

6714-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

RIN 3064-ZA03

Request for Information on the FDIC's Deposit Insurance Application Process

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and Request for Information.

SUMMARY: The FDIC is seeking comment from interested parties regarding the FDIC's deposit insurance application process.

DATES: Comments must be received by [60 days after date of publication].

ADDRESSES: You may submit comments, identified by RIN 3064-ZA03, by any of the following methods:

- *Agency Website:* <http://www.fdic.gov/regulations/laws/federal/>. Follow the instructions for submitting comments on the Agency Web site.

- *Email:* Comments@fdic.gov. Include the RIN 3064-ZA03 in the subject line of the message.

• *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC, 20429.

• *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street, NW, building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

Instructions: All comments received must include the agency name and RIN 3064-ZA03 for this request for information. All comments received will be posted without change to <http://www.fdic.gov/regulations/laws/federal/>—including any personal information provided—for public inspection. Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E-1002, Arlington, VA, 22226, or by telephone at (877) 275-3342 or (703) 562-2200.

FOR FURTHER INFORMATION CONTACT:

RMS Contacts: Donald Hamm, Special Advisor, (202) 898-3528, DHamm@FDIC.gov.

Legal Contacts: Annmarie Boyd, Counsel, (202) 898-3714, ABoyd@FDIC.gov;

Catherine Topping, Counsel, (202) 898-3975, CTopping@FDIC.gov.

SUPPLEMENTARY INFORMATION:

Background

The FDIC is responsible for maintaining stability and public confidence in the nation's financial system by insuring deposits, examining and supervising financial institutions for safety and soundness and consumer protection, making large and complex financial institutions resolvable, and managing receiverships. As part of this mission, the FDIC grants deposit insurance to newly formed institutions and to operating institutions that are not currently insured.

Section 5 of the Federal Deposit Insurance Act (FDI Act), 12 U.S.C. § 1815(a), requires any proposed depository institution seeking federal deposit insurance to file an application with the FDIC. In every case, the FDIC's review considers the statutory factors enumerated in Section 6 of the FDI Act, 12 U.S.C. § 1816:

- The institution's financial history and condition,
- The adequacy of the institution's capital structure,
- The institution's future earnings prospects,
- The general character and fitness of the management of the institution,
- The risk presented by the institution to the Deposit Insurance Fund,
- The convenience and needs of the community to be served by the institution, and

- Whether the institution’s corporate powers are consistent with the purposes of the FDI Act.

In general, the FDIC applies the same processes to the review of each deposit insurance application. However, because applications present a wide range of structures, strategies, and business models, each review focuses on the facts and circumstances presented in the application.

Overview of Request for Information

Within the context of the existing statutory framework, the FDIC is seeking comments regarding the deposit insurance application process, including with respect to the transparency and efficiency of the process, and any unnecessary burdens that have become a part of the process. The FDIC encourages comments from all interested members of the public, including but not limited to insured depository institutions, other financial institutions or companies, individual depositors and consumers, consumer groups, and other interested stakeholders.

Summary of the Deposit Insurance Application Process

The FDIC follows an established review process that is applied to all types of deposit insurance applications in order to inform the public and assure the fair treatment of all

applicants. In broad terms, the deposit insurance application process includes pre-filing activities, application submission, and the FDIC's application review and processing.

The primary objective of the review process is to consider whether the proposed institution satisfies the statutory requirements. In general, deposit insurance will be granted if the FDIC is able to find favorably on each of the statutory factors, plus the considerations required by the National Historic Preservation Act and the National Environmental Policy Act.

The pre-filing activities generally include the earliest steps in a proposed institution's formation. These steps primarily involve identifying organizers, directors, and key officers; developing the business plan; determining the appropriate amount of capital to be raised; and engaging in one or more pre-filing meetings with staff from the FDIC and other relevant agencies. The FDIC also announced that organizers may obtain the FDIC's feedback on a draft deposit insurance proposal during the pre-filing period.

Following submission of an application, the FDIC will conduct an initial review to determine whether the application is substantially complete. If the application is substantially complete, the FDIC will accept the application for processing and, in coordination with the other relevant state and federal agencies, complete a detailed review of the application that includes a field investigation.

Depending on the application's characteristics and the findings with regard to the statutory factors, authority to act may reside at the Regional Office level, or may transfer to the FDIC's Washington Office or Board of Directors. Although the FDIC's processing time will vary depending on the unique characteristics of each proposal, the FDIC strives to act on applications within four months after being accepted as substantially complete.

The FDIC has provided a number of resources, accessible through the FDIC's website, to aid organizers and other interested parties in understanding the application process. A list of these resources can be found in Appendix A.¹

Request for Comment

The FDIC seeks comments from interested parties on all aspects of the deposit insurance application process, including guidance and other issuances, the steps in the application process, and communications with applicants, other interested parties, and the general public. In addition to any general comments, the FDIC invites comments in response to the more specific topics and questions presented below. We encourage commenters to be as specific as possible.

1. What steps, if any, can the FDIC take to improve the de novo application process?

¹ The FDIC provides resources related to applications for deposit insurance on its public website. See <https://www.fdic.gov/regulations/applications/depositinsurance/index.html>.

2. Are there any specific aspects or components of the application process that particularly discourage potential applicants from initiating or completing the application process?
3. Are there ways the FDIC could or should update or supplement existing resources to clarify expectations and promote a more transparent application process? If so, please provide details and support.
4. Are there any aspects of the pre-filing process, including with respect to the newly announced process regarding draft deposit insurance proposals, that could be modified or enhanced to further clarify expectations or processes for prospective applicants and improve applicants' ability to submit a substantially complete application?
5. How effective is the application form and its related instructions? Could any elements of the form or instructions be modified or enhanced to improve applicants' ability to submit a substantially complete application?
6. Are there any aspects of the field investigation process that could be improved to better facilitate completion of the application process?

7. In what ways could or should the FDIC modify the application process for proposed traditional community banks? How would any suggested changes impact the evaluation of the statutory factors?
8. In what ways could or should the FDIC modify the application process for proposed institutions that are not traditional community banks? How would any suggested changes impact the evaluation of the statutory factors?
9. Are there ways the FDIC could or should tailor its evaluation of applications from proposed institutions that are not traditional community banks, consistent with the statutory factors as described in the FDIC Statement of Policy on Applications for Deposit Insurance (SOP)? If so, please explain.
10. Are there ways the FDIC could or should support the continuing evolution of emerging technology and fintech companies as part of its application review process? Are there particular risks associated with any such proposals, and, if so, are there ways such risks could or should be mitigated?
11. Are the FDIC's expectations (as provided by the FDIC resources identified in this RFI) regarding capital adequacy and liquidity/funding for prospective applicants sufficiently clear and understandable? If not, what additional information or clarifications could the FDIC provide?

12. Are there legal, regulatory, economic, technological, or other factors separate from the application process that discourage potential applicants from submitting applications for deposit insurance that the FDIC should be aware of? If so, are there steps the FDIC could or should take to mitigate the impact of such factors?

13. Are there any other suggestions that the FDIC should consider for improving the effectiveness, efficiency, or transparency of the application process, or for addressing any other interests or concerns of stakeholders relative to the application process?

Appendix A – Resources

The following resources are accessible through the FDIC’s public website

(<https://www.fdic.gov/regulations/applications/resources/>). The resources aid organizers and other interested parties in understanding the application process.

- Part 303 of the FDIC Rules and Regulations, which outlines procedures for the submission and review of applications, including applications for deposit insurance.
- The Interagency Charter and Federal Deposit Insurance Application Form, which requests the information the chartering authority and FDIC need to evaluate the application. The application form provides general instructions, specific information fields, supplemental guidelines for business plans, and a template for financial schedules.
- The SOP, which informs the process by which FDIC staff evaluate the statutory factors described above.
- Questions and answers related to the SOP, issued on November 20, 2014, and on April 6, 2016, to help clarify expectations for applicants in developing deposit insurance proposals.
- The *Deposit Insurance Applications – A Handbook for Organizers of De Novo Institutions* (Handbook), which was issued for public comment on December 22, 2016, and issued in final form on May 1, 2017. The Handbook is designed to help organizers become familiar with the deposit insurance application process and the path to obtaining deposit insurance.

- The *Deposit Insurance Applications Procedures Manual* (Manual) was issued for public comment on July 10, 2017, and provides guidance for FDIC staff in the review and processing of deposit insurance applications. The Manual was issued in final form on November 1, 2018.

Dated at Washington, DC, on [date].
Federal Deposit Insurance Corporation.
Robert E. Feldman,
Executive Secretary.