

## Federal Deposit Insurance Corporation

## § 352.2

(b) *Participating persons.* For purposes of this part, a person *participating in the affairs of a bank* shall include (but not be limited to) any person who provides information contained in, or directly or indirectly assists in the preparation of, the annual disclosure statement.

(c) *Enforcement actions.* Conduct that violates paragraph (a) of this section may constitute an unsafe or unsound banking practice or otherwise serve as a basis for an enforcement action by the FDIC.

### § 350.11 Safe harbor provision.

The provisions of § 350.10 shall not apply unless it is shown that the information disclosed was included without a reasonable basis or other than in good faith.

### § 350.12 Disclosure required by applicable banking or securities law or regulations.

The requirements of this part are not intended to replace or waive any disclosure required to be made under applicable banking or securities law or regulations.

[62 FR 10201, Mar. 6, 1997]

## PART 351 [RESERVED]

## PART 352—NONDISCRIMINATION ON THE BASIS OF HANDICAP

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AUTHORITY: 12 U.S.C. 1819.

SOURCE: 51 FR 9643, Mar. 20, 1986, unless otherwise noted.

### § 352.1 Purpose.

The purpose of this part is to implement the spirit of section 119 of the Rehabilitation, Comprehensive Services,

and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by various Executive agencies. Although the FDIC does not believe that Congress contemplated coverage of non-appropriated, independent regulatory agencies such as the FDIC, it has chosen to promulgate this final regulation to ensure that, to the extent practicable, handicapped persons are provided with equal access to FDIC programs and activities.

### § 352.2 Application.

(a) This part applies to all programs and activities conducted by the FDIC. The following programs and activities involve the direct provision of benefits and services to, or participation by, members of the public:

(1) Attending Board of Directors meetings open to the public and all other public meetings;

(2) Making inquiries or filing complaints at the FDIC Office of Congressional Relations and Corporate Communications;

(3) Using the FDIC library in Washington, DC;

(4) Visiting an insured bank at which they conducted business (or an alternative liquidation site selected by the FDIC) and which has become insolvent, or been purchased by another bank under FDIC supervision, for the purpose of:

(i) Collecting FDIC checks for the insured amount of their deposits previously held in such bank; and/or

(ii) Discussing with FDIC representatives matters related to the repayment of debts which they previously owed to such bank, prior to its failure or purchase by another bank under FDIC supervision;

(5) Seeking employment with the FDIC;

(6) Conducting regular banking business at a Deposit Insurance National Bank formed by the FDIC pursuant to the authority in 12 U.S.C. 1821(h).

(b) This regulation governs the conduct of FDIC personnel in their interaction with employees of insured banks and employees of other state or federal agencies while discharging the FDIC's

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statutory obligations as insurer and/or receiver of financial institutions. It does not apply to financial institutions insured by the FDIC.

(c) Although application for employment and employment with the FDIC are programs and activities of the FDIC for purposes of this regulation, they shall be governed only by the standards set forth in §352.6 of this part.

#### § 352.3 Definitions.

For purposes of this part, the term—

(a) *Auxiliary aids* means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, the FDIC programs or activities set forth in §352.2.

(b) *Complete complaint* means, with respect to any FDIC program or activity other than employment, a written statement that contains the complainant's name and address and describes the FDIC's action in sufficient detail to inform the FDIC of the nature and date of the alleged violation of these regulations. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name if possible) the alleged victims of discrimination.

(c) *Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots and other real or personal property. As used in this definition, *personal property* means only furniture, carpeting and similar features not considered to be real property.

(d) *Handicapped person* means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

(1) *Physical or mental impairment* includes—

(i) A physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech

organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) A mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(2) *Major life activities* including functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the FDIC as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (d)(1) of this definition but is treated by the FDIC as having such an impairment.

(e) *Qualified handicapped person* means—

(1) With respect to any FDIC program or activity under which a person is required to perform services or to achieve a level of accomplishment, a handicapped person who meets the essential eligibility requirements and can achieve the purpose of the program or activity without modifications in the program or activity that the FDIC can determine on the basis of a written record would result in a fundamental alteration in its nature;

(2) With respect to any other program or activity, a handicapped person who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity;

(3) With respect to employment, a handicapped person as defined in 29 CFR 1613.702(f), which is made applicable to this part by §352.6.