

To: The Board of Directors

From: Jack D. Smith
Deputy General Counsel

Date: June 20, 2005

Subject: Consumer Complaint and Inquiry Records
Federal Register Notice of an Altered Privacy Act System of Records

Under the Federal Trade Commission Improvement Act of 1975, 15 U.S.C. § 57a, all federal banking agencies, including the Federal Deposit Insurance Corporation ("FDIC"), were required to establish separate offices to receive and process complaints of unfair or deceptive acts or practices by financial institutions within their jurisdiction. This requirement was expanded with the issuance of Executive Order 12160, dated September 26, 1979, which directed federal banking agencies to establish procedures for systematically tracking, investigating, and responding to consumer complaints, and for integrating analyses of complaints into the development of policy. The consumer complaint program implemented by the FDIC also included consideration of consumer inquiries pertaining to deposit insurance coverage and consumer protection issues. Currently, communications between the FDIC and depositors who submit deposit insurance questions or consumers who submit complaints or inquiries involving consumer protection issues or unfair or deceptive acts or practices by financial institutions are maintained by the Division of Supervision and Consumer Protection (DSC) in a system of records entitled "Consumer Complaint and Inquiry Records." This electronic database constitutes a system of records under the Privacy Act, U.S.C. § 552a(a)(5), because the information it contains is retrievable by reference to names and other identifying characteristics that are unique to the respective depositors or consumers.

In accordance with the Privacy Act, a “system notice” describing this system of records has been published in 12 C.F.R. Part 310 (the FDIC’s Privacy Act regulations).

The current system notice describing the Consumer Complaint and Inquiry Records system of records must be updated to reflect that these records are now managed by DSC as successor to the FDIC Division of Compliance and Consumer Affairs, which previously managed this system of records. The description of the records in this system has also been expanded to include correspondence and other communication between the FDIC and depositors making inquiries about deposit insurance coverage. Furthermore, the system notice has been revised to provide a more detailed description of the categories of agency records that are maintained in this system of records. In particular, the description now expressly refers to deposit insurance inquiries. This change is desirable because at least one-half of the records in this system pertain to deposit insurance. We also amended the purpose clause of the system notice to more accurately reflect the large number of deposit insurance inquiries and to more clearly state the FDIC’s supervisory responsibilities. Finally, the retention period for records in this system has been extended from three to five years in order to provide a longer timeframe for DSC to perform trends analysis on collected consumer data. Although DSC has largely eliminated paper records from this system of records, the altered system notice still refers to electronic records and paper records. This is intended to provide DSC with discretion in choosing the most appropriate format for storing records.

Prior to the alteration of any Privacy Act system of records, federal agencies are required to publish a notice in the Federal Register inviting public comment as to the proposed alterations. 5 U.S.C. § 552a(e)(4). Unless public comments dictate otherwise,

the proposed new system of records will become effective without further notice 45 days after publication.

The proposed Federal Register notice is attached for your consideration. A summary of the reasons for altering the system notice is set forth in the preamble thereof. Also attached for your consideration are letters of transmittal with the accompanying Narrative Statement addressed to the Chief, Information Policy and Technology Branch, Office of Management and Budget (OMB) and to the respective Chairmen and Ranking Members of the Senate Committee on Governmental Affairs and the House Committee on Government Reform and Oversight. The transmittal letters and Narrative Statement are required by OMB Circular A-130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals."

RECOMMENDATION: It is recommended that the Board of Directors authorize publication of the attached altered system notice and preamble in the Federal Register. It is further recommended that the Board of Directors authorize the execution and delivery of the transmittal letters and the accompanying Narrative Statement.