

2000 Annual Report
of the
FDIC Alternative Dispute Resolution
Steering Committee

Submitted April 2001

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ADR Annual Report -2000

The Federal Deposit Insurance Corporation's comprehensive Alternative Dispute Resolution program involves all Divisions and Offices of the Corporation and addresses both internal and external conflict in both informal and formal settings. In recognition of the high priority placed on the use of ADR, the FDIC Board of Directors adopted a Statement of Policy on Alternative Dispute Resolution in 1997 which was published in the Federal Register.

The FDIC Board of Directors established an ADR Steering Committee in 1994 to "coordinate and encourage appropriate and cost-effective management practices in all aspects of FDIC operations and programs." The FDIC has established an ADR Unit within the Corporate Operations Branch of the Legal Division, whose mission is to promote and support the use of ADR within the FDIC.

The purposes of this report are to:

- describe major ADR activities of the FDIC during 2000;
- describe major activities and accomplishments of FDIC Divisions and Offices, as well as the ADR Unit, in supporting and promoting ADR at the FDIC during 2000;
- provide Division- and Office-specific goals for 2001; and
- provide statistical data that demonstrates the cost savings to the FDIC of performing various ADR functions in-house.

Major ADR Accomplishments for 2000

Use of Mediation in Class Action Matter

In February 2000, the FDIC initiated mediation in an effort to resolve an allegation of racial discrimination concerning promotions by a class of approximately 3,000 African-American current and former employees. The case had been pending before the Equal Employment Opportunity Commission since 1992.

Several members of the class, class counsel, senior FDIC executives, attorneys from the Legal Division and an independent mediator experienced in discrimination class action matters participated in the mediation. The proceedings used an interest based mediation model and involved in excess of ten all-day sessions held between February and September 2000.

A settlement was reached in principle in September 2000, and allowed the parties to fashion an equitable and monetary settlement that was acceptable to both parties. In addition, the mediated settlement contemplates elaborate ADR provisions

concerning enforcement and resolution of any future disputes concerning the terms of the settlement.

The Board of Directors approved the settlement in November 2000. The class has now filed its Complaint in the Federal District for the District of Columbia, and the FDIC is expected to file its answer shortly. Thereafter, it is expected that the parties will execute the Consent Decree and file a Motion for Preliminary Approval with the Court.

The ADR Council

The FDIC has participated in the interagency ADR Council since it was established by the Attorney General in 1999 to address policy issues of general import and government-wide ADR issues. As Chair of the Council, the Attorney General designated sixteen members from fourteen federal agencies and entities. Deputy General Counsel Erica Cooper of the FDIC has served at the Attorney General's request as Vice Chair of the Council since its first meeting in May 2000. The FDIC's participation on the Council has provided practical, tangible benefit to the Corporation's ADR efforts, including: access to best practices for the use of ADR in a business context, especially in the contract and procurement areas; access to best practices concerning the confidentiality of ADR processes; access to best practices concerning ADR program administration; access to best practices concerning new rules, regulations, and statutes, such as EEOC's Rule 1614, which affect the FDIC's ADR programs and use of ADR; and access to information concerning new federal ADR policies and the opportunity to comment on those policies before they are enacted.

The Council approved a number of initiatives and documents during its first year that affect the use of ADR at the FDIC. The Council approved the *Binding Arbitration Guidance for Federal Agencies* ("Arbitration Guidance") which was drafted by staff at the FDIC and the Department of Energy. This document provides a blueprint for agencies interested in using binding arbitration. The FDIC relied on the Arbitration Guidance in drafting its own binding arbitration policy (see p. 3) and in developing its arbitration pilot program.

The Council also approved a document entitled *Core Principles for Non-Binding Workplace ADR Programs* ("Core Principles"). This document covers ten key principles for workplace ADR programs, including confidentiality, neutrality, preservation of rights, self-determination, voluntariness and ethics. In addition, the Council directed the Interagency ADR Steering Committee (composed of subject matter experts from various agencies) to develop written guidance on the confidentiality provisions of the ADR Act of 1996. A task force of twenty representatives from fifteen agencies, including one from the FDIC, contributed to the resulting document entitled *Confidentiality Provisions of the ADR Act of 1996* ("Confidentiality Guidance"). The Confidentiality Guidance was approved by the Council and published in the Federal Register on December 29, 2000. The Core Principles and the Confidentiality Guidance both provide important information and guidance for the FDIC's use of ADR, especially in workplace disputes.

Other Council projects include an investigation of systemic barriers to the use of ADR, development of guidance on evaluating ADR programs, and an initiative to resolve issues of access by inspectors general to ADR-related information inherent in the Administrative Dispute Resolution Act.

FDIC Policy on the Use of Binding Arbitration

As anticipated in the ADR Annual Report for 1999, during the year 2000, the ADR Unit of the Legal Division developed a policy and a directive on the use of binding arbitration by the FDIC, which set forth a framework for a viable dispute resolution tool which the Corporation may wish to utilize from time to time. In the course of considering statutory implications and preparing language for the Policy and the Directive, the ADR Unit benefited from a significant degree of input from within the FDIC, mostly favorable to the idea of having binding arbitration available to the agency as a dispute resolution tool.

Comments regarding the Policy and the Directive were solicited and received from ADR Steering Committee members and from other representatives of the Divisions and Offices of the FDIC. The Unit also solicited and received comments from various sections, including litigation units, of the Legal Division. All material comments were addressed in the proposed drafts of the Policy and the Directive.

Finally, the proposed Policy and the Directive were submitted to the Attorney General, as required by the ADRA. In November 2000, the Attorney General concurred in the Corporation's use of binding arbitration as an ADR method, under the guidelines set forth in the Policy and the Directive. The Policy and the Directive were approved by the Board on March 26, 2001.

Equal Employment Opportunity Complaint Resolution Process

As reported to the Board in the 1998 and 1999 ADR Annual Reports, the Office of Diversity and Economic Opportunity (ODEO) and the ADR Unit designed an ADR (in particular mediation) component to the EEO complaint resolution process. The EEO Mediation Pilot Program was initiated October 1, 1998 and was re-evaluated by the FDIC Operating Committee in July 1999.

The 1999 re-evaluation of the EEO Mediation Pilot Program resulted in (1) the offer of mediation to every (as opposed to every other) aggrieved individual who entered the informal EEO counseling process, (2) the opportunity to engage in evaluative (as opposed to interest-based) mediation during the formal stage of the EEO complaint resolution process, and (3) the use of outside contractors (rather than in-house attorneys) as mediators. These changes comport with recent revisions to EEOC regulations (29 CFR Part 1614) which require, in part, that some form of ADR be made available in both the informal and formal stages of the EEO complaint resolution process.

In February 2000, the EEO mediation program was approved by the Operating Committee for permanent implementation at both informal and formal stages of the EEO complaint resolution process.

Since July 1999, in excess of 60 informal EEO cases have been referred to the ADR Unit for mediation. Of the informal cases actually mediated, approximately 40% have been resolved successfully at the mediation stage. During the same time period, in excess of fifteen formal cases have been referred to the ADR Unit for mediation. Approximately one-third of formal cases mediated have been successfully resolved to date.

Regional Executive Councils

The FDIC has in place Regional Executive Councils (RECs), which are labor and management partnerships, designed to address issues arising in the various DOS/DCA and DRR regions on a local level. The RECs, co-chaired by union and management representatives, continued to meet in Washington, Chicago, Dallas, Atlanta, Memphis, Kansas City and San Francisco during 2000. As was the case in 1999, six of the RECs are facilitated by ADR Unit facilitators and utilize interest-based approaches to problem-solving. The remaining REC (Dallas) is facilitated by Office of Ombudsman personnel in Dallas. The ADR Unit in late 2000 also began facilitating the meetings of the Senior Executive Council in addition to the RECs noted above.

Other Uses of ADR by FDIC Divisions and Offices

Following are descriptions of individual ADR efforts and initiatives undertaken across the FDIC during 2000, provided by members of the ADR Steering Committee for their respective Divisions and Offices.

Legal Division: The ADR Unit offered courses and presentations tailored to specific target groups. For example, ADR Unit attorneys developed and presented training for DOS and DCA at one of their quarterly Field Office Supervisor (FOS) meetings in the Kansas City and New York regions. DOS and DCA employees collaborated with the ADR Unit attorneys in developing and presenting material at each meeting. The training was entitled "Effective Communication and Alternative Dispute Resolution Techniques" and covered topics such as the practical application of ADR within DOS and DCA, as well as ADR trends in the banking industry. The ADR Unit also provided a full-day training session on "Effective Communication" to examination staff at the Orange County, California, DOS Field Office. Training was also provided by an ADR Unit attorney at the DOS Regional Director Annual Conference, covering the use of ADR to resolve EEO complaints.

The Labor and Employment Unit of the Legal Division uses ADR in the handling of labor-management disputes, including mediation and arbitration pursuant to the negotiated employee complaint process.

The Litigation Branch of the Legal Division, both at the trial and appellate level, participates in court-ordered mediation and uses mediation in other appropriate cases. There have also been several situations where binding arbitration has been agreed to as an appropriate dispute resolution mechanism.

Office of Ombudsman (OO): During 2000, the OO participated with other Divisions and Offices in a variety of ADR settings. The OO also received requests to provide process and fairness comments during the design and drafting phase for several new directives and/or processes. Further, the OO assisted in the development of several federal and private ombudsman programs.

The OO responded to requests from senior banking officials to facilitate the review, discussion, and development of options for various regulatory and examination issues. Similarly, the OO conducted extensive outreach to the individual state banking commissioners and to state and national banking trade associations to identify issues and encourage dialogue with the FDIC. The OO also helped improve communication and understanding between the public and the FDIC. Finally, the OO provided meeting facilitation services at the request of the other Divisions and Offices.

During 2000, the OO hosted meetings of the Coalition of Federal Ombudsman (CFO). The CFO is composed of over 20 federal agencies that collectively review federal government Ombudsman issues, including those that relate to ADR. Additionally, as in past years, the OO regularly communicated and coordinated with the Ombudsman offices of the OCC, OTS, and Federal Reserve to ensure that the respective agencies are sharing information and resources, and implementing ADR techniques to best serve the banking community. Similarly, the OO participated in the DOJ-sponsored interagency ADR Working Group, the American Bar Association's Committee on Ombudsman, as well as dispute resolution associations and forums sponsored by the Federal Mediation and Conciliation Service and other federal agencies.

Division of Resolutions and Receiverships (DRR): DRR regularly includes ADR clauses in Loss-Share Agreements, Limited Partnership Agreements and Early Termination Agreements. DRR also employs ADR techniques from time to time in the settlement of disputes, some of which are in litigation, arising from agreements managed by DRR, which contain ADR clauses.

DRR's policy development process uses Joint Problem Solving, whereby all Branches and Divisions directly impacted by a DRR policy or procedure are encouraged to participate in the development of new or alternative procedures.

Also during the past year, DRR Offices have made regular use of a small staff of trained facilitators during meetings, particularly for problem-solving sessions.

Office of Diversity and Economic Opportunity (ODEO): During 2000, all EEO Specialists, in Washington and the regions, received eight hours of ADR Training.

As noted with respect to the ADR Unit, ODEO has developed and implemented a mediation policy that is in compliance with EEOC's federal regulations and Management Directives. ODEO uses contract mediators and eight (8) full-time EEO Specialists located in the regional offices to provide mediation and facilitation services to the parties to EEO disputes.

Division of Supervision (DOS): As previously referenced under Legal Division accomplishments, members of the ADR Unit provided a full-day training session entitled "Effective Communication" to DOS staff of the Orange County, California Field Office. Half-day sessions covering "Effective Communication" were presented at a quarterly FOS meeting in both Kansas City and New York. Finally, an ADR Unit attorney provided training, at a breakout session during the RD/ARD Annual Conference, on the use of ADR to resolve EEO complaints.

Division of Compliance and Consumer Affairs (DCA): As it has in years past, DCA used facilitation techniques in Community Affairs outreach events across the country. The efforts focused on three primary areas of impact -providing education about predatory lending, enhancing access to credit for low- and moderate-income borrowers, and encouraging public/private partnerships to support community development projects. Examples of DCA's numerous ADR activities are

Predatory Lending: DCA community affairs staff convened a meeting in August with bankers, local government officials, state regulators and trade associations as well as community groups to seek solutions to predatory lending problems in South Carolina. This was the first time that key representatives from each of these areas were invited to discuss and recommend solutions to predatory lending tactics. Through facilitated discussions, the group agreed to form a coalition to heighten awareness about abusive lending tactics, with the Consumer Affairs department of South Carolina taking the lead role. The coalition has established working committees and goals for 2001. The FDIC continues to monitor and provide technical assistance as needed.

Enhancing Access to Credit for Low-Income Borrowers: DCA community affairs staff served as facilitators or obtained facilitation services for four meetings of the New Opportunities in Home Ownership in Milwaukee (NOH1M) Implementation Committee. This Committee included representatives of banks, thrifts, MGIC (*mortgage insurer*), the City, and home-ownership counseling organizations. The Committee plans to foster its goals by developing home

improvement and home purchase/rehabilitation credit products that satisfy identified needs. The Committee was able to identify organizational weaknesses that limited NOHIM's ability to meet its goals. They have now established a new organizational structure, and are prepared to move forward.

Increasing Community Development Activities: The FDIC, together with the Office of Thrift Supervision, hosted five CRA forums that brought together bankers and community-based organizations in the states of Hawaii and California (Sacramento area). The facilitated sessions helped attendees understand the regulatory intent and requirements for community development as well as the infrastructure needed to be successful in furthering community development.

Office of Inspector General (OIG): During the past year, OIG has used negotiations to attempt resolution of personnel issues within OIG. Negotiations have also been used for audit resolution with other FDIC Divisions and Offices.

OIG has instituted measures, consistent with becoming a "learning organization", some of which incorporate or support an ADR-like approach to internal and external issues (e.g., communications and conflict resolution; increased client/customer satisfaction).

The Inspector General, in his capacity as Vice-Chair of the President's Council on Integrity and Efficiency (PCIE), presented the views of the Inspector General community to the Department of Justice regarding the draft "Report on the Reasonable Expectations of Confidentiality Under the Administrative Dispute Resolution Act of 1996", issued in October 2000 by the Confidentiality Subcommittee of the interagency ADR Council.

Division of Information Resource Management (DIRM): During the past year, DIRM utilized various mediation and facilitation services in resolving disputes with contractual servicers and other contract oversight management procedures. DIRM has also resolved personnel and administrative matters using alternative dispute resolution methodologies.

Division of Finance (DOF): During 2000, DOF used facilitation services to evaluate the results of its internal employee Values Survey and developed Action Plans to address divisional issues.

Office of Internal Control Management (OICM): Facilitation is used on an ongoing basis in OICM's liaison activities with the Office of the Inspector General, the General Accounting Office, and the Corporation's program offices.

Office of Legislative Affairs (OLA): OLA provides legislative assistance to the FDIC's ADR Steering Committee. OLA tracks ADR-related legislation and activities and reports on these to the ADR Steering Committee.

ADR Division- and Office-Specific Goals -2001

Following are the Division- and Office-specific goals for calendar year 2001 as submitted by ADR Steering Committee members:

Legal Division, ADR Unit: The ADR Unit will continue to lead the FDIC's ADR efforts, across all Divisions and Offices, expanding both awareness and use of ADR methods and processes. The ADR Unit will continue its work with ODEO by processing requests for mediation in the existing EEO Complaint resolution process. In furtherance of the anticipated arbitration policy and directive, the ADR Unit and the Contracting Law Unit will work with ACSB to implement an Arbitration Pilot Project, which will attempt to dispose of certain contractual disputes with service providers through binding arbitration. A further goal for the ADR Unit in the coming year will be to consider options for and perhaps recommend initiation of a workplace dispute program which will address employee issues in a less formal setting than the EEO complaint process or the negotiated grievance procedure. In furtherance of its role as a leader in the federal ADR community, the Unit and members of senior management will continue their outreach efforts, primarily through the ADR Council and other interagency groups. As previously noted, the FDIC's participation in such outreach efforts provides a valuable opportunity for the Corporation to benefit from the work and expertise of ADR specialists from across the federal sector.

Division of Compliance and Consumer Affairs (DCA): DCA plans to continue its successes in using ADR techniques to further its goals related to Community Affairs at educational forums regarding such topics as predatory lending, community development, and financial education. DCA is also redesigning its examination core curriculum and creating, for the first time, curricula for its Consumer Affairs and Community Affairs staff. In all three instances, job analyses were conducted to determine what skills were needed to perform successfully. The job analyses indicated the need for conflict resolution skills in varying degrees. In 2001, DCA plans to analyze how to best incorporate these skills into the curricula in order to build ADR concepts into day-to-day operations. DCA will explore a variety of alternatives beyond classroom training in order to further build the culture of ADR into the Division.

Division of Information Resource Management (DIRM): DIRM will continue to utilize mediation and facilitation services in 2001 to reduce the cost of contract litigation to the Corporation.

Division of Finance (DOF): DOF will offer a Conflict Management Workshop at its 2001 National Training Conference.

Division of Supervision (DOS): In 2001, the Boston and Atlanta Regions will offer the Effective Communication training during their Quarterly FOS Meetings.

Division of Resolution and Receiverships (DRR): In 2001, DRR will complete ADR and Negotiation Training as needed. The Division will also increase its facilitation staff and its use of facilitators.

Division of Research and Statistics (DRS): DRS will provide ADR training as requested by employees.

Office of Diversity and Economic Opportunity (ODEO): ODEO plans to encourage greater participation in the EEO mediation program through the revision of its ADR literature to better explain mediation and its advantages.

Office of Inspector General (OIG): The Office of Inspector General will work with the Legal Division to develop an implementation process at the FDIC for the Attorney General's recent report from the ADR Council (referred to above) on "Reasonable Expectations of Confidentiality. II

Office of Ombudsman (OO): The OO is committed to remaining flexible to meet the FDIC's ADR needs. Consistent with its mandate to work with the banking industry, the public, and exception-driven employee contacts, the OO welcomes the opportunity to work with other Divisions and Offices in fulfillment of the Corporation's ADR goals.

Core Functions -2000

Pursuant to the FDIC Board's approval of a methodology set forth in the 1997 ADR Annual Report, services and workload of the ADR Unit have been categorized into "core functions." During calendar year 2000, the ADR Unit performed its substantive work across nine "core functions," as well as a tenth function, "Administration," which accounts for items such as support staff for the ADR Unit, leave and other ministerial tasks of the Unit. A description of each ADR core function, excepting "Administration," is listed below.

1. ADR Steering Committee and Corporate Coordination

This function involves the mission and work of the ADR Steering Committee, which was established by the FDIC Board of Directors in 1994. The ADR Steering Committee is composed of a representative from each FDIC Division and Office. In addition to reporting to the Board annually, the Committee oversees the ADR program Corporate-wide and coordinates all ADR policies, procedures, and programs to ensure a consistent organizational approach.

The Committee is chaired by the FDIC's Dispute Resolution Specialist (who is the Assistant General Counsel for the Corporate Legal Issues Section of the Legal Division) and is supported by the ADR Unit. As in the past, each Committee meeting, which occurred approximately once per quarter, focused on specific ADR programs and issues, with presentations and discussions between the Committee and the presenters. During 2000, the Committee discussed and reviewed several ADR programs, including the FDIC's proposed Arbitration Policy and Directive, the Justice Department's Interagency Dispute Resolution Working Groups, the EEO Mediation Program, and facilitation at the FDIC.

2. Conflict Management Systems Design

This function involves establishing organizational systems to handle conflict. This includes the assessment, design and implementation of processes and procedures to systematically resolve conflict.

Several FDIC Divisions and Offices have implemented conflict management systems designed to handle conflict at the lowest possible level and in the most efficient manner possible. In particular, conflict management design focuses on a systemic approach to conflict, rather than seeking resolution of disputes on a case-by-case basis. In addition to handling internal FDIC systems design work, the ADR Unit is often contacted by other agencies to discuss design principles.

3. ADR Advice and Consultation

This function involves the use of ADR in appropriate situations by Divisions and Offices of the FDIC, including resolution of specific disputes as well as regular and

ongoing preventive efforts. These cases involve use of the full ADR spectrum in both litigation and non-litigation matters. The ADR Unit provides advice and assistance to Divisions and Offices on the appropriate use of ADR.

4. Mediation and Facilitation Services

This function involves the provision and use of mediation and facilitation services within the FDIC. As reported in prior years, the FDIC uses process-based ADR techniques, such as facilitation and mediation, to serve both external and internal parties. The expansion of certain programs within the FDIC, which utilize mediation and/or facilitation, clearly demonstrates the Corporation's move toward increased process-based ADR.

5. ADR Policy and Legislative Analysis

This function involves the monitoring and interpretation of proposed and enacted ADR-related legislation and the development of ADR policy at the FDIC. Due to its recognized experience in the Federal ADR community, the FDIC routinely works with other agencies and participates in interagency and multi-agency task forces to ensure effective use of ADR.

6. Training and Education

This core function is designed to raise ADR awareness within the FDIC. Providing training to FDIC employees in all aspects of ADR is the focus of this function, as well as the ongoing need to keep individuals current with recent trends. Courses given by the ADR Unit are designed in both substantive and skills building contexts.

7. Outreach

This function involves the FDIC's efforts to share expertise in programs and projects that enhance the use of ADR.

8. References and Resources

This function involves the gathering and maintenance of ADR articles and related resources as well as the maintenance of a Roster of Neutrals.

In order to best serve FDIC client groups, the ADR Unit maintains a computerized Roster of Neutrals (i.e., a listing of qualified neutrals not within the FDIC who are available to provide ADR services). Services within this core function are provided almost exclusively by ADR Unit paraprofessional and support staff.

9. Evaluation and Tracking

This function involves the tracking of all work performed by the ADR Unit, as well as the retrieval of such data for personnel and reporting purposes. The evaluation process is designed to provide data on the impact of the FDIC's ADR program, including its efficiency, effectiveness and customer satisfaction. The ADR Unit also maintains a computerized ADR Tracking System (tracking the use of formal third-party assisted ADR, estimated legal fees and expense savings).

The 2000 Annual Report represents the third in a three-year implementation period for ADR program evaluation, which was adopted by the Board pursuant to the 1997 Annual Report, effective January 1998. The statistical data for this third year of implementation is presented in Appendices I and II.

APPENDIX I

Cost Comparison from 1998 to 2000

The following breakdown by core function shows the number of work-hours spent by the ADR Unit in each category, the cost to the FDIC 1, and the comparative cost of these services from outside providers². Appendix II provides detailed data and graphic comparisons for each core function for 2000.

| ADR Steering Committee and Corporate Coordination | | | |
|--|-------------|-------------|-------------|
| | <u>1998</u> | <u>1999</u> | <u>2000</u> |
| • Hours | 399 | 247.5 | 399 |
| • FDIC Cost | \$20,450 | \$12,955 | \$22,625 |
| • Outside Cost | \$75,416 | \$46,572 | \$80,367 |
| • Cost Savings | \$54,966 | \$33,617 | \$57,742 |
| Conflict Management Systems Design | | | |
| • Hours | 1,795 | 2,072.5 | 1,455 |
| • FDIC Cost | \$103,383 | \$120,989 | \$80,466 |
| • Outside Cost | \$391,933 | \$477,260 | \$322,506 |
| • Cost Savings | \$288,550 | \$356,271 | \$242,040 |
| ADR Advice and Consultation 526 | | | |
| • Hours | 526 | 687.5 | 1,788.5 |
| • FDIC Cost | \$30,938 | \$44,235 | \$121,074 |
| • Outside Cost | \$124,041 | \$176,776 | 469,181 |
| • Cost Savings | \$93,103 | \$132,541 | \$348,107 |
| Mediation and Facilitation Services | | | |
| • Hours | 649 | 1,398 | 2,090.5 |
| • FDIC Cost | \$39,168 | \$85,935 | \$138,620 |
| • Outside Cost | \$156,846 | \$336,392 | \$530,716 |
| • Cost Savings | \$117,678 | \$250,457 | \$392,096 |
| ADR Policy and Legislative Analysis | | | |
| • Hours | 996 | 1,174 | 593 |
| • FDIC Cost | \$55,863 | \$75,843 | \$40,591 |
| • Outside Cost | \$222,089 | \$303,630 | \$157,477 |
| • Cost Savings | \$166,226 | \$227,787 | \$116,886 |

¹ Figures for 2000 based on 2000 salary and benefits provided by OOF.

² Using the 1997 OOF methodology, as set forth in the 1997 Annual Report, these figures are based on 1999 average hourly rates of outside AOR-service providers (e.g., conflict system designers, mediators, facilitators, instructors) increased by the 2000 Consumer Price Index inflation rate of 2.3%.

Training and Education

| | <u>1998</u> | <u>1999</u> | <u>2000</u> |
|----------------|-------------|-------------|-------------|
| • Hours | 1,482.8 | 931.5 | 440 |
| • FDIC Cost | \$83,848 | \$58,923 | \$30,118 |
| • Outside Cost | \$333,414 | \$235,414 | \$116,846 |
| • Cost Savings | \$249,566 | \$176,491 | \$86,728 |

Outreach

| | | | |
|----------------|-----------|-----------|-----------|
| • Hours | 1,257.5 | 2,022.5 | 1,717 |
| • FDIC Cost | \$75,396 | \$122,353 | \$97,392 |
| • Outside Cost | \$297,797 | \$479,513 | \$349,462 |
| • Cost Savings | \$222,401 | \$357,160 | \$252,070 |

References and Resources

| | | | |
|----------------|----------|----------|----------|
| • Hours | 396.5 | 279 | 286 |
| • FDIC Cost | \$11,755 | \$8,729 | \$8,590 |
| • Outside Cost | \$27,795 | \$21,276 | \$20,918 |
| • Cost Savings | \$16,040 | \$12,547 | \$12,328 |

Evaluation and Tracking

| | | | |
|----------------|-----------|----------|----------|
| • Hours | 989 | 514.5 | 208 |
| • FDIC Cost | \$32,809 | \$20,175 | \$9,999 |
| • Outside Cost | \$102,523 | \$63,981 | \$33,686 |
| • Cost Savings | \$69,714 | \$43,806 | \$23,687 |

COMPARATIVE TOTALS FOR 1998 AND 1999

| | <u>1998</u> | <u>1999</u> | <u>2000</u> |
|----------------------|-------------|-------------|-------------|
| • Hours | 8,490. | 8 9,327 | 8,977 |
| • FDIC Cost | \$453,610 | \$550,137 | \$549,475 |
| • Outside Cost | \$1,731,854 | \$2,140,814 | \$2,081,159 |
| • Gross Cost Savings | \$1,278,244 | \$1,590,677 | \$1,531,684 |
| • Adjustment | (\$69,942) | (\$178,108) | (\$82,101) |
| • Net Cost Savings | \$1,208,302 | \$1,412,569 | \$1,449,583 |

3 "Adjustment" represents an accounting for FDIC in-house "Administrative" expenses, which include, but are not limited to, support staff, training attended by Unit members, staff meetings and reporting.

APPENDIX II

Evaluation Methodology Background

In 1997, the Board of Directors approved a new methodology for evaluating the efficiency, effectiveness, and benefits of the FDIC's ADR program. This methodology represented a change from the previous evaluation standard of simple cost savings. Cost savings had been calculated based upon the difference between the costs anticipated to litigate a matter and the actual costs incurred to resolve a matter through alternative means. At the height of the financial crises, this number was easy to obtain and fairly representative. As the number of litigated matters decreased and the ADR program's emphasis shifted from litigated cases to other areas (e.g., internal uses of ADR), the focus of the program's evaluation also shifted to better assess the extent and value of the ADR program. The new evaluation methodology undertakes a cost/benefit analysis of the services of the ADR program as related to various "core functions."

Evaluation Methodology Assumptions

- The FDIC costs are figured at an "hourly rate" based on the following formula:
26 pay periods⁴ x 80 work hours per pay period = 2,080 total annual hours
Salary + 2,080 = Rate per hour

| <u>Grade</u> | <u>Total Compensation</u> | <u>Rate per hour</u> |
|--------------|---------------------------|----------------------|
| CG 15 | 142,383 | 68.45 |
| CG 11 | 69,082 | 33.21 |
| CG 7 | 48,857 | 23.49 |
| CG 6 | 45,383 | 21.81 |
| CG 2 | 21,838 | 10.50 |

- Outside costs were established by DOF in 1997 through a survey of outside providers. 2000 outside cost figures were increased by the Consumer Price Index inflation rate of 2.3%.⁵
- Services in the Administration "core function" would not be separately contracted for from outside providers. Rather, Administration costs would be included as the outside provider's overhead and factored into the hourly charges. Thus, there is no "cost savings" resulting from the Administration core function.

⁴ There were actually 27 pay periods in 2000. However, since all but one day of the last pay period occurred in

2001, the original 26 pay period formula was used.

⁵ Due to the limitations of the program that computes and illustrates the charts in this Appendix II, all costs and

savings are rounded to the nearest dollars.