

September 18, 2025

Jennifer Jones, Deputy Executive Secretary
Attention: Comments RIN 3064-ZA48
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: Request for Information on Industrial Banks and Industrial Loan Companies and Their Parent Companies (RIN 3064-ZA48)

Dear Ms. Jones;

Congress passed legislation supporting Industrial Loan Companies (ILCs) by allowing ILCs to apply for Federal deposit insurance. Under current law there is no prohibition on ILCs from applying for Federal deposit insurance and being exempted from the definition of "banks" under the Bank Holding Company Act (BHCA).

The RFI states, "The Competitive Equality Banking Act of 1987 (CEBA) excluded industrial banks from the definition of "bank" in the BHCA. As a result, a company can control an industrial bank without causing that company to be a bank holding company subject to the BHCA's activities restrictions or Federal Reserve Bank (FRB) supervision and regulation."

There is existing guidance of the statutory factors the FDIC should consider regardless of whether it is a bank with a holding company or a bank with an ILC. Establishing different statutory factors to evaluate different charters brings confusion and non-transparency to the process. A bank is a bank. FDIC has to meet their review based on:

1. 12 USC 1816 which documents the factors that are required to be considered in connection with any certificate. The Act requires the FDIC to consider the following statutory factors when reviewing an application for deposit insurance, including from a proposed industrial bank:
 - The financial history and condition of the depository institution;
 - The adequacy of the depository institution's capital structure;
 - The future earnings prospects of the depository institution;
 - The general character and fitness of the management of the depository institution;
 - The risk presented by such depository institution to the DIF;
 - The convenience and needs of the community to be served by such depository institution; and
 - Whether the depository institution's corporate powers are consistent with the purposes of this chapter.
2. Federal Register (FR) which announces rules, proposed rules, and notices from agencies, and executive orders announced in Volume 63 on August 20, 1998, the FDIC revised its statement of policy on "Applications for Deposit Insurance", providing guidance on the application process.
3. The FDIC published a handbook, in December of 2019, for organizers of De Novo institutions on applying for deposit insurance. This is a 43-page handbook designed to help potential organizers of new or "de novo" institutions become familiar with the deposit application process and the path to obtaining deposit insurance.
4. The business plan will tell the FDIC how the industrial bank will be managed.

Bank Application Actions

On the FDIC website, Bank Applications are tracked over a 10-year period between 9/1/15 through 8/31/25. In this period, there were 3 ILC applications and 90 new traditional bank applications approved. The FDIC, and specifically the FDIC Board who leads the FDIC Chairman, makes the final decision whether to approve an application for deposit insurance. During the 71 months that Martin Gruenberg was the FDIC Chairman, 0 ILC applications and 38 traditional bank applications were approved. During the 42 months that Jelena McWilliams was the FDIC

Chairman, 3 ILC applications and 50 traditional bank applications were approved. During the 7 months to present that Travis Hill is the FDIC Chairman, 0 ILC applications and 2 traditional bank applications have been approved. In response to the financial crisis of the Dodd-Frank Wall Street Reform and Consumer Protection Act placed a moratorium on ILC applications. However, at the end of the moratorium in 2013, there was a 7-year drought from 2013 to 2020 where 0 ILC applications were approved by the FDIC. Michael Gruenberg served as the FDIC Chairman during this drought from 7/9/11 to 6/15/18. There are laws that allow industrial banks to exist, yet FDIC leadership ignored Congress and blocked ILCs.

Adequacy of capital structure

Capital structure acts as a cushion for a bank during times of financial stress, economic downturns and promotes good bank management. Management should be making good decisions to protect the capital of the bank. Section 38 of the Federal Deposit Insurance Act has already established capital adequacy guidelines in FDIC-Supervised institutions. The system of rating is Well Capitalized, Adequately Capitalized, Undercapitalized, Significantly Undercapitalized and Critically Undercapitalized. An insured depository institution is:

- “Well Capitalized” if it significantly exceeds the required minimum level.
- “Adequately Capitalized” if it meets the required minimum level.
- “Undercapitalized” if it fails to meet the required minimum level.
- “Significantly Undercapitalized” if it is significantly below the required minimum level.
- “Critically Undercapitalized” if it fails to meet any level.

Developing a secondary measure of adequacy of capital structure creates confusion and is non-transparent to the applicant bank.

Parent Company – Source of Strength

A bank holding company (BHC) is required to be a source of strength in the event a traditional bank needs additional capital. A BHC has limited earning opportunity, the main source of income is dividends from their subsidiary banks. If the subsidiary banks are having financial difficulty, the BHC earnings will significantly drop because no dividends will be paid. The BHC could borrow money to inject capital into the bank. An ILC has a parent company that is required to be the source of strength in the event that an industrial bank needs additional capital. A parent company earns income from the core business. A parent company has the full resources from years of earnings potential and earnings history, diversified assets and could borrow money to inject capital into the bank.

There are external concerns about the industrial banks whose business plans are wholly dependent on the operations, products, services and customers of the parent company. For example, Wal-Mart Bank's application to form an industrial bank led to extensive concerns regarding the potential anti-competitive effects of the proposal and whether it was consistent with the purpose of the industrial bank charter. Congress did not enact a law that says an industrial bank charter has to consider anti-competitive effects. The review of an application needs to stay true to the laws that are in place.

Non-financial companies

The FDIC defined mandates on parent companies in 12 CFR 354, which took effect on April 1, 2021. Part 354 codified the FDIC's practice of requiring certain conditions and written commitments for each deposit insurance application approval. Part 354 also requires that, before any industrial bank may become a subsidiary of a company that is not subject to Federal consolidated supervision, such industrial bank AND parent company must enter into one or more written agreements with the FDIC. I agree the parent company should be equal for a holding company. Additionally, part 354 requires the FDIC's prior written approval for certain actions proposed by the industrial bank, such as making a material change in its business plan. An ILC is a bank and therefore should be able to do anything a traditional bank can do. Regardless if a traditional bank or an ILC, rules should be the same for:

- Regulatory examinations
- Annual reports
- FDIC reports

- Board of Directors and/or Board of Managers
- Maintain capital and liquidity
- Financial and Accounting Standards Board (FASB)
- Business plan meets business performance.
- Community Reinvestment Act (CRA)
- Appropriate officers and staff necessary to manage correctly
- Appropriate contracts including due diligence for business support
- Appropriate risk assessments
- Security protections
- Policies
- Strategic Plans
- Board reporting
- Committees
- Business Continuity Planning

Congress issued Acts and all banks must be managed regardless of charter type.

Foreign-Owned Industrial Banks

ILCs are issued by State laws and States need to verify that the ILCs are located in the States based on location, articles of incorporation, offices, employees located in the States and any other relevant proof.

Existing Regulatory and Supervisory Framework

Federal Reserve Act Section 23A and 23B / Regulation W is to protect banks from excessive financial risk, prevent the misuse of bank resources and ensure that affiliate transactions occur on market terms and collateral requirements. These rules exist for banks and should apply for an industrial loan bank, a national bank, a state member bank or a state non-member bank. The rule is the rule.

Conclusion

We believe that industrial banks, when appropriately supervised and regulated, are a valuable part of the US financial system. Congress creates ILCs. The FDIC should provide a transparent and non-political framework for the Federal deposit insurance application process.

Sincerely,

Jeff Haase, CRCM