

APPEALS GUIDELINES

Guidelines for Appeals of Material Supervisory Determinations (Guidelines)

The FDIC's Guidelines describe:

- The types of determinations that are eligible for review;
- The process by which appeals will be considered and decided;
- Membership of the Supervision Appeals Review Committee (SARC) that will issue a decision on an appeal; and
- The effect of appeals on applications, requests for approval, and supervisory or enforcement actions.

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APPEALS COMMITTEE COMPOSITION

Supervision Appeals Review Committee (SARC)

According to FDIC Appeals Guidelines, the SARC is comprised of three voting members, including:

- (a) One inside FDIC Board member to serve as Chairperson of the SARC;
- (b) One deputy or special assistant to an inside FDIC Board member not serving as Chairperson; and
- (c) One additional deputy or special assistant to the remaining inside FDIC Board member.

The FDIC Chairperson may designate alternate member(s) to the SARC if there are vacancies, so long as the alternate member was not involved in making or affirming the material supervisory determination under review.

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APPEALABLE REGULATORY FINDINGS

Material Supervisory Determinations include:

(a) Examination ratings (for example, CAMELS, IT, Trust, CRA, and Consumer Compliance);

(b) Determinations relating to the adequacy of loan loss reserve provisions;

(c) Classifications of large loans and other assets;

(d) Supervisory determinations, including violations, that affect capital, earnings, operating flexibility, or the level of supervisory oversight accorded an institution;

(e) Truth in Lending (Regulation Z) restitution;

(f) Certain application denials;

(g) Decisions to initiate informal enforcement actions (such as MOUs);

(h) Compliance with formal enforcement actions; and,

(i) Matters Requiring Board Attention (MRBAs).

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DIVISION DIRECTOR REVIEW

Request for Review

- Should be filed with the appropriate Division Director (DCP or RMS).
- Must be in writing and filed within 60 calendar days of the receipt of a report of examination or other written communication of a material supervisory determination.
- Must include a detailed description of the issues in dispute, the circumstances, supporting arguments, potential impacts on the bank, indicate if a good-faith effort was made to resolve the dispute with the on-site examiner and the Regional Office, and a statement that the bank's board of directors authorized the filing of the request.
- The Division Director will issue a written determination on the request for review within 45 days of receipt of the request.

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SARC REVIEW

Appeal to the Supervision Appeals Review Committee (SARC)

- A bank may appeal the written determination by the Division Director to the SARC within 30 calendar days from the date of that determination.
- Only matters previously reviewed at the division level may be appealed to the SARC.
- Evidence not presented for review to the Division Director may be submitted to the SARC only if authorized by the SARC Chairperson.
- The SARC may allow an oral presentation.
- The SARC will notify the bank, in writing, of its decision within 45 days from the date the SARC meets to consider the appeal, which meeting will be held within 90 days from the date of the filing of the appeal.

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FDIC INITIATIVE: *TRUST THROUGH TRANSPARENCY*

The agency's public website currently includes information pertaining to:

- Certain application activities
- Examination turnaround times
- Responses to public requests for FDIC assistance
- Deposit insurance coverage
- Enforcement actions, rulemaking activities, and FOIA requests
- Resolution activities

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