

§ 350.5

(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);

(b) *In the case of a bank with independently audited financial statements*, by copies of the audited financial statements and the certificate or report of the independent accountant to the extent that such statements contain information comparable to that specified in § 350.4(a); and

(c) *In the case of a bank subsidiary of a one-bank holding company*, by an annual report of the one-bank holding company prepared in conformity with the regulations of the Securities and Exchange Commission or by sections in the holding company's consolidated financial statements on Form FR Y-9C pursuant to Regulation Y of the Federal Reserve Board (12 CFR part 225) that are comparable to the Call Report schedules enumerated in § 350.4(a)(1), provided that in either case not less than 95 percent of the holding company's consolidated total assets and total liabilities are assets and liabilities of the bank and the bank's consolidated subsidiaries.

(d) *In the case of a bank covered by 12 CFR part 363*, by an annual report prepared pursuant to 12 CFR 363.4. However, if the annual report is for a bank subsidiary of a holding company which provides only the consolidated financial statements of the holding company, this annual report may be used to satisfy the requirements of this part only if it is the report of a one-bank holding company and provided that not

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less than 95 percent of the holding company's consolidated total assets and total liabilities are assets and liabilities of the bank and the bank's consolidated subsidiaries.

[62 FR 10200, Mar. 6, 1997]

§ 350.6 Signature and attestation.

An authorized officer of the bank shall sign the annual disclosure statement. The officer shall also attest to the correctness of the information contained in the statement if the financial reports are not accompanied by a certificate or report of an independent accountant.

[62 FR 10200, Mar. 6, 1997]

§ 350.7 Notice and availability.

(a) *Shareholders.* If the bank provides written notice of the annual meeting of shareholders, the bank shall include with, or as part of, that notice an announcement that the bank's annual disclosure statement will be sent to the shareholder either automatically or upon request. For disclosure statements available on request, the announcement shall indicate at a minimum an address and telephone number to which requests may be directed. The first copy of the annual disclosure statement shall be provided to a shareholder without charge.

(b) *Customers and the general public.* In the lobby of its main office and each branch, the bank shall at all times display a notice that the annual disclosure statement may be obtained from the bank. The notice shall include at a minimum an address and telephone number of which requests should be directed. The first copy of the annual disclosure statement shall be provided to a requester free of charge.

§ 350.8 Delivery.

Each bank shall, after receiving a request for an annual disclosure statement, promptly mail or otherwise furnish a statement to the requester.

§ 350.9 Disclosure of examination reports.

Except as permitted under specific provisions of the FDIC's regulations (12 CFR part 309), a bank may not disclose any report of examination or report of

supervisory activity or any portion thereof prepared by the FDIC. The bank also shall not make any representation concerning such report or the findings therein.

§ 350.10 Prohibited conduct and penalties.

(a) *Misrepresentations.* No officer, director, employee, agent, or other person participating in the affairs of a bank, shall, directly or indirectly:

(1) Disclose or cause to be disclosed false or misleading information in the annual disclosure statement, or omit or cause the omission of pertinent or required information in the annual disclosure statement; or

(2) Represent that the FDIC, or any employee thereof, has reviewed, or confirmed the accuracy or relevance of the disclosure statement.

(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 DISABILITY

Sec.

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AUTHORITY: 12 U.S.C. 1819(a); 29 U.S.C. 794d.

SOURCE: 69 FR 26492, May 13, 2004, unless otherwise noted.

§ 352.1 Purpose.

(a) One purpose of this part is to implement the spirit of section 504 of the Rehabilitation Act of 1973 (the Rehabilitation Act) as amended by section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 and the Workforce Investment Act of 1998. Section 504 prohibits discrimination on the basis of disability in programs and activities conducted by a federal executive agency. Although the FDIC does not believe that Congress contemplated coverage of non-appropriated, independent regulatory agencies such as the FDIC, the FDIC has chosen to promulgate this final regulation to ensure that, to the extent practicable, persons with disabilities are provided with equal access to FDIC programs and activities.

(b) This part is also intended to implement section 508 of the Rehabilitation Act as amended. Section 508 requires each federal agency or department to ensure that the electronic and information technology they procure allows individuals with disabilities access to that technology comparable to the access of those who are not disabled, unless the agency would incur an undue burden.