

I. INTRODUCTION

Section 18(i)(2) of the Federal Deposit Insurance (FDI) Act provides that no insured federal depository institution shall convert into an insured state depository institution if its capital stock or its surplus will be less than the capital stock or surplus, respectively, of the converting bank at the time of the shareholder's meeting approving such conversion, without the prior written consent of the FDIC, if the resulting institution is to be a state nonmember insured bank or an insured state savings association.

Case Managers must consult with the Washington Office (WO) on any application related to a state savings association to ensure the appropriate procedures and timelines are followed. Refer to *Applications Overview*, Section 1.1 of these Procedures, for general information regarding applications or notices involving state savings associations.

II. FORM OF APPLICATION

Section 303.246 of the FDIC Rules and Regulations sets forth the procedures to be followed by an insured federal depository institution seeking the prior written consent of the FDIC for such a conversion. Applicants will submit a letter application to the appropriate Regional Office (RO) that Case Managers are to ensure contains the following information:

1. A description of the proposed transaction;
2. A schedule detailing the present and proposed capital structure; and,
3. A copy of any documents submitted to the state chartering authority with respect to the charter conversion.

The FDIC may request additional information at any time during processing.

III. ACCEPTING AND PROCESSING THE APPLICATION

Case Managers should review and process these applications following the steps below and refer to *Applications Overview*, Section 1.1 of these Procedures, for general processing instruction for all application types.¹

1. Establish the record under Other – Miscellaneous – Charter Conversion with Diminution of Capital in the appropriate internal database. All applications should be entered in the system of record within three days of receipt. In all cases, dates and comments in the record should be updated regularly to reflect the current status of the application.
2. Initially review all materials for completeness, and request additional information if necessary. If related filings are involved, the Case Manager should coordinate with the applicant and the relevant state and federal regulatory agencies to ensure that all information submissions are promptly provided to the FDIC. The Case Manager should consult with Legal to determine whether a reduction or retirement of capital application is required.
3. Analyze the application and complete the appropriate Summary of Investigation (SOI)

¹ Case Managers are to follow the general guidance and expectations for all applications regarding recordkeeping responsibilities, DCP notifications, WO action or input, delegations, etc., in *Applications Overview*, Section 1.1 of these Procedures.

form.² Retrieve the Application Summary Statement from the appropriate internal database and attach to the SOI. SOI comments should include:

- A description of the proposed transaction;
 - The reason(s) for the proposed transaction;
 - The overall effect of the conversion on the institution both immediately and on a prospective basis;
 - Analysis of the six statutory factors as required by Section 18(i)(4) of the FDI Act, listed under Statutory Factors, Part IV of this Section;
 - A statement regarding whether the statutory factors have been favorably resolved;
 - Any recommended non-standard conditions to be imposed; and
 - The RO recommendation.
4. If approval is being recommended, prepare a draft approval letter. The letter should request that the applicant notify the appropriate RO of the consummation date and should include all applicable standard conditions and any recommended non-standard conditions. The Case Manager should obtain the applicant's written agreement to any non-standard conditions prior to submitting the approval documents for signature. Refer to *Standard and Non-standard Conditions*, Section 1.11 of these Procedures, for further instruction.
 5. If the application presents significant concerns or deficiencies that may result in a denial, the RO shall advise the applicant of the concerns and deficiencies to ensure that all necessary facts are obtained prior to making a final determination. If denial of the application appears warranted, the Case Manager should prepare a disapproval letter. Refer to *Denials and Disapprovals*, Section 1.3 of these Procedures, for further instruction.
 6. For applications that cannot be acted on under delegated authority, forward the SOI, the draft approval or disapproval letter, and, if applicable, the applicant's written consent to any non-standard conditions to the WO for final action. Refer to *Applications Overview*, Section 1.1 of these Procedures, for additional instructions regarding applications that require WO action or input.
 7. Update the appropriate internal database to reflect the date forwarded to the WO, if applicable, the action, the date of the action, the expiration date, hours devoted to the application, and any other required information.

IV. STATUTORY FACTORS

Pursuant to Section 18(i)(4) of the FDI Act, in granting or withholding consent to the proposed transaction, the FDIC must consider the following statutory factors:

- Financial history and condition of the bank;
- Adequacy of the bank's capital structure;
- Future earnings prospects;
- General character and fitness of management;
- Convenience and needs of the community to be served; and,

² Case Managers should follow the SOI requirements for all types of applications found in *Summary of Investigation*, Section 1.2 of these Procedures, as well as the specific instructions in this Section.

- Whether or not the bank's corporate powers are consistent with the purposes of the FDI Act.

Any risks to the Deposit Insurance Fund should be described under one or more of the six applicable statutory factors.

V. TIME FRAME FOR PROCESSING

Statutory: None.

RO Processing Guideline: 30 days from receipt of a substantially complete application.

VI. PUBLICATION REQUIREMENT

None.

VII. DELEGATED AUTHORITY

Delegations of authority regarding applications, notices, and other filings are discussed in *Applications Overview*, Section 1.1 of these Procedures.

VIII. REFERENCES

Section 303.246 of the FDIC Rules and Regulations

Sections 18(i)(2) and 18(i)(4) of the FDI Act