FDIC DEPOSIT INSURANCE – JOINT OWNERSHIP DEPOSIT ACCOUNTS

I. INTRODUCTION

The Federal Deposit Insurance Corporation (FDIC) has amended part 330 of its Rules and Regulations to expand the types of evidence it would consider when determining whether joint accounts qualify for increased deposit insurance coverage. The FDIC will continue to look to signature cards when determining deposit insurance coverage on joint accounts, but may now also rely on other information contained in a bank's deposit account records that establishes co–ownership of a joint account. The change does not expand or contract deposit insurance coverage for joint accounts and does not place any increased burden on depositors or FDIC–insured institutions.

The amendment to the FDIC deposit insurance regulations updates 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. The rule became effective on August 21, 2019.

II. BACKGROUND

Section 330.9 of the FDIC’s regulations governs coverage for joint ownership accounts. 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.

“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. 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.
III. **FINAL RULE**

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 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. For example, the requirement could be satisfied by evidence that an insured depository institution 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.

The final rule also amends the regulation to state expressly that the signature card requirement may be satisfied electronically. This determination is consistent with published guidance and staff interpretations of section 330.9 and does not substantively alter the regulatory requirements for joint accounts. The final rule does not include any particular requirements with respect to electronic signatures, and is merely intended to clarify for insured depository institutions and depositors that the signature card requirement may be satisfied electronically. If an insured depository institutions 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.

The foregoing Compliance Update is for informational purposes only and does not constitute legal advice. As a reminder, the NBA general counsel is the attorney for the Nebraska Bankers Association, not its member banks. The general counsel is available to assist members with finding resources to help answer their questions. However, for specific legal advice about specific situations, members must consult and retain their own attorney.