

September 16, 2025

Jennifer Jones
Deputy Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

RE: Guidelines for Appeals of Material Supervisory Determinations RIN 3064-ZA50

Dear Ms. Jones:

The American Bankers Association (ABA)¹ appreciates the opportunity to comment on the Federal Deposit Insurance Corporation's (FDIC) proposal to reform its process for appealing material supervisory determinations. The proposal would establish an independent Office of Supervisory Appeals (OSA) as the final level of review of material supervisory determinations made by the FDIC and make certain other administrative changes to the supervisory appeals process.

ABA strongly supports the proposal. We have long advocated for an appeals mechanism to be more independent, fair, and credible than what is provided by the Supervision Appeals Review Committee (SARC) model.² ABA believes that an independent supervisory appeals process serves as a crucial backstop for fair and consistent supervision. If finalized, the proposed OSA would greatly strengthen both the credibility and efficiency of supervisory appeals, ensuring due process for supervised banks. We appreciate that the OSA will be a standalone office that is separate from supervisory functions and staffed by officials with relevant supervisory experience, including former regulators and industry professionals. These changes have the potential to avoid both actual and perceived conflicts of interest.

One area we think should be improved is regarding the burden of proof for all matters being placed on the institution seeking appeal. The FDIC should not place the burden of proof on appealing banks. Such a requirement is not required by statute and is unnecessarily prescriptive

¹ The American Bankers Association is the voice of the nation's \$24.5 trillion banking industry, which is composed of small, regional and large banks that together employ approximately 2.1 million people, safeguard \$19.5 trillion in deposits and extend \$12.8 trillion in loans.

² ABA [comment letter](#) to FDIC on Guidelines of Material Supervisory Determinations (November 2022)
ABA [comment letter](#) to FDIC on Guidelines for Appeals of Material Supervisory Determinations (June 2022)
ABA [comment letter](#) to FDIC on the Proposal to Establish the Office of Supervisory Appeals (October 2020)

because the process is not governed by the Administrative Procedures Act or other formal judicial review procedures. ABA believes that placing the burden of proof on the appealing institution discourages appeals by making it harder for institutions to win their cases.

While ABA supports the overall direction of the proposal, we respectfully encourage the FDIC to:

- Promote greater transparency and fairness in the overall examination process by permitting institutions to respond to adverse findings before they are formally issued.
- Periodically review and publicize summary data on OSA decisions (with appropriate redactions), to promote transparency and learning.
- Ensure clear communication to all FDIC-supervised banks about the appeals process and the functions of the new office.
- Monitor the transition from the SARC to the OSA.
- Provide opportunities for institutions to offer ongoing feedback as the OSA structure is implemented.

ABA appreciates the FDIC's efforts to modernize its supervisory appeals process by forming an independent Office of Supervisory Appeals. If you have any questions or would like to discuss our comments further, please contact the undersigned at [REDACTED]. Thank you for considering these comments.

Sincerely,

Alison Touhey
American Bankers Association