

March 19, 2026

MEMORANDUM

TO: Board of Directors

FROM: Ryan Billingsley, Director
Division of Risk Management Supervision

SUBJECT: Rescission of Statement of Policy on Qualifications for Failed Bank Acquisitions

Summary: Federal Deposit Insurance Corporation (FDIC) staff present to the FDIC Board of Directors (FDIC Board) the attached *Federal Register* notice entitled, “Rescission of the Statement of Policy on Qualifications for Failed Bank Acquisitions.” If rescission of the Statement of Policy is approved, it would become effective upon publication in the *Federal Register*.

Discussion: The FDIC published the final Statement of Policy on Qualifications for Failed Bank Acquisitions (Statement of Policy) on September 2, 2009.¹ In January 2010 and April 2010, the FDIC posted questions and answers on aspects of the Statement of Policy.² The Statement of Policy was issued to provide guidance to private capital investors interested in acquiring the deposit liabilities, or both the liabilities and assets, of failed depository institutions, regarding the terms and conditions for such investments or acquisitions. In so doing, it established extensive terms and conditions that private capital investors were expected to satisfy before they could become eligible to bid on a failing institution.

Concur:

Matthew P. Reed
General Counsel

¹ 74 FR 45440 (Sept. 2, 2009).

² See Federal Deposit Insurance Corporation, [FDIC Statement of Policy on Qualifications for Failed Bank Acquisitions](#) (last updated Mar. 15, 2024).

The Statement of Policy included onerous and highly prescriptive measures, including capital standards that would not be applicable in any other failed bank acquisitions; imposition of an agreement to a cross guarantee with respect to substantially commonly-owned depository institutions; limits on transactions with affiliates that are more restrictive than Sections 23A and 23B of the Federal Reserve Act; and lengthy continuity of ownership requirements. The FDIC is concerned that these and other aspects of the Statement of Policy may discourage and potentially limit investments by nonbanks in connection with the resolution of failed depository institutions.

The FDIC recognizes that nonbank entities such as private equity firms can play a significant role in the resolution process, given their ability to access and deploy significant pools of capital. Given the increased speed with which a bank failure may occur, in part driven by the advancement of technology and ongoing evolution of the financial system, these impacts could, in turn, result in considerably increased costs of resolution and risk to the Deposit Insurance Fund. Accordingly, the attached *Federal Register* notice would rescind the Statement of Policy, effective as of the date of publication.

Conclusion: FDIC staff presents to the FDIC Board the attached notice document entitled, “Rescission of Statement of Policy on Qualifications for Failed Bank Acquisitions” for approval, and requests authorization to publish the notice in the *Federal Register*.

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