

contingencies) or Alternative Two (coverage of \$100,000 per grantor of a living trust) If you suggest another alternative, please provide the details of that suggestion.

Alternative One would expressly require that depository institutions' deposit account records indicate the ownership interests of living trust beneficiaries. Although this is currently a requirement for all revocable trust accounts where beneficiaries have unequal interests, the FDIC does not normally rely on the institution's records for this information because the FDIC must review the living trusts themselves for defeating contingencies. Under Alternative One defeating contingencies would be irrelevant for deposit insurance determinations; thus, the FDIC would rely primarily on an institution's records to ascertain the beneficiaries' trust interests. The FDIC requests comment on this aspect of Alternative One. For example, should the FDIC specify a particular form for this purpose? Also, a living trust sometimes provides for different levels of beneficiaries whose interests in the trust depend on certain conditions. Thus, in some situations it might be infeasible to identify and indicate in a depository institution's records the ownership interest of each beneficiary named in the trust. The FDIC requests specific comment on how this situation should be treated under Alternative One.

Current FDIC rules do not require that the institution's records indicate the kinship relationship between a revocable trust account owner and the trust beneficiaries. In this regard the rules require only that the beneficiaries be named in the institution's deposit account records. Adding this requirement would further expedite the insurance-payment process when an institution fails, but would result in an additional recordkeeping requirement for depository institutions. The FDIC seeks specific comment on this option.

As noted above, if finalized, Alternative One might result in an overall increase in deposit insurance coverage and Alternative Two might result in reduced living trust account coverage for some depositors. Please comment on these aspects of the rulemaking. Also, if Alternative Two is adopted as a final rule, how should existing depositors be informed of this possible reduction in coverage?

For both proposals the FDIC would require that depository institutions certify the existence of a living trust when a depositor opens a living trust account. Please comment on this aspect of the proposed rulemaking. In

particular, how should this requirement be applied to telephone and internet customers?

#### IV. Paperwork Reduction Act

No collections of information pursuant to the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) are contained in the proposed rule. Consequently, no information has been submitted to the Office of Management and Budget for review.

#### V. Regulatory Flexibility Act

The FDIC certifies that this proposed rule would not have a significant economic impact on a substantial number of small businesses within the meaning of the Regulatory Flexibility Act (5 U.S.C. 605(b)). The requirement under the proposed rule that insured depository institutions certify the existence of a living trust when a depositor establishes a living trust account would take an institution employee no more than a few minutes. Even for a depository institution with a high volume of living trust accounts, this requirement would have no significant impact. Accordingly, the Act's requirements relating to an initial regulatory flexibility analysis is not applicable.

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

The FDIC has determined that the proposed 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 (Public Law 105-277, 112 Stat. 2681).

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

Bank deposit insurance, Banks, banking, Reporting and recordkeeping requirements, Savings and loan associations, Trusts and trustees.

For the reasons set forth in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation proposes to amend part 330 of title 12 of the Code of Federal Regulations as follows:

#### PART 330—DEPOSIT INSURANCE COVERAGE

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

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

#### Proposed Rule—Alternative One

2. Section 330.10(f) is revised to read as follows:

#### § 330.10 Revocable trust accounts.

\* \* \* \* \*

(f) *Living trusts accounts.* (1) This section also applies to revocable trust accounts held in connection with a "living trust" (or "family trust"), a formal revocable trust created by an owner/grantor and over which the owner/grantor retains control during his or her lifetime. If a named beneficiary in a living trust is a qualifying beneficiary under this section, then the account held in connection with the living trust is eligible for the per-qualifying-beneficiary coverage described in paragraph (a) of this section. Notwithstanding any other provisions of the section, such coverage shall be provided irrespective of any conditions in the trust that might prevent a beneficiary from ultimately acquiring a vested and ascertainable interest in the deposit account upon the account owner's death. (Example: Depositor A has a living trust account with a balance of \$300,000. The trust provides that, upon the grantor's death, the grantor's husband shall receive \$100,000 and each of her two children shall receive \$100,000, but only if they graduate from college by age twenty-four. Assuming A has no other revocable trust accounts at the same depository institution, the coverage on her living trust account would be \$300,000. The trust names three qualifying beneficiaries. Coverage would be provided up to \$100,000 per qualifying beneficiary regardless of contingencies.)

(2) The rules in paragraph (c) of this section on the interest of non-qualifying beneficiaries apply to living trust accounts.

(3) In order for a depositor to qualify for the living trust account coverage provided under this paragraph (f), the title of the account must reflect that the funds in the account are held pursuant to a formal revocable trust. Also, the deposit accounts records of the depository institution must indicate the names of the beneficiaries of the living trust and their ownership interests in the trust. Upon the closing of a depository institution, in its discretion the FDIC may waive these disclosure and recordkeeping requirements in order to ascertain whether a living trust actually exists and/or to ascertain the identities of the trust beneficiaries and their ownership interests in the trust.

(4) Insured depository institutions must certify in their deposit accounts records the existence of a living trust