

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**12 CFR Part 330**

**RIN 3064–AF04**

**Joint Ownership Deposit Accounts**

**AGENCY:** Federal Deposit Insurance Corporation

**ACTION:** Final Rule.

**SUMMARY:** The FDIC is amending its deposit insurance regulations to update one of the requirements that must be satisfied for an account to be separately insured as a joint account. Specifically, the final rule provides an alternative method to satisfy the “signature card” requirement. Under the final rule, the signature card requirement may be satisfied by information contained in the deposit account records of the insured depository institution establishing co-ownership of the deposit account, such as evidence that the institution has issued a mechanism for accessing the account to each co-owner or evidence of usage of the deposit account by each co-owner.

**DATES:** This rule is effective on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

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**SUPPLEMENTARY INFORMATION:**

**I. Policy Objectives**

The FDIC is amending its regulation governing the requirements for a deposit account to be insured as a joint account, 12 CFR 330.9, and specifically, the requirement that each co-owner

of a joint account has personally signed a deposit account signature card. The FDIC periodically receives inquiries regarding this requirement. Those inquiries have increased following the issuance of a rule (Recordkeeping Rule)<sup>1</sup> that requires certain large insured depository institutions (covered institutions) to configure their information technology systems to be capable of calculating insurance coverage for deposit accounts in the event of the institution's failure. The Recordkeeping Rule has introduced an element of pre-judgment involving identification of account categories and satisfaction of recordkeeping requirements for the institutions subject to that Rule.<sup>2</sup> In particular, for purposes of that Rule, covered institutions are required to review their records and update missing and erroneous deposit account information (Legacy Data Cleanup).<sup>3</sup> As part of the Legacy Data Cleanup, covered institutions must obtain signature cards for owners of accounts with multiple co-owners that are missing one or more required signature cards (affected joint accounts). Staff at the FDIC has engaged in discussions with these covered institutions as part of the implementation process, and these discussions have led the FDIC to reconsider the methods by which joint ownership may be established for purposes of deposit insurance.

The final rule is intended to reduce the regulatory burden associated with obtaining deposit account signature cards for all insured depository institutions (IDIs). For covered institutions (i.e., IDIs subject to the Recordkeeping Rule) discussed above, the final rule is also intended to reduce the burden of obtaining signature cards for owners of affected joint accounts. The final rule is intended to facilitate the prompt payment of deposit insurance in the event of an IDI's failure by providing alternative methods that the FDIC could use to determine the owners

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<sup>1</sup> See Recordkeeping for Timely Deposit Insurance Determination, 81 FR 87734 (Dec. 5, 2016); 12 CFR Part 370.

<sup>2</sup> The Recordkeeping Rule generally applies to IDIs that have 2 million or more deposit accounts. 12 CFR 370.2(c).

<sup>3</sup> Insured depository institutions that are not subject to the Recordkeeping Rule are not required to perform Legacy Data Cleanup, but may choose to do so to provide added certainty regarding deposit insurance coverage to their depositors.

of joint accounts, consistent with its statutory authority. These changes promote confidence in FDIC-insured deposits. Finally, the final rule embodies a forward-looking approach that permits the use of new and innovative technologies and processes to meet the FDIC's policy objectives.

## **II. Background and Overview of the Proposed Rule**

### ***A. Current Regulatory Approach***

The FDIC is authorized to prescribe rules and regulations as it may deem necessary to carry out the provisions of the Federal Deposit Insurance Act (FDI Act).<sup>4</sup> Under the FDI Act, the FDIC is responsible for paying deposit insurance in the event of an IDI's failure up to the standard maximum deposit insurance amount, which is currently set at \$250,000.<sup>5</sup> The statute provides that deposits maintained by each depositor in the same capacity and the same right at the same IDI generally must be aggregated and insured up to the standard maximum deposit insurance amount.<sup>6</sup> Because the statute does not define "capacity" or "right," the FDIC has implemented these terms by issuing regulations recognizing particular categories of accounts, such as single ownership accounts and joint ownership accounts.<sup>7</sup> If a deposit meets the requirements for a particular category, the deposit is insured up to the \$250,000 limit separately from deposits held by the depositor in a different category at the same IDI. For example, deposits in the single ownership category will be separately insured from deposits in the joint ownership category held by the same depositor at the same IDI.

Section 330.9 of the FDIC's regulations governs insurance coverage for joint ownership accounts. Joint ownership accounts include deposit accounts held pursuant to various forms of co-ownership under state law. For example, joint tenants could each hold an equal, undivided

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<sup>4</sup> 12 U.S.C. 1819(Tenth); 1820(g).

<sup>5</sup> 12 U.S.C. 1821(a)(1).

<sup>6</sup> 12 U.S.C. 1821(a)(1)(B), (C).

<sup>7</sup> See 12 CFR Part 330.

interest in a deposit account. Section 330.9 provides that only “qualifying joint accounts” (whether owned as joint tenants with the right of survivorship, as tenants in common, or as tenants by the entirety) are insured separately from individually-owned deposit accounts maintained by the co-owners.<sup>8</sup> “Qualifying joint accounts” generally must satisfy three requirements: (1) all co-owners of the funds in the account are “natural persons,” as defined in section 330.1(l) of the FDIC’s regulations; (2) each co-owner has personally signed a deposit account signature card; and (3) each co-owner possesses withdrawal rights on the same basis.<sup>9</sup> If a joint deposit account is not a qualifying joint account, each co-owner’s actual ownership interest in the account is aggregated with other single ownership accounts of such individual or other accounts of such entity.<sup>10</sup> This may result in some uninsured deposits if a depositor’s single ownership accounts at the same IDI, including deposits in any non-qualifying joint accounts, exceed \$250,000.

The requirement that each co-owner of a joint account has personally signed a deposit account signature card (signature card requirement) in order for the account to be insured as a joint account has been included in the regulation governing insurance coverage since 1967.<sup>11</sup> This requirement was intended to address practices such as the addition of nominal co-owners to an account solely to increase deposit insurance coverage.<sup>12</sup> The FDIC has periodically considered whether the signature card requirement should be eliminated, but retained the

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<sup>8</sup> 12 CFR 330.9(a).

<sup>9</sup> 12 CFR 330.9(c)(1). The signature card requirement does not apply to certificates of deposit, deposits evidenced by negotiable instruments, or accounts maintained by an agent, nominee, guardian, or conservator on behalf of two or more persons. 12 CFR 330.9(c)(2).

<sup>10</sup> 12 CFR 330.9(d).

<sup>11</sup> See 32 FR 10408, 10409 (July 14, 1967) (“A joint deposit account shall be deemed to exist, for purposes of insurance of accounts, only if each co-owner has personally executed a deposit account signature card and possesses withdrawal rights.”)

<sup>12</sup> The FDIC stated that its purpose was to “carry out the concept of limited insurance coverage intended by Federal deposit insurance,” and it interpreted the FDI Act to “limit the various devices commonly used to increase such coverage beyond that meant to be provided by law.” 32 FR 10408 (July 14, 1967).

requirement, concluding that signature cards are reliable indicators of deposit ownership.<sup>13</sup> The FDIC continues to view the signature card requirement as important to ensuring consistency with the FDI Act, which expressly limits the amount of deposit insurance coverage available to each depositor at a particular IDI based on the right and capacity in which funds are held.

Neither the FDI Act nor the FDIC's regulations define the term "deposit account signature card." FDIC staff has taken the position that section 330.9 does not require any particular format for a deposit account signature card. Therefore, staff has previously concluded that various forms of documentation used in an IDI's account opening processes may constitute a deposit account signature card. For example, staff has concluded that a deposit account agreement signed by each of an account's co-owners would satisfy the signature card requirement. Published guidance further states that the signature card requirement may be satisfied electronically.<sup>14</sup>

### ***B. The Proposed Rule***

On April 4, 2019, the FDIC published a notice of proposed rulemaking (NPR) to amend 12 CFR 330.9, the regulation governing the requirements for a deposit account to be insured as a joint account.<sup>15</sup> Specifically, the FDIC proposed to provide an alternative method to satisfy the requirement that each co-owner of a joint account has personally signed a deposit account signature card. Under the proposal, information maintained in the deposit account records of an IDI establishing co-ownership of the account, such as the issuance of a mechanism for accessing the account to each co-owner or evidence of account usage by each co-owner, could satisfy the signature card requirement.

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<sup>13</sup> See, e.g., 55 FR 20111, 20113 (May 15, 1990).

<sup>14</sup> See FDIC *Financial Institution Employee's Guide to Deposit Insurance*, 2016 ed., at 34.

<sup>15</sup> 84 FR 13143 (Apr. 4, 2019).

The FDIC also proposed a conforming amendment to section 330.9 consistent with the Electronic Signatures in Global and National Commerce Act (E-Sign Act).<sup>16</sup> Specifically, the FDIC proposed to amend section 330.9 to state expressly that the signature card requirement may be satisfied electronically.

The FDIC received comments from four IDIs and four trade associations in response to the NPR. Commenters generally supported the proposed rule. Comments are discussed in the relevant sections below.

### **III. The Final Rule**

After careful consideration of all of the comments received, the FDIC is adopting the rule generally as proposed, with one additional clarifying cross-reference discussed below. The final rule amends section 330.9 to provide an alternative method to satisfy the signature card requirement. It allows the signature card requirement to be satisfied by information contained in the deposit account records of the IDI establishing co-ownership of the deposit account, such as evidence that the institution has issued a mechanism for accessing the account to each co-owner or evidence of usage of the deposit account by each co-owner. For example, the requirement could be satisfied by evidence that an IDI has issued a debit card to each co-owner of the account or evidence that each co-owner of the account has transacted using the deposit account.

Commenters requested confirmation that the types of evidence described in the NPR are not the only forms of evidence of co-ownership that could satisfy the signature card requirement. As noted in the NPR, these descriptions were only intended to serve as examples and not to limit the forms of evidence of co-ownership that could satisfy the signature card requirement.<sup>17</sup>

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<sup>16</sup> Pub. L. 106-229; 15 U.S.C. § 7001(a).

<sup>17</sup> See 84 FR 13144 (Apr. 4, 2019).

A commenter requested that the FDIC clarify the rule to provide that evidence of online banking access or telephone banking access could be used to establish co-ownership of a joint account. Another commenter requested similar clarification with respect to access devices that are no longer effective, such as an expired debit card. Like the proposed rule, the final rule does not attempt to specify all of the forms of evidence of co-ownership that could be used to satisfy the signature card requirement. This flexible approach is intended to accommodate changes in technology and differences in IDIs' records. However, the FDIC believes that evidence of online banking access or telephone banking access generally could be used to establish co-ownership of a joint account, though IDIs may differ in their implementation of these technologies. In the event of a deposit insurance determination, the FDIC would consider all of the information contained in an IDI's deposit account records, and would not disregard evidence with respect to a mechanism for accessing an account simply because that mechanism is expired.

One commenter urged the FDIC to memorialize prior staff guidance by amending section 330.9(c)(1)(ii) to refer to other types of documents that may be used to satisfy the signature card requirement, such as a deposit account agreement or other document indicating ownership of the account or agreement to the account terms. In general, the FDIC has sought to limit changes to the text of section 330.9 to minimize the potential for confusion among IDIs that do not intend to use the new alternative method of satisfying the signature card requirement. The FDIC believes that expressly referencing other forms of acceptable documentation in the text of the rule could require additional conforming amendments and would unnecessarily complicate the rule.

Three trade associations expressed concern that, because the FDIC proposed to retain the language of the signature card requirement in section 330.9(c)(1)(ii), the addition of paragraph (c)(4) (defining the alternative method of satisfying the requirement) could be confusing. They requested that the FDIC amend section 330.9(c)(1)(ii) to include a cross-reference to paragraph

(c)(4). The FDIC agrees that a cross-reference could provide useful clarification of the function of paragraph (c)(4), which is to provide an alternative method of satisfying the signature card requirement. The final rule therefore amends section 330.9(c)(1)(ii) to require that “Each co-owner has personally signed, which may include signing electronically, a deposit account signature card, *or the alternative method provided in paragraph (c)(4) of this section is satisfied.*”

A trade association also requested clarification that the final rule was not pre-empting state laws that require signatures to establish ownership rights in deposit accounts. The final rule does not modify or affect any state law requirements generally applicable to IDIs, including requirements to use signatures to establish ownership of a deposit account. The final rule only affects a requirement in the FDIC’s regulations that must be satisfied for an account to be separately insured as a joint account. As stated in the NPR, “IDIs may, for legal or other reasons, find it appropriate or necessary to continue collecting customers’ signatures.”<sup>18</sup>

The final rule does not introduce new requirements that must be satisfied for an account to be insured as a joint account, and does not reduce or affect insurance coverage for any account for which the existing joint account requirements are satisfied. The rule simply provides an alternative method to satisfy the existing signature card requirement. If each co-owner of a joint account signs, or has previously signed, a deposit account signature card in accordance with the existing requirement, the alternative method provided by the final rule is unnecessary. Assuming that the remaining joint account requirements are satisfied – that is, all co-owners of the account are natural persons and possess equal withdrawal rights – the account would be insured as a joint account.

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<sup>18</sup> See 84 FR 13144 (Apr. 4, 2019).

The rule applies to all IDIs and provides an alternative method that may be used to satisfy the signature card requirement at the time of an IDI's failure. It does not impose any new recordkeeping requirements for joint accounts. The final rule also does not affect the general provisions of the FDIC's deposit insurance regulations concerning recognition of deposit ownership.<sup>19</sup> These general rules continue to apply to all deposit accounts, including joint accounts.

For institutions subject to Part 370's recordkeeping requirements, the rule reduces the burden of obtaining signature cards for owners of affected joint accounts. The rule will facilitate the prompt payment of deposit insurance in the event of an IDI's failure by providing alternative methods that the FDIC could use to determine the owners of joint accounts, consistent with its statutory authority. These changes serve to promote confidence in FDIC-insured deposits. Finally, the rule embodies a forward-looking approach that permits the use of new and innovative technologies and processes to meet the FDIC's policy objectives.

The FDIC is also adopting, as proposed, a conforming amendment to section 330.9 consistent with the Electronic Signatures in Global and National Commerce Act (E-Sign Act).<sup>20</sup> The final rule amends the regulation to state expressly that the signature card requirement may be satisfied electronically. As noted in the NPR, this amendment is consistent with published guidance and staff interpretations of section 330.9.<sup>21</sup> It does not substantively alter the regulatory requirements for joint accounts.

A commenter requested clarification that an electronic signature acknowledging ownership of an account would satisfy the signature card requirement even in the absence of a

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<sup>19</sup> See 12 CFR 330.5.

<sup>20</sup> Pub. L. 106-229; 15 U.S.C. § 7001(a).

<sup>21</sup> See FDIC *Financial Institution Employee's Guide to Deposit Insurance*, 2016 ed., at 34.

paper or electronic document containing a physical representation of a customer's name. The final rule does not include any particular requirements with respect to electronic signatures, and is merely intended to clarify for IDIs and depositors that the signature card requirement may be satisfied electronically. If an IDI's records and processes establish an electronic signature with respect to a joint account for purposes of the E-Sign Act, the FDIC's signature requirement would be satisfied.

#### **IV. Expected Effects**

The final rule applies to all joint deposit accounts at all IDIs and provides an alternative method that may be used to satisfy the signature card requirement at the time of an IDI's failure. For owners of joint deposit accounts, the rule alleviates delays in the recognition of account ownership and uncertainty regarding the extent of deposit insurance coverage. For IDIs, the final rule reduces the regulatory burden associated with obtaining deposit account signature cards personally signed by each co-owner. It does not impose any new recordkeeping requirements for joint accounts.

The final rule is expected to have a regulatory burden relief impact on the covered institutions subject to the Recordkeeping Rule. For purposes of that Rule, as discussed above, covered institutions are currently engaged in Legacy Data Cleanup. As part of the Legacy Data Cleanup, covered institutions likely must obtain signature cards for owners of affected joint accounts. By providing an alternative method to satisfy the signature card requirement that relies on other information in the institution's deposit account records, the final rule should reduce the Legacy Data Cleanup burden associated with obtaining missing signature cards for covered institutions subject to the Recordkeeping Rule.

To estimate the burden reduction of the final rule relating to Legacy Data Cleanup, the FDIC estimates: (1) the cost of obtaining signature cards for an affected joint account; and (2)

the total number of affected joint accounts held at covered institutions subject to the Recordkeeping Rule. The product of these two figures is the estimated cost burden of collecting missing signatures. The final rule would reduce that burden by allowing covered institutions subject to the Recordkeeping Rule to satisfy the signature card requirement using other information in their deposit account records establishing co-ownership of the deposit account.

The FDIC's estimate of the cost of obtaining missing signature cards for an affected joint account is based on cost estimates used in connection with the Recordkeeping Rule. Legacy Data Cleanup costs for the Recordkeeping Rule were estimated at \$226 million to address approximately 21 million deposit accounts held in covered institutions.<sup>22, 23</sup> This represents an average of approximately \$11 per account. Although accounts may require Legacy Data Cleanup for a variety of reasons, the Recordkeeping Rule estimates that "more than 90 percent of the legacy data cleanup costs are associated with manually collecting account information from customers and entering it into the covered institution's systems."<sup>24</sup> The process of obtaining a missing signature fits this description, and the FDIC believes that \$11 per account is a reasonable estimate of the average cost of obtaining signatures for an affected joint account.

The cost estimates used in the Recordkeeping Rule are based in part on data from the Consolidated Reports of Condition and Income that were available at the time that Rule was issued. As of March 31, 2019, 33 covered institutions subject to the Recordkeeping Rule held approximately 416 million deposit accounts.<sup>25</sup> Assuming that 25 percent of those accounts are

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<sup>22</sup> See 81 FR at 87742-43. The analysis for the Recordkeeping Rule estimated that approximately 5 percent of the approximately 416 million deposit accounts held by covered institutions would require manual data cleanup.

<sup>23</sup> The \$226 million estimate includes both costs incurred by the institutions and costs incurred by depositors to update missing account information. See 81 FR at 87747.

<sup>24</sup> 81 FR at 87742.

<sup>25</sup> FDIC Consolidated Reports of Condition and Income, as of March 31, 2019.

joint,<sup>26</sup> and assuming that 5 percent of joint accounts are missing at least one required signature,<sup>27</sup> there are a total of approximately 5.2 (= 416 \* 25% \* 5%) million affected joint accounts. At an estimated cost of \$11 per affected joint account, the FDIC estimates a total cost burden of \$57 million for covered institutions subject to the Recordkeeping Rule to update deposit account records related to affected joint accounts. The final rule would reduce this burden, resulting in an estimated cost savings for these institutions of \$57 million over several years.

IDIs that are not subject to the Recordkeeping Rule are not required to perform Legacy Data Cleanup. Nonetheless, some may choose to do so to provide added certainty regarding deposit insurance coverage to their depositors. These IDIs would also experience regulatory burden reduction due to the final rule. As of December 31, 2018, there were approximately 164 million deposit accounts held at 5,338 IDIs not covered by the Recordkeeping Rule. Given the same assumptions outlined in the previous paragraph, the FDIC estimates there are a total of 2.1 (=164 \* 25% \* 5%) million affected joint accounts held at these IDIs. To the extent IDIs choose to perform Legacy Data Cleanup, the final rule would alleviate some of the burden of addressing these affected joint accounts, resulting in estimated cost savings of up to \$23 (\$11 \* 2.1) million.

The total estimated burden reduction for the industry associated with updating deposit account records for joint accounts is estimated to be between \$57 and \$80 million over several

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<sup>26</sup> According to recent Census estimates, approximately 60 percent of Americans live with a spouse or partner (U.S. Census Bureau, Current Population Survey, Annual Social and Economic Supplement, 1967 to 2018). In addition, according to a recent banking survey, 58 to 76 percent of Americans in relationships have at least one joint account (TD Love & Money, Report of Findings, Customer Insights, July 2017). Based on these figures, the FDIC estimates that between 35 and 46 percent of Americans hold a joint account. Assuming that joint accounts have two owners on average, the FDIC estimates that between 21 and 30 percent of deposit accounts are joint. (For example, if 35 percent of Americans share a joint account with another American and the remaining 65 percent each has a personal account, then  $\frac{35/2}{35/2+65} = 21$  percent of accounts are joint). For this analysis, the FDIC assumes the middle value of 25% as an estimate of the percent of accounts that are joint.

<sup>27</sup> Following the analysis in the Recordkeeping Rule, the FDIC assumes that 5% of accounts will require data cleanup.

years, depending on the number of IDIs not subject to the Recordkeeping Rule that choose to update their deposit account records. In addition, the final rule could alleviate some of the burden of obtaining signature cards for new joint accounts at all IDIs. The FDIC expects this benefit to be *de minimis* because the signature card requirement may be satisfied electronically pursuant to the E-Sign Act.

The final rule also provides non-quantifiable benefits to owners of joint accounts. By providing alternative methods that the FDIC could use in making a deposit insurance determination, the final rule further supports a prompt deposit insurance determination in the event of an IDI's failure, alleviating delays in the recognition of account ownership and uncertainty regarding the extent of deposit insurance coverage. These benefits promote depositor confidence in the nation's banking system and particularly in FDIC-insured deposits.

The FDIC is also adopting a conforming amendment to section 330.9 consistent with the E-Sign Act. This conforming amendment is not expected to result in any discernable economic effect, as current FDIC practice already permits IDIs to use electronic signatures. The effects of the conforming amendment are limited to eliminating uncertainty regarding the regulation.

## **V. Alternatives**

The FDIC considered several alternatives but believes that the final rule represents the most appropriate option. In particular, the FDIC considered four alternatives to the proposed rule, as discussed in the NPR: (1) maintaining the current requirements for accounts to be insured as joint accounts, with IDIs potentially prioritizing accounts with balances of more than \$250,000 for purposes of their Legacy Data Cleanup; (2) amending the Recordkeeping Rule's certification requirements to allow covered institutions to certify compliance based on substantial or good faith compliance with the deposit insurance rules with respect to joint deposit accounts; (3) amending section 330.9 to eliminate the signature card requirement for joint accounts; and

(4) amending section 330.9 to allow IDIs to satisfy the signature card requirement based on existing Bank Secrecy Act/Anti-Money Laundering (BSA/AML) processes. The FDIC concluded that the proposed rule would provide greater benefits than these alternatives, but invited comment on these and other potential approaches.

Three commenters took the position that the FDIC should eliminate the signature card requirement (or eliminate the requirement for particular subsets of accounts). Generally, these commenters argued that because depositors have other options available for obtaining additional deposit insurance coverage, they would be unlikely to take the risks entailed in adding nominal co-owners to their accounts solely to increase deposit insurance coverage. Commenters cited, for example, the risk that a nominal co-owner might withdraw funds without permission or that a creditor of the nominal co-owner would garnish the account. While the risks of adding a nominal co-owner to an account may discourage such action in certain circumstances, the ability to increase insurance coverage by several multiples of the standard \$250,000 deposit insurance limit may nonetheless motivate some depositors to add nominal co-owners. As discussed in the NPR, the FDIC believes the signature card requirement helps to ensure consistency with the FDI Act's limits on the amount of deposit insurance coverage available to each depositor. Because the final rule retains this benefit while reducing regulatory burden, the FDIC continues to believe the final rule is preferable to elimination of the signature card requirement.

## **VI. Regulatory Analysis**

### ***A. Regulatory Flexibility Act***

The RFA generally requires that, in connection with a final rulemaking, an agency prepare and make available for public comment a final regulatory flexibility analysis describing

the impact of the proposed rule on small entities.<sup>28</sup> However, a regulatory flexibility analysis is not required if the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. The SBA has defined “small entities” to include banking organizations with total assets of less than or equal to \$550 million that are independently owned and operated or owned by a holding company with less than or equal to \$550 million in total assets.<sup>29</sup> Generally, the FDIC considers a significant effect to be a quantified effect in excess of 5 percent of total annual salaries and benefits per institution, or 2.5 percent of total non-interest expenses. The FDIC believes that effects in excess of these thresholds typically represent significant effects for FDIC-supervised institutions. For the reasons described below, the FDIC certifies pursuant to section 605(b) of the RFA that the final rule will not have a significant economic impact on a substantial number of small entities. As of March 31, 2019, the FDIC insured 5,371 institutions, of which 3,920 are considered small entities for the purposes of RFA.<sup>30</sup> These small IDIs hold approximately 30 million deposit accounts, with an average of approximately 7,700 deposit accounts and a maximum of approximately 332,000 deposit accounts held at a single small IDI.

The final rule amends section 330.9 to provide an alternative method to satisfy the signature card requirement for joint accounts based on information contained in the deposit account records of the insured depository institution establishing co-ownership of the deposit account. As discussed in Expected Effects section, because no small IDIs are covered by the

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<sup>28</sup> 5 U.S.C. 601 et seq.

<sup>29</sup> The SBA defines a small banking organization as having \$550 million or less in assets, where an organization's “assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.” See 13 CFR 121.201 (as amended, effective December 2, 2014). In its determination, the “SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.” See 13 CFR 121.103. Following these regulations, the FDIC uses a covered entity’s affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is “small” for the purposes of RFA.

<sup>30</sup> Consolidated Reports of Condition and Income for the quarter ending March 31, 2019.

Recordkeeping Rule, a small IDI would only experience burden relief from the proposed rule if it chose to update its account records. If the IDI chooses to update its account records, the FDIC estimates the final rule will reduce burden in the amount of \$11 per affected joint account.

Following the burden reduction estimation outlined in the Expected Effects section, the FDIC estimates the potential burden reduction for each small IDI, conditional on the IDI's choice to update its records. Each IDI's potential burden reduction is estimated by multiplying the number of deposit accounts held by 25 percent to estimate the number of joint accounts, then by 5 percent to estimate the number of affected joint accounts, and finally by \$11 to estimate the cost of addressing those affected joint accounts. The potential burden reductions range from less than a dollar to approximately forty-five thousand dollars, with an average of approximately one thousand dollars per small IDI. Expressed as proportions of annualized noninterest income expenses as of March 31, 2019, the potential burden reductions range from less than a millionth of one percent to less than half of one percent of annualized noninterest income expenses.

The final rule would apply to all IDIs, affecting a substantial number of small entities. However, the economic impact on each small entity is insignificant, with no entity affected by more than half of one percent of annualized noninterest income expenses, as of March 31, 2019. Accordingly, the FDIC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

#### ***B. Congressional Review Act***

The OMB has determined that the final rule is [not a "major rule"] within the meaning of the Congressional Review Act, 5 U.S.C. 801 *et seq.* As required by the statute, the FDIC will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

#### ***C. Paperwork Reduction Act of 1995***

In accordance with the requirements of the Paperwork Reduction Act of 1995,<sup>31</sup> the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. This final rule does not require any new information collections or revise existing information collections, and therefore, no submission to OMB is necessary.

***D. Riegle Community Development and Regulatory Improvement Act of 1994***

Section 302 of the Riegle Community Development and Regulatory Improvement Act (RCDRIA) requires that the Federal banking agencies, including the FDIC, in determining the effective date and administrative compliance requirements of new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations.<sup>32</sup> Subject to certain exceptions, new regulations and amendments to regulations prescribed by a Federal banking agency which impose additional reporting, disclosures, or other new requirements on insured depository institutions shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form.<sup>33</sup>

The final rule does not impose additional reporting or disclosure requirements on insured depository institutions, including small depository institutions, or on the customers of depository institutions. It provides an alternative method to satisfy the existing signature card requirement

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<sup>31</sup> 44 U.S.C. 3501 *et seq.*

<sup>32</sup> 12 U.S.C. 4802(a).

<sup>33</sup> 12 U.S.C. 4802(b).

for joint deposit accounts based on information contained in the deposit account records of the insured depository institution. Accordingly, the FDIC concludes that section 302 of RCDRIA does not apply. The FDIC invited comment regarding the application of RCDRIA to the final rule, but did not receive comments on this topic.

***E. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families***

The FDIC has determined that the final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999.<sup>34</sup>

***F. Plain Language***

Section 722 of the Gramm-Leach-Bliley Act<sup>35</sup> requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. FDIC staff believes the final rule is presented in a simple and straightforward manner. The FDIC did not receive any comments with respect to the use of plain language.

**List of Subjects in 12 CFR Part 330**

Bank deposit insurance, Reporting and recordkeeping requirements, Savings associations.

**Authority and Issuance**

For the reasons stated above, the Federal Deposit Insurance Corporation amends 12 CFR part 330 as follows:

**PART 330—DEPOSIT INSURANCE COVERAGE**

1. The authority citation for Part 330 continues to read as follows:

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<sup>34</sup> Pub. L. 105-277, 112 Stat. 2681.

<sup>35</sup> Pub. L. 106-102, section 722, 113 Stat. 1338, 1471 (1999).

**Authority:** 12 U.S.C. 1813(l), 1813(m), 1817(i), 1818(q), 1819(a)(Tenth), 1820(f), 1820(g), 1821(a), 1821(d), 1822(c).

2. Revise § 330.9(c) to read as follows:

**§ 330.9 Joint ownership accounts.**

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(c) *Qualifying joint accounts.* (1) *Qualification requirements.* A joint deposit account shall be deemed to be a qualifying joint account, for purposes of this section, only if:

(i) All co-owners of the funds in the account are “natural persons” (as defined in § 330.1(l));

(ii) Each co-owner has personally signed, which may include signing electronically, a deposit account signature card, or the alternative method provided in paragraph (c)(4) of this section is satisfied; and

(iii) Each co-owner possesses withdrawal rights on the same basis.

(2) *Limited exceptions.* The signature-card requirement of paragraph (c)(1)(ii) of this section shall not apply to certificates of deposit, to any deposit obligation evidenced by a negotiable instrument, or to any account maintained by an agent, nominee, guardian, custodian or conservator on behalf of two or more persons.

(3) *Evidence of deposit ownership.* All deposit accounts that satisfy the criteria in paragraph (c)(1) of this section, and those accounts that come within the exception provided for in paragraph (c)(2) of this section, shall be deemed to be jointly owned provided that, in accordance with the provisions of §330.5(a), the FDIC determines that the deposit account records of the insured depository institution are clear and unambiguous as to the ownership of the accounts. If the deposit account records are ambiguous or unclear as to the manner in which the deposit accounts are owned, then the FDIC may, in its sole discretion, consider evidence other than the

deposit account records of the insured depository institution for the purpose of establishing the manner in which the funds are owned. The signatures of two or more persons on the deposit account signature card or the names of two or more persons on a certificate of deposit or other deposit instrument shall be conclusive evidence that the account is a joint account (although not necessarily a qualifying joint account) unless the deposit records as a whole are ambiguous and some other evidence indicates, to the satisfaction of the FDIC, that there is a contrary ownership capacity.

(4) *Alternative method to satisfy signature-card requirement.* The signature-card requirement of paragraph (c)(1)(ii) of this section also may be satisfied by information contained in the deposit account records of the insured depository institution establishing co-ownership of the deposit account, such as evidence that the institution has issued a mechanism for accessing the account to each co-owner or evidence of usage of the deposit account by each co-owner.

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By order of the Board of Directors of the Federal Deposit Insurance Corporation.

Dated at Washington, DC, on 16th day of July, 2019.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary