



Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Financial Institution Letters
FIL-113-2004
October 13, 2004

FDIC Appeal Processes

Guidelines for Appeals of Material Supervisory Determinations

Guidelines for Appeals of Deposit Insurance Assessment Determinations

Summary: The FDIC has adopted revised Guidelines for Appeals of Material Supervisory Determinations, which govern appeals by FDIC-supervised institutions to the Supervision Appeals Review Committee (SARC), and Guidelines for Appeals of Deposit Insurance Assessment Determinations, which govern appeals by FDIC-insured institutions to the Assessment Appeals Committee (AAC).

Distribution:

FDIC-Insured Institutions (Commercial and Savings)

Suggested Routing:

Chief Executive Officer
Chief Financial Officer

Related Topics: 12 C.F.R. § 327.3(h) (request for revision of assessment computation); 12 C.F.R. § 327.4(d) (request for review of risk classification).

Attachments: Continuation of FIL-113-2004; Guidelines for Appeals of Material Supervisory Determinations; and Guidelines for Appeals of Deposit Insurance Assessment Determinations

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Note:

FDIC Financial Institution Letters (FILs) may be accessed from the FDIC's Web site at www.fdic.gov/news/news/financial/2004/index.html.

To receive FILs electronically, please visit <http://www.fdic.gov/about/subscriptions/index.html>.

Paper copies of FDIC financial institution letters may be obtained through the FDIC's Public Information Center, 801 17th Street, NW, Room 100, Washington, DC 20434 (1-877-275-3342 or 202-416-6940).

Highlights:

- The Guidelines for Appeals of Material Supervisory Determinations and the Guidelines for Appeals of Deposit Insurance Assessment Determinations became effective on June 28, 2004.
- The Guidelines for Appeals of Material Supervisory Determinations reduce SARC membership from five to three voting members drawn from the most senior corporate level.
- The Division of Supervision and Consumer Protection (DSC) issues a written determination on a request for review within 30 calendar days, setting forth the grounds for the determination.
- If dissatisfied with the DSC determination, institutions may appeal to the SARC.
- The SARC will review the appeal and issue a written decision, usually within 60 calendar days.
- The Guidelines for Appeals of Deposit Insurance Assessment Determinations reduce AAC membership from seven to five voting members drawn from the most senior corporate level.
- Institutions that dispute their quarterly assessment payment must comply with 12 C.F.R. § 327.3(h), while institutions that dispute their risk classification must comply with 12 C.F.R. § 327.4(d).
- If dissatisfied with the determination made by the appropriate division, institutions may appeal to the AAC.
- The AAC will review the appeal and issue a written decision, usually within 60 calendar days.

FDIC APPEAL PROCESSES

The Board of Directors of the Federal Deposit Insurance Corporation (FDIC) has adopted revised Guidelines for Appeals of Material Supervisory Determinations, and Guidelines for Appeals of Deposit Insurance Assessment Determinations. Both sets of guidelines became effective on June 28, 2004.

As revised, the Guidelines for Appeals of Material Supervisory Determinations change the composition of the Supervision Appeals Review Committee (SARC), reducing it from five to three voting members drawn from the most senior levels of the Corporation. The guidelines set forth procedures to be followed by FDIC-supervised institutions when appealing material supervisory determinations. No appeal to the SARC is allowed unless an institution has first filed a timely request for review with the Director of the FDIC's Division of Supervision and Consumer Protection (DSC). The guidelines provide for the DSC Director to issue a written determination regarding the division's review, setting forth the grounds for the determination. If dissatisfied with that determination, institutions have discretion to appeal to the SARC. The types of determinations eligible for review by the SARC and the standards by which appeals are decided remain unchanged.

Under the guidelines, institutions should make a good faith effort to resolve any dispute concerning a material supervisory determination with the on-site examiner or the appropriate DSC Regional Office. Any request for review must be filed with DSC, and DSC will issue a written determination within 30 calendar days. An institution that does not agree with DSC's determination may appeal that determination to the SARC within 30 calendar days. The SARC will review the appeal and notify the institution in writing of its decision, usually within 60 calendar days.

The Guidelines for Appeals of Deposit Insurance Assessment Determinations change the composition of the Assessment Appeals Committee (AAC), reducing it from seven to five voting members drawn from the most senior Corporation levels. The guidelines set forth procedures to be followed by FDIC-insured depository institutions that choose to appeal adverse assessment determinations they have received from the appropriate FDIC division. The types of determinations eligible for review by the AAC and the standards by which such appeals are decided remain unchanged.

Under the FDIC's assessment regulations, an institution that disputes the computation of its quarterly assessment payment must comply with the filing requirements set forth at 12 C.F.R. § 327.3(h), while a dispute over risk classification must comply with the filing requirements set forth at 12 C.F.R. § 327.4(d). An insured depository institution dissatisfied with the determination made by the appropriate division pursuant to either section may appeal that determination to the AAC. The AAC will review the appeal and notify the institution in writing of its decision, usually within 60 calendar days.

Robert E. Feldman
Executive Secretary
Legal Division