

REPLY FROM FEDERAL DEPOSIT INSURANCE CORPORATION

FEDERAL DEPOSIT INSURANCE CORPORATION,
Washington, D.C., March 17, 1965.

Hon. JOHN E. MOSS,
Chairman, Foreign Operations and Government Information Subcommittee,
House of Representatives.

DEAR MR. CHAIRMAN: In your letter of February 12, 1965, you requested that we answer a list of questions relating to the publication of information concerning the operations and functions of the Corporation in order to facilitate a study that was being conducted to evaluate the effect of the "public information" section of the Administrative Procedure Act (5 U.S.C. 1002). Those questions and our answers thereto are set forth below in the same sequence the questions were presented in your letter.

Before turning to these questions and answers, however, it is quite appropriate to reflect for a moment upon the concept of confidentiality which has traditionally attended the exercise of supervisory powers over banks in general.

From the outset, it must be understood that it is essential to the effective supervision of banks that the contents of reports of examination and other records in the adjudication of cases be held privileged and confidential. This proposition stems from very valid reasons. The reports of examination and other records containing information from such reports necessarily deal to a considerable extent with the private and personal business affairs of the banks involved, of their borrowers, and of other customers of the bank. The importance of public confidence in banking institutions cannot be overstressed, and the privileged manner in which banking records are maintained plays an essential and key role in this confidence. Disclosure of information from examination reports and collateral records could have a serious adverse effect upon the financial interests of the bank, its depositors, and its borrowers. In addition to the various details relating to loans and other matters, the examiner is required to set forth his conclusions and opinions which many not be fully shared by others. Because of the understanding that the contents of such examination reports and such other records will be held confidential, the officials of the bank feel free to disclose to the examiner facts having a bearing upon the bank's loans, general condition, problems, operating and investment practices, and loan and credit policies. As a result of this relationship, the examiner feels free to offer suggestions, comments, and criticisms on the affairs of the bank, its personnel, and problems. This freedom of expression on the part of both the banker and the examiner would be destroyed if the records should be circulated outside of the customary bank supervisory channels.

The privileged and confidential nature of the examination reports and other records, including information from examination reports, has been consistently observed by the bank supervisory authorities and recognized in enactments by Congress and by the courts. The Federal Deposit Insurance Act clearly implies such confidentiality by specifically providing in section 7(a)(2), that this Corporation may furnish examination reports to the Comptroller of the Currency, to any Federal Reserve bank and to any commission, board, or authority having supervision over a State bank which is not a member of the Federal Reserve System. The same provision authorizes the Corporation to have access to reports of examination made by the Comptroller of the Currency or any Federal Reserve bank. This Corporation and other Federal banking agencies are expressly authorized under such conditions as they may prescribe upon the request of the Farm Credit Administration to make available to the Farm Credit Administration or any district bank or district corporation operating under its supervision, in confidence, all reports, records, or other information they may have relating to the condition of any institution to which the Administration, such district bank, or corporation has made or contemplates making loans or for which it has discounted or contemplates discounting paper, or which it is using or contemplates using as a custodian of securities or other credit instruments, or as a depository (12 U.S.C. 1095). A similar authorization for furnishing the Securities and Exchange Commission with reports, records, and other information includes the following provision (15 U.S.C. 77uuu(b)):

Notwithstanding any provision of this subchapter, no report, record, or other information made available to the Commission under this subsection, no report of an examination made under this subsection for the use of the Commission, no report of an examination made of any trustee or prospective