

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 352

RIN 3064-AC58

Access of Persons With Disabilities to FDIC Programs, Activities, Facilities, and Electronic and Information Technology

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking with request for comments.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) proposes to revise its regulations to implement section 508 of the Rehabilitation Act of 1973, as amended. Section 508 requires each Federal agency or department to ensure that the electronic and information technology (EIT) they develop or procure allows individuals with disabilities access to EIT comparable to the access of those who are not disabled, unless the agency would incur an undue burden.

DATES: Written comments must be received on or before January 23, 2004.

ADDRESSES: You may submit comments, identified by RIN number 3064-AC58, by any of the following methods:

- Agency Web site: <http://www.fdic.gov/regulations/laws/federal/propose.html>.

- Mail: Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

- Hand Delivered/Courier: The guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

- E-mail: comments@FDIC.gov. Include RIN number 3064-AC58 in the subject line of the message.

- Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC, between 9 a.m. and 4:30 p.m. on business days.

Instructions: Submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. Comments received will be posted without change to <http://www.fdic.gov/regulations/laws/federal/propose.html>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Earl F. McJett, Information Management Analyst, Office of Diversity and Economic Opportunity, (202) 416-4320, or Joan S. Bunning, Counsel, Legal Division, (202) 898-8834, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

On March 20, 1986, the FDIC promulgated 12 CFR part 352 to implement the spirit of section 504 of the Rehabilitation Act of 1973 (the Rehabilitation Act) (29 U.S.C. 794), as amended. Section 504 prohibits discrimination on the basis of disability as it applies to programs and activities conducted by various agencies. Although the FDIC did and still does not believe that Congress contemplated that section 504 should cover non-appropriated, independent regulatory agencies such as the FDIC, it voluntarily chose to promulgate this regulation pursuant to section 504. See 51 FR 9638.

The Workforce Investment Act of 1998 (the WIA) (Pub. L. 105-220, 112 Stat. 936) amending section 508 of the Rehabilitation Act (29 U.S.C. 794d), was signed into law on August 7, 1998. As amended, section 508 requires each Federal agency or department to ensure that the EIT it develops or procures allows individuals with disabilities access comparable to those who are not disabled, unless the agency would incur an undue burden. In addition, the amended section 508 requires the Architectural and Transportation Barriers Compliance Board (Access Board) to publish standards defining EIT and setting forth the technical and functional performance criteria necessary to accessibility for such technology. The WIA was effective as of

August 7, 2000. The statute required the Access Board to publish its final standards by February 7, 2000.

On July 13, 2000, the Military Construction Appropriations Act for Fiscal Year 2001 (Pub. L. 106-246, 114 Stat. 511) was signed into law. Section 2405 of that statute amended section 508 to delay the section's effective date for enforcement to 6 months from the publication of the Access Board's final standards. The Access Board's final standards were published on December 21, 2000. See 65 FR 80500-80528. The effective date for enforcement of section 508 became June 21, 2001. The FDIC proposes to amend its regulations to reflect these legal requirements and to update regulations to reflect current terminology, practice, and procedures.¹

II. Section-by-Section Analysis

Section 352.1 Purpose

This section would be amended to state that the purpose of the regulation is to implement the requirements of section 508 of the Rehabilitation Act of 1973, as amended by the WIA, in addition to section 504 of the Rehabilitation Act.

Section 352.2 Application

This section would be amended to state that Part 352 applies to EIT access in addition to the agency's programs and activities. It also updates references to certain components of the FDIC such as the Office of Legislative Affairs and lists the FDIC's Internet website as one of the agency programs or activities to which Part 352 applies.

Section 352.3 Definitions

This section would be amended to include definitions specifically pertaining to EIT, to update terminology by substituting the term "individual with a disability" for "handicapped person," and to define references in the regulation to section 508 and pertinent statutes.

¹ In addition to the proposed revisions to Part 352, the FDIC issued a directive on September 28, 2001, number 2710.11, that sets forth complaint procedures for individuals with disabilities, both Federal employees and members of the public, who have been denied access to EIT. FDIC issued a directive on July 18, 2003, number 2711.1, that contains the corporate policy on section 508 of the Rehabilitation Act.