
Select **4** on the *Reset Status* screen.  
Check **Clear all User Entered Values** on the *Reset Status* screen.  
Select **Ok** on the *Reset Status* screen.  
Select **Save** on the *Liability Maintenance* screen.  
Select **OK** on the "DPC field" message.  
Select **Update** on the *Liability Maintenance* screen.

Select **DPC #** and **Tax Code** from the drop-downs on the *Status 4* tab.

Select **Save** on the *Liability Maintenance* screen.

Select **OK** on the "...submitted to DOF..." message

- The name, address or tax identification number on the RC is not the address on the Proof of Claim or the Depositor Interview Form. The name, address, and/or tax identification number was not verified prior to printing the RC.
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## C. Ongoing Reconciliation Process

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### Contents

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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-2
Exhibit V-C-1: DRR Accounting Operations Responsibilities	

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### Overview

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The general ledger of a receivership is maintained on the Financial Institution Management System (FIMS) by DRR Accounting Operations (DRR A/O) based initially on financial information developed by FDIC Pro Forma staff at closing and is adjusted as the receivership liquidation progresses. Payment to proven claimants, in the form of dividend checks and/or payout checks, is currently done on the Dividend Processing System (DPS), also maintained by DRR A/O.

Claims activity throughout the course of liquidation affects the liabilities of a receivership. Claims liability data for general creditors and uninsured depositors is maintained on the Receivership Liability System (RLS). Many of the liability accounts set up at or after closing affect the corporate settlement process as well as certain Claims functions, such as proving claims of uninsured depositors and general creditors and paying dividends.

Even after the detailed reconciliation discussed in Section IV Chapter E Reconciliation (Verification) of Deposit Download, these systems must remain in agreement and be reconciled.

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## Policy Statement

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It is the policy of the FDIC that FIMS, DPS and RLS should be balanced and reconciled on an ongoing basis and that out of balance conditions be researched and adjusted, as necessary. It is also the policy of the FDIC that 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 DRR A/O.

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## Procedures

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The Claims Specialist is responsible for making changes to RLS within 10 business days of the date of notification from DRR A/O that an out of balance condition exists between RLS and/or FIMS and/or DPS. Such notification from DRR A/O should provide sufficient detail to allow and support the adjustment to RLS. Once the Claims Specialist has made the adjustment, DRR A/O should be notified that the adjustment to RLS has been made. Appropriate documentation should be maintained in the Verification/Reconciliations folder of the receivership file regarding each such adjustment.

A detailed outline as to DRR A/O's responsibilities in the ongoing reconciliation process is contained in Exhibit V-C-1: DRR Accounting Operations' Responsibilities.

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## **D. Unclaimed Deposits**

### **Contents**

This chapter contains the following information on Unclaimed Deposits:

<b>Topic Title</b>	<b>Page Number</b>
<u>Overview</u>	<u>V-D-1</u>
<u>Policy Statement</u>	<u>V-D-2</u>
<u>Claiming Periods</u>	<u>V-D-2</u>
<u>Guidelines for the Transfer of Temporary Custody of the Unclaimed Funds</u>	<u>V-D-6</u>
<u>Interest on Unclaimed Deposits Position Statement</u>	<u>V-D-6</u>
<u>Letter to Acquiring Institution At Closing</u>	<u>V-D-7</u>
<u>Post Closing</u>	<u>V-D-7</u>
<u>Accessing DPS</u>	<u>V-D-10</u>
<u>Dividend Payments</u>	<u>V-D-10</u>
<u>Exhibit V-D-1: Acts Which Constitute A Claim of Transferred Deposits</u>	
<u>Exhibit V-D-2: Federal Deposit Insurance Act (FDIA) as amended by the Unclaimed Deposits Amendments Act (UDAA)</u>	
<u>Exhibit V-D-3: Unclaimed Deposits Flowchart</u>	
<u>Exhibit V-D-3a: UDAA and Bridge Bank Deposits Flowchart</u>	
<u>Exhibit V-D-4: Criteria for Claiming Funds</u>	
<u>Exhibit V-D-5: Letter to Acquiring Institution At Closing</u>	
<u>Exhibit V-D-6: Data Structure</u>	
<u>Exhibit V-D-7: File Layout</u>	
<u>Exhibit V-D-8: 14 Month Unclaimed Deposit Letter</u>	
<u>Exhibit V-D-9: 15 Month Claims Notice Letter</u>	
<u>Exhibit V-D-10: 15 Month Claims Notice Letter Payout</u>	
<u>Exhibit V-D-11: Affidavit of Mailing</u>	
<u>Exhibit V-D-12: 18 Month Unclaimed Deposit Letter</u>	

### **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 where there is a Purchase and Assumption. To claim insured deposits from the FDIC, the depositors must negotiate their claim check. To claim transferred (insured) deposits, depositors must take an action that acknowledges the transfer of the depositors' accounts to 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 and those in Payout (partial or entire) situations. An acquiring institution and a Payout situation are treated synonymously throughout this Chapter. For specific Unclaimed information (such as status of unclaimed checks) in a Payout situation assistance can be obtained from DRR Asset/Liability Accounting Unit (ALAU) and/or DPS.**

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## Policy Statement

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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** (See Exhibit V-D-2: Federal Deposit Insurance Act (FDIA) as amended by the Unclaimed Deposits Amendments Act (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 so-called "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.

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

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**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.

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**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>. ALAU is responsible for the removal of the terminated FIN's and paid claims on a monthly basis.
- The Claims department has developed an in-house Access database with the same depositor/FIN information as the web site above to assist with the administration of these unclaimed deposits. This database can be accessed by going to:

- Start
- All Programs
- Office XP
- Click on 'Access'
- File – Open
- Look in: Common Files on Dalres101p (T:\drive)
- COMMOM
- Unclaimed Funds website
- InquireReference02.mdb
- Click 'OK' on the Read Only message
- Double click or open the Claims Table

**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, 1099's etc.) which would prove that they are in fact the owner of unclaimed funds. If the caller is not the depositor, request that they file a Freedom of Information Act (FOIA) request, and include all pertinent documents (statements, passbook etc.), along with proof of their relationship to the depositor/owner of unclaimed funds.**

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**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 or d) the state custodian for a period of ten (10) years from remittance/transfer from the FDIC. FDIC-Corporate's subrogation rights on an unclaimed account become permanent upon delivery to the state, regardless of whether the state later returns the funds to the FDIC.

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.
- Fourteen (14) Months from closing.
- Fifteen (15) Months from closing.
- Eighteen (18) Months from closing.
- Transfer of funds to state custodian(s).

An overview of the criteria for depositors to claim funds can be found in Exhibit V-D-4: Criteria for Claiming Funds.

**Establishing an “unclaimed deposit” contact with the acquiring institution is essential and will work to your benefit as the reporting and refund time approaches.**

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**Bridge Bank/  
Conservatorship**

From a procedural perspective, the term “acquiring institution” includes a Bridge Bank for BIF insured banks and a Conservatorship for SAIF insured financial institutions. All regulations, requirements, and procedures related to unclaimed deposits apply to each:

- The Unclaimed Deposits Amendments Act of 1993 (ACT)
- FDIC procedures related to unclaimed deposits

The term Bridge Bank and Conservatorship for the purposes of these procedures are analogous and interchangeable. In legal terms they do not have the same definitions.

The “notice” requirements for unclaimed deposits are triggered by the initiation of the payment of insured deposits. A financial institution that fails and is followed by the use of a Bridge Bank will involve two receiverships and possibly two deposit insurance determinations:

- 1) the first receivership for the original financial institution
- 2) the second receivership for the Bridge Bank

Depending on whether there is an acquiring institution for the Bridge Bank, there may be a second deposit insurance determination, requiring a second set

of “notice” requirements.

The following are general statements that apply:

- After eighteen months, all unclaimed deposits should be returned to FDIC Corporate.
- Any deposits remaining in a Bridge Bank *after* eighteen months should be:
  - deposits that existed at the time of the first receivership (“old” deposits) that have been claimed, or
  - deposits opened with the Bridge Bank (“new” deposits)
- A “new” deposit transferred by a Bridge Bank to an acquiring institution is not subject to the FDIA if there is no resolution of the bridge bank involved (*i.e.*, a partial sale of deposits/assets).
- If a Bridge Bank sells “old” deposits to an acquiring institution within 18 months of the first receivership, and:
  - the “old” deposit has not been claimed, the 18 month period begins with the date of the first receivership
  - the “old” deposit has been claimed during the Bridge Bank and prior to sale to acquiring institution, the deposit is not subject to the FDIA (not subject to a “second” deposit insurance determination)
- If the “old” deposit has been claimed during the Bridge Bank and the Bridge Bank closes (without an acquiring institution), a second 18 month “claiming” period begins at the time of the “second” receivership (because there is a “second” deposit insurance determination).

In a Bridge Bank, the initial Notice to Depositors and the 15-month FINAL LEGAL NOTICE to depositors apply.

However, for “new” deposits opened with the Bridge Bank, there is no need for the usual unclaimed deposits correspondence with an acquiring institution. “New” deposits sold to an acquiring institution are not subject to the ACT.

For “old” deposits that existed at the time of the *first* receivership, in addition to the usual notices and letters, a second set of initial Notice to Depositors and a FINAL LEGAL NOTICE to depositors *may* need to be sent. This will happen if the deposit was claimed within 18 months of the *first* receivership and the Bridge Bank closes without an acquiring institution. Notice requirements are also necessary for “new” deposits if the Bridge Bank closes without an acquiring institution.

See Exhibit V-D-3a UDAA and Bridge Bank Deposits Flowchart. In addition to the usual notification and letter procedures (the top “YES” decision outlined in red), two other “NO” decisions (also outlined in red) indicate where notifications to depositors are required. These two situations are when the Bridge Bank closes without an acquiring institution.

**Coordination between Claims and the ALAU is essential to ensure appropriate reports and financial reconciliation between the two**

program areas is met. As previously noted, because of the complex nature of a Bridge Bank or Conservatorship resolution, establishing an “unclaimed deposit” contact with the acquiring institution is essential up front to educate them on the tracking, ratification, final reporting and refund requirements.

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## Guidelines for the Transfer of Temporary Custody of the Unclaimed Funds

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### 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 institutions 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 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).**

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## Interest on Unclaimed Deposits Position Statement

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### 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/unratified 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 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 depositors’ rights are fixed at closing”.

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## Letter to Acquiring Institution At Closing

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### Letter to Acquiring Institution

Have the acquiring institution identify an “unclaimed deposit” contact. Once identified, stress the fact that all deposits should be claimed to keep the current depositor base.

- Review the mailed notice to depositor letter with your contact. See Exhibit IV-C-6: Mailed Notice to Depositors – Insured Deposit Purchase and Assumption – RLS72113 or Exhibit IV-C-7: Mailed Notice to Depositors – All Deposit Purchase and Assumption – RLS72113.
- Stress that all deposits have been funded (balance as of closing) and, should they go unclaimed, must be returned to FDIC at the amount funded. **This must exclude any post-closing service charges and/or post-closing accrued interest.**
- Inform your contact that any **dormant** accounts have now been funded and they are no longer in a “dormant” stage. If they can not be made “active” within the deposit processing system(s), then they should be moved to a separate general ledger account, which must be remitted to FDIC if they remain unclaimed during the 18-month claiming period.
- Supply the acquiring institution with the data structure format.
- A letter should be delivered to the acquiring institution at the time of closing which contains the above instructions and attachments. (See Exhibit V-D-5: Letter to Acquiring Institution At Closing, Exhibit V-D-6: Data Structure and Exhibit V-D-7: File Layout). Give a copy of this letter and attachments to the UDAA-PWP (Post-Window Period) Administrator.
- **NOTE: Laying the groundwork for this process early will prevent problems for the Claims Specialist when under the time constraints noted above. Since this refund and reconciliation process occurs much later (after closing), it is often overlooked.**

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## Post Closing – The following procedures occur at the time intervals noted

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### 14 Months (from closing)

#### Notice to Acquiring Institution

- Send the acquiring institution contact a letter (Exhibit V-D-8: 14 Month Unclaimed Deposit Letter) requesting the list of the unclaimed deposits by the 15-month mark (Copy your supervisor and the UDAA-PWP Administrator).
- The list should be formatted to include the name, last known address,

account number, account type, and account balance. This format was also distributed to the acquiring institution at closing. (See [Exhibit V-D-6: Data Structure](#) and [Exhibit V-D-7: File Layout](#).)

- U.S. Government accounts must be separately identified.

**14 to 15  
Months  
(from closing)**

Once the acquiring institution has responded to our 14 month inquiry (see above), the Claims Specialist takes the following actions:

- Reconcile the name, account number and balance reported, to RLS. This can be accomplished by ensuring that any account reported by the acquirer as “unclaimed” is listed in RLS. Keep in mind that, pursuant to our internal policy, if a depositor “claims” one of their deposits, they are deemed to have claimed all their deposits. For example, if a customer had a DDA account and a savings account but only the savings was reported by the acquiring institution as unclaimed, then we would consider both accounts as having been claimed. Also, if the address had changed from the initial downloaded information, then the funds are deemed to have been claimed.
- Reconcile any discrepancies with your contact.
- Compare your reconciled listing to the Pending Holds report (RLS7197). Refer to [Section IV, Chapter G - Account Holds](#) for additional information. If an account is on hold, do not send the 15 Month Final Legal Notice, but advise the acquiring institution that these funds are to remain at their institution, with the hold in place. When the hold(s) are released, our Final Legal Notice must be sent to these depositors to afford them the three (3) month claiming period.
- Once the above have been completed, send an E-mail to the UDAA PWP Administrator stating that the reconciliation has been performed, that the Pending Holds report has been reviewed and advise if any accounts are on hold. Also attach the electronic data file to the E-mail.
- The UDAA PWP Administrator will then coordinate the mail merge of the 15 Month Claims Notice letter with the Claims Specialist assigned to the receivership.

**15 Months  
(from closing)**

**Final Legal Notice to Unclaimed Depositors**

- The UDAA PWP Administrator (under the direction of the Claims Specialist), will prepare the Final Legal Notice(s) for signature of the assigned Claims Specialist. If problems with the data are encountered, the Claims Specialist will be contacted to remedy.
- The Claims Specialist will send the Notice ([Exhibit V-D-9: 15 Month Claims Notice Letter](#)) to the unclaimed depositors; copy the acquiring institution contact and the UDAA-PWP Administrator. If the failed institution was a full or partial Payout, use [Exhibit V-D-10: 15 Month Claims Notice Letter – Payout](#).
- The UDAA PWP Administrator will prepare the “Affidavit of Mailing” ([Exhibit V-D-11: Affidavit of Mailing](#)).
- All returned Notices will be directed to the UDAA PWP Administrator

who will in turn coordinate with ALAU in an attempt to find a current address i.e., “skip trace”. If a new address is located, then the UDAA PWP Administrator, in coordination with the Claims Specialist, will prepare another Notice for mailing.

**18 Months  
(from closing)**

**Receipt of the Final Unclaimed Listing and Funds from Acquirer**

- Prepare and send/fax the 18 month unclaimed deposit letter (Exhibit V-D-12: 18 Month Unclaimed Deposit Letter) to the acquiring institution. This letter requests submission to the FDIC of the “final” unclaimed depositors listing in the required electronic format. The letter also requests their check for the funds to be returned to the FDIC. If the acquiring institution prefers to send a wire, contact ALAU for the current wiring instructions and adjust Exhibit V-D-12: 18 Month Unclaimed Deposit Letter accordingly. Provide a copy of this letter to the UDAA-PWP Administrator and ALAU.
- When the response is received from the acquiring institution, provide a copy of the payment to the UDAA-PWP Administrator.
- Compare the final unclaimed depositor listing against the 14/15 Month reconciled submission. This will ensure that the balances have not changed from those reconciled with RLS and that there are not any depositors added that were not noticed at the 15-Month interval. Also verify that the dollar amount received from the acquirer balances to the reconciled RLS figures. If changes are noted, contact the acquiring institution.
- If any irregularities are noted during this 18 month review process above (e.g., the discovery of unclaimed depositors who were not noticed at 15 months), they will be handled on a “case by case” basis.
- After the final unclaimed listing has been reconciled with RLS (original balances and holds), access RLS, “Liability Maintenance”, “Update” and flag/check the “UnClaimed” box for each account.
- Once confirmed, give the electronic information to the UDAA-PWP Administrator for ultimate submission to ALAU and import into the Dividend Processing System (DPS) Escheatment Module.

**Transfer of  
Funds**

**Transfer of Temporary Custody to the State Custodian(s)**

The electronic file and/or hard copy data will be given to ALAU by the UDAA-PWP Administrator for import into DPS (the official system of record for the post-window period unclaimed deposits). ALAU in conjunction with the Bank Account Control Unit (BACU), is then responsible for the payment and transfer of the unclaimed deposit funds/data to the applicable custodial state(s). Once the transfer of temporary custody has been accomplished, BACU will coordinate reporting during the 10-year period and the ultimate return of any remaining unclaimed funds to FDIC-Corporate. The Claims department will work jointly with ALAU and BACU to answer any customer inquiries during this 10-year time period.

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## Accessing DPS

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All post-window period unclaimed deposits that have been transferred to the applicable states for temporary custody are housed in DPS Escheatment Register. In order to access the database, follow these steps:

- Start
- All Programs
- Divisional Applications
- DOF
- Dividend Processing System

In order to search DPS for the unclaimed deposit information, follow these steps:

- On the **Institution Selection Options** tab, enter FIN
- Under the **Records** button, click on the **Liabilities** icon
- To the right of **Priority Search-Payout/Unratified Deposit** area, in the **Liability Type** field, click on the down arrow and select **UD**
- At the top of the page, click on Liabilities List (depending on the size of the institution, this may take some time)
- To find a name of an unclaimed depositor, click on the **Claimant Name 1** column to highlight
- In the Tool Bar area, click the **A/Z↓**(down arrow) icon to sort (this will sort by the first name unless the last name was entered first)
- To find a dollar amount, click on the **Liability Amt** column to highlight, and then click the **A/Z↓** icon

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## Dividend Payments

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### Unclaimed Dividends

ALAU handles the **escheatment** of unclaimed dividend payments to the applicable states. These dividend payments are not returned to FDIC and should not be included in the states' reporting of the remaining and/or paid unclaimed deposits.

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**E. Receivership Dividends**

**Contents**

This chapter contains the following information on Receivership Dividends:

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<u>Policy Statement</u>	<u>V-E-2</u>
<u>Procedures</u>	<u>V-E-3</u>
<u>Traditional Dividends</u>	<u>V-E-3</u>
<u>Advance Dividends</u>	<u>V-E-4</u>
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<u>Accelerated Dividend</u>	<u>V-E-5</u>
<u>Special Purpose Dividend</u>	<u>V-E-6</u>
<u>Post Insolvency Interest (PII) Dividend</u>	<u>V-E-6</u>
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<u>Changes of Address for Proven Claimants</u>	<u>V-E-7</u>
<u>Website</u>	<u>V-E-8</u>
<u>Exhibit V-E-1: Sample Traditional Dividend Case</u>	
<u>Exhibit V-E-2: Sample Post Insolvency Interest Dividend Case</u>	

**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. Special Purpose Dividend
6. Post Insolvency Interest (PII) Dividend
7. 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 case which obtains authority for payment of 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.

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## **Policy Statement**

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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

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The involvement of DRR Claims in the dividend process varies, depending on the type of dividend involved. The discussion of procedures begins with Traditional Dividends, since that type of dividend is the most common.

Dividend checks are typically not issued to any one claimant unless the amount due is at least \$25.00. If the dividend is less than that amount, the funds will be held until the amount reaches the \$25.00 threshold or the final dividend is paid.

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## Traditional Dividends

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Traditional dividends are declared and paid throughout the life of a receivership as cash in excess of what is needed to pay administrative and liquidation expenses of the receivership is generated. At a minimum, dividends are generated quarterly for receiverships, when the level of excess cash is the greater of \$500,000 or 2% of total allowed claims. DRR A/O performs a monthly analysis of receivership cash balances to identify those receiverships eligible for a dividend.

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### Step 1 – Case Preparation and Approval

DRR Claims obtains approval for payment of traditional dividends. This is accomplished by preparing a blanket traditional dividend case (see [Exhibit V-E-1: Sample Traditional Dividend Case](#)). This case typically is prepared once a year, in December, covers all dividends to be paid through the end of the following year, and is for all active receiverships. The case authorizes payment of up to 100% of approved claims.

After the case has been prepared, approved by appropriate delegated authority, and had a case number assigned to it, a copy of the case is delivered to DRR A/O. A copy of the case is also maintained in a master file for Dividend cases, which is maintained by Claims Management. Copies of the cases are NOT placed in individual receivership files.

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### Step 2 – Cash Forecast Report

Periodically, DRR A/O prepares and disseminates to DRR Claims (usually as an Excel attachment to an e-mail) a Cash Forecast, which indicates which receiverships have cash available for distribution to allowed claimants. The Claims Specialist responsible for the particular receivership and/or Claims Management reviews that document and advises DRR A/O of any pending claims for each receivership listed on the Excel document. DRR A/O then reserves for the pending claim prior to calculation of the actual dividend.

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**Step 3 – Review of Detailed DRR Accounting Operations Analysis** DRR A/O provides to DRR Claims a Detailed DRR A/O Analysis of each receivership which is believed to be ready to pay a dividend. DRR Claims reviews the Analysis, signs off on it, and returns it to DRR A/O. **Typically, this review has been performed by a member of DRR Claims Management.**

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**Step 4 – Dividends to be Paid Report** Then, just days before the payment of a dividend for a particular receivership, DRR A/O prepares and submits to DRR Claims a “Dividends to be Paid on...” report (again as an Excel attachment to an e-mail). Claims reviews the report and advises DRR A/O of any changes by the following business day.

**Note: This concurrence is done by a member of Claims Management. However, the Claims Specialist should be reviewing the document at the same time and providing any necessary input.**

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**Step 5 – Payment of Dividends** DRR A/O is responsible for the actual payment of the dividends, based on input from DRR Claims as outlined in Steps 1-4 above. DRR A/O accomplishes the payment through the Dividend Processing System (DPS), which has records of all allowed claimants from each receivership and all previous dividend payments. DRR A/O generates the dividend check and mails it, along with a claimant statement, to each recipient. The claimant statement provides a summary of dividends declared and paid for each allowed claim (identified by Receivership Certificate [RC] Number).

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## Advance Dividends

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Advance dividends are approved by the FDIC Board of Directors as part of the resolution case covering the particular receivership. (See Resolutions Policy Manual for detail.) Advance dividends are declared and paid to uninsured depositors with allowed claims upon issuance of the Receiver Certificate to the specific uninsured depositor, up to the limits contained in the case. Payment is made shortly after the closing of the financial institution and provides an immediate return of a portion of the uninsured deposit. The advance dividend percentage approved in the case is based upon preliminary pre-closing asset valuation estimates. The principal difference between this type of dividend and the Traditional Dividend is that the Advance Dividend is paid in anticipation of cash actually having been received by the receivership from the liquidation of assets, while the Traditional Dividend is paid only when receivership cash is actually available.

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**Step 1 – Case Authority** Claims should request a copy of the FDIC Board of Directors’ case covering the receivership in question, if an advance dividend has been approved. Provide a copy to DRR A/O, if requested.

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**Step 2 – Payment of Dividends**                      DRR A/O generates and mails the dividend check and claimant statement upon issuance of the RC.

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### Initial Dividend

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An Initial Dividend is paid when at least 50% of the assets of the failed institution are sold at closing. An Initial Dividend also factors in appropriate reserves, so that overpayment of dividends to proven claimants does not occur. Payment to uninsured depositors is made shortly after the insurance determination is made and a Receiver's Certificate is issued. This normally occurs within a few weeks after the closing of the financial institution. Payment to FDIC Corporation as subrogee for insured depositors occurs during the Closing Phase of a financial institution failure. The payment to FDIC Corporate is factored into the calculations used in determining the amount of the **second wire**, all of which is discussed in Section IV Chapter I – Corporate Funding.

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**Step 1 – Case Authority**                      For purposes of case authority, an Initial Dividend is similar to a Traditional Dividend, in that cash to pay the dividend has already been received by the receivership. In the case of an Initial Dividend, that cash came from the sale of assets, to the acquiring institution. Consequently, the existing blanket traditional dividend case in effect for that calendar year provides the necessary authority for payment of the dividend.

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**Step 2 – Payment of Dividend**                      DRR A/O generates and mails the dividend check and claimant statement upon issuance of the RC.

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### Accelerated Dividend

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Historically, accelerated dividends were declared and paid when an advance dividend had not previously been declared and it was determined, within 45 – 60 days after closing, that receivership funds would be available to pay uninsured depositors. DRR prepared and approved the case. The key to this type of dividend is the ability to determine asset valuations and the establishment of reserves, both of which must be incorporated into the case.

In recent years, this type of dividend has not been used.

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## Special Purpose Dividend

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A special purpose dividend has been rarely used (and not at all in recent years). It involves the transfer of an asset(s) in liquidation from a receivership to FDIC Corporate for cash and that cash then being distributed to other proven claimants. This dividend is declared and paid when there is an effort to corporate purchase assets outside the receivership termination process.

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## Post Insolvency Interest (PII) Dividend

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A Post Insolvency Interest Dividend is declared and paid when the principal balance of all allowed claimants has been paid in full. The calculation of the interest due is done by DRR A/O. Applicable federal or state law dictates the appropriate interest rate to be used in the calculation of the interest due. DRR A/O will have obtained this information with the assistance, as needed, of the Legal Division.

**Note: As codified at 12 C.F.R. Part 360.7, for all FDIC-administered receiverships established after June 13, 2002, post-insolvency interest is only distributed by the receiver following satisfaction of the principal amount of all creditor claims (including depositor claims, but excluding equityholders). The order of priority of payment of post-insolvency interest is the same as for payment of dividends on the principal amount of RC's.**

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### Step 1 – Case Preparation and Approval

It is the responsibility of DRR Claims to obtain case authority for payment of Post Insolvency Interest Dividends. This is accomplished by preparing a Post Insolvency Interest Dividend case (see [Exhibit V-E-2: Sample Post Insolvency Interest Dividend Case](#)). This case is typically prepared for a specific receivership and is typically valid for 6 months after the approval date.

After the case has been prepared, approved by appropriate delegated authority, and had a case number assigned to it, a copy of the case is delivered to DRR A/O. A copy of the case is also maintained in a master file for dividend cases, which file is maintained by a member of Claims Management. A copy of the case should also be placed in the receivership file.

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### Steps 2 through 5

These steps are the same as those for the Traditional Dividend.

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## Final Dividend

### Step 1 – Case Preparation and Approval

A Final Dividend is declared and paid (if receivership cash is available) as part of the termination process for each receivership. Case authority is included as part of the termination case. DRR Receivership Oversight is responsible for the preparation of the termination case and obtaining approval of the case by appropriate delegated authority.

### Steps 2 through 5

These steps are the same as those for the Traditional Dividend.

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## Catch Up Dividend

The term “Catch Up Dividend” typically refers to the payment of a dividend to a proven claimant who has not received the same percentage payment as other proven claimants of the same class. This may occur when an insurance determination for a depositor is not made in an expeditious manner because requested documentation needed to make the insurance determination was not received from the depositor. A Catch Up Dividend could apply to any type of dividend.

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## Other Distributions of Receivership Funds

If receivership funds remain after all creditors and proven claimants of the institution have been paid in full and Post Insolvency Interest has been paid, a distribution to shareholders or members may become necessary. DRR Claims should assist DRR A/O, as necessary. Such assistance may include providing names and addresses of shareholders to DRR A/O. Such distributions are handled on a case by case basis. Legal should be consulted, as necessary.

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## Changes of Address for Proven Claimants

During the normal life of a receivership, DRR Claims will receive changes of address information from proven claimants and will enter those changes into RLS. RLS, however, does not exchange this information automatically with DPS. Therefore, the Claims Specialist must remember to provide the change of address information to DRR A/O, so that DRR A/O can update DPS. Otherwise, dividend checks may be returned because of the bad address. See [Exhibit V-B-2: Claimant Name and/or Address Change Form](#) for the form to use to accomplish an address change.

## Website

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The FDIC's external website contains information on dividends paid for financial institutions which have failed since October 1, 2000. That information can be found at:  
<http://www.fdic.gov/bank/individual/failed/dividends.html>. This website can prove particularly useful when answering customer inquiries.

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## **F. Information and Reporting Requirements**

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### **Contents**

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

<b>Topic Title</b>	<b>Page Number</b>
<u>Overview</u>	<u>V-F-1</u>
<u>Policy Statement</u>	<u>V-F-1</u>
<u>Procedures</u>	<u>V-F-2</u>
<u>Exhibit V-F-1: CFOA - Deposit Insurance Determinations</u>	

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### **Overview**

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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 RLS. Consequently, ensuring that RLS is 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.

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### **Policy Statement**

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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.

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## Procedures

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### Information Requests from Others

A Claims Specialist can expect to provide responses to the following types of information requests:

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#### From DRR Receivership Oversight

Information needed by Receivership Oversight to develop and update, on a quarterly basis, the business plan for each receivership. Claims may be asked to provide the dollar amount and percentage of dividends paid to the various classes of approved creditors, projections as to future dividends, number and dollar amount of pending claims, impediments to termination and other relevant information.

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#### From DRR Terminations

Information needed by Terminations as receiverships are terminated. Claims may be asked to provide estimated dates by which any Claims impediments to terminations will be resolved. Claims also responds to clearance memos, wherein Terminations asks specific questions about a particular receivership to be terminated, such as whether there are any pending claims or whether the statutory period during which a denied claimant may file a lawsuit has lapsed.

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#### Congressional, Media and FOIA (Freedom of Information Act) Requests for Information:

Refer to <http://fdic01/division/drr/Features/Congress/index.html> for procedures to be followed in the event that such a request is received.

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### Reporting Requirements

Claims provides Claims-related statistics concerning deposits and creditors and other information which is used in various reports as indicated below:

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#### From DRR Management

Claims provides information which may be included in monthly and quarterly reports (such as the DRR Dallas Management Status Report). Typical information might be activity relating to recent failures, such as numbers of uninsured depositor groups and dollar amounts of uninsured deposits, preclosing deposit insurance estimations performed, training conducted by or participated in by staff members, and special projects.

Claims also provides information which is included in the monthly Activity Report for Operations. Currently, the information consists of month and year-to-date pending and processed claims information, and the amount of dividends paid to the FDIC as subrogee of insured depositors and to other parties.

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**For the  
Chairman's  
Report**

This monthly report, among other things, currently summarizes year-to-date information on pending general creditor claims, uninsured depositor claims, and unclaimed deposit data.

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