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12 CFR Ch. III (1-1-04 Edition)

(c) *Retention of reports.* The reports required by this section must ordinarily be retained at the insured State nonmember bank for a period of three years, but the Federal Deposit Insurance Corporation may require that they be retained by the bank for an additional period of time. The reports filed under this section are not required by this regulation to be made available to the public and shall not be filed with the Federal Deposit Insurance Corporation unless specifically requested.

(d) *Bank's responsibility.* Each insured State nonmember bank shall advise each of its executive officers and each of its principal shareholders (to the extent known by the bank) of the reports required by this section and make available to each of these persons a list with the name and address of each of the insured State nonmember bank's correspondent banks.

§ 349.4 Disclosure of indebtedness of executive officers and principal shareholders.

(a) Upon receipt of a written request, an insured State nonmember bank shall disclose to the requester the name of each executive officer or principal shareholder of the bank whose aggregate indebtedness, including the indebtedness of related interests of such person.

(1) At the bank itself as of the end of the latest calendar quarter; or

(2) At the correspondent banks of the disclosing bank at any time during the previous calendar year

equals or exceeds the lesser of five percent (5%) of the disclosing bank's capital stock and unimpaired surplus or \$500,000, but in no event shall an insured State nonmember bank be required to make such disclosure where the aggregate indebtedness of an executive officer or principal shareholder is less than \$25,000.

(b) *Contents of disclosure.* (1) An insured State nonmember bank is not required to disclose any additional information concerning the indebtedness referred to in paragraph (a) of this section, except that it must observe the requirement of paragraph (b)(2) of this section.

(2) Disclosures made pursuant to paragraph (a) of this section shall specify whether the individual or individuals named in the disclosure, who are indebted in the amount specified in paragraph (a) of this section, are indebted solely to the bank itself or to one or more correspondent banks of the reporting bank or to both.

(c) An insured State nonmember bank shall maintain a copy of any request for information made under paragraph (a) of this section and a record of the bank's disposition of such request for a period of two years.

(d) *OMB review.* The Office of Management and Budget has reviewed and approved the collection of information requirements contained in this part 349 under OMB Control Number 3064-0023.

[48 FR 57114, Dec. 28, 1983, as amended at 49 FR 1176, Jan. 10, 1984]

PART 350—DISCLOSURE OF FINANCIAL AND OTHER INFORMATION BY FDIC-INSURED STATE NON-MEMBER BANKS

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AUTHORITY: 12 U.S.C. 1817(a)(1), 1819 "Seventh" and "Tenth".

SOURCE: 52 FR 49379, Dec. 31, 1987, unless otherwise noted.

§ 350.1 Scope.

This part applies to FDIC-insured state-chartered banks that are not members of the Federal Reserve System, and to FDIC-Insured state-licensed branches of foreign banks.

§ 350.2 Definitions.

(a) *Bank.* For purposes of this part, the term *bank* means an FDIC-insured

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state-chartered organization that is not a member of the Federal Reserve System, and an FDIC-insured state-licensed branch of a foreign bank.

(b) *Call Report*. For purposes of this part, the term *Call Report* means the report filed by a bank pursuant to 12 U.S.C. 1817(a)(1).

§ 350.3 Requirement for annual disclosure statement.

(a) *Contents*. Each bank shall prepare as of December 31 and make available on request an annual disclosure statement. The statement shall contain information required by § 350.4(a) and (b) and may include other information that bank management believes appropriate, as provided in § 350.4(c).

(b) *Availability*. A bank shall make its annual disclosure statement available to the public beginning not later than the following March 31 or, if the bank mails an annual report to its shareholders, beginning not later than five days after the mailing of such reports, whichever occurs first. A bank shall make a disclosure statement available continuously until the disclosure statement for the succeeding year becomes available.

[62 FR 10200, Mar. 6, 1997]

§ 350.4 Contents of annual disclosure statement.

(a) *Financial reports*. The annual disclosure statement for any year shall reflect a fair presentation of the bank's financial condition at the end of that year and the preceding year and, except for state-licensed branches of foreign banks, the results of operations for each such year. The annual disclosure statement may, at the option of bank management, consist of the bank's entire Call Report, or applicable portions thereof, for the relevant dates and periods. At a minimum, the statement must contain information comparable to that provided in the following Call Report schedules:

(1) For insured state-chartered organizations that are not members of the Federal Reserve System:

(i) Schedule RC (Balance Sheet);

(ii) Schedule RC-N (Past Due and Nonaccrual, Loans, Leases, and Other Assets—column A covering financial instruments past due 30 through 89

days and still accruing and Memorandum item 1 need not be included);

(iii) Schedule RI (Income Statement);

(iv) Schedule RI-A (Changes in Equity Capital); and

(v) Schedule RI-B, Part II (Changes in Allowance for Loan and Lease Losses).

(2) For insured state-licensed branches of foreign banks:

(i) Schedule RAL (Assets and Liabilities);

(ii) Schedule E (Deposit Liabilities and Credit Balances); and

(iii) Schedule P (Other Borrowed Money).

(b) *Other required information*. The annual disclosure statement shall include such other information as the FDIC may require of a particular bank. This could include disclosure of enforcement actions where the FDIC deems it in the public interest to do so.

(c) *Optional information*. A bank may, at its option, provide additional information that bank management considers important to an evaluation of the overall condition of the bank. This information could include, but is not limited to, a discussion of the financial data; information relating to mergers and acquisitions; the existence of and facts relating to regulatory enforcement actions; business plans; and material changes in balance sheet and income statement items.

(d) *Disclaimer*. The following legend shall be included in every annual disclosure statement to advise the public that the FDIC has not reviewed the information contained therein: "This statement has not been reviewed, or confirmed for accuracy or relevance, by the Federal Deposit Insurance Corporation."

[62 FR 10200, Mar. 6, 1997]

§ 350.5 Alternative annual disclosure statements.

The requirements of § 350.4(a) may be satisfied:

(a) *In the case of a bank having a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934*, by the bank's annual report to security holders for meetings at which directors are to be elected or the bank's annual report (see 12 CFR part 335);