

## **Comments on Fair Hiring in Banking Act - Federal Deposit Insurance Corporation**

**RIN 3064-AF92**

I am writing to comment on the proposed rule to revise the FDIC's regulations to conform with the Fair Hiring in Banking Act (FHBA). I appreciate the FDIC's efforts to implement the FHBA, which was enacted to reduce barriers to employment in the banking industry for individuals with certain criminal records. However, I have two suggestions regarding the proposed rule, and one important administrative suggestion, which I will outline below.

First, I think the proposed rule should explain what kinds of offenses are considered "designated lesser offenses" or "certain lesser offenses" that do not need the FDIC's consent to work in banking. Section 19 of the Federal Deposit Insurance Act says that people who have been convicted of, or entered into a program for, a crime involving dishonesty, breach of trust, or money laundering cannot work in banking without the FDIC's consent. The proposed rule does not seem to say what kinds of offenses are such that do not involve dishonesty, breach of trust, or money laundering. The proposed rule says that the FDIC will decide if an offense is a "designated lesser offense" or "certain lesser offense" on a case-by-case basis. This may make applicants and institutions unsure and inconsistent about who can work in banking, and may also make them wonder if the FDIC is fair and transparent in its decisions. I suggest that the FDIC give a clear and objective explanation of what kinds of offenses are "designated lesser offenses" or "certain lesser offenses", or a list of examples of such offenses, to make it clear and easy for applicants and institutions to know who can work in banking, and to make the FDIC's decisions more predictable and accountable.

Second, I think the proposed rule should think about how the rule might affect the federal criminal justice system and the public safety, as some people with criminal records might get out of prison early or get shorter sentences under the First Step Act of 2018, which tries to change the federal prison system and sentencing laws. The proposed rule does not talk about or expect the possible effects of the First Step Act on who can work in banking under section 19, or the dangers and difficulties of hiring people with criminal records. I suggest that the FDIC think about how the First Step Act might change the criminal history and rehabilitation status of the applicants, and give advice on how to check and judge the information and documents given by the applicants, and how to reduce the dangers of hiring people with criminal records, such as doing background checks, giving training and supervision, and making policies and procedures.

Third, I suggest that the FDIC administratively collect information on instances of recidivism among banking employees covered by these rules, in order to determine if the rules may need to be revisited and revised in the future. I believe this information is essential as part of monitoring the effectiveness of the new rule.

Thank you for the opportunity to comment on the proposed rule.

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