

I. INTRODUCTION

Per Parts 303 and 345 of the FDIC Rules and Regulations, the FDIC must review and consider the applicant's record of performance under the CRA and Compliance for any of the following "covered" applications:

- The establishment of a domestic branch;
- The relocation of the institution's main office or a domestic branch;
- The relocation of an insured branch of a foreign bank;
- A transaction subject to the Bank Merger Act; and
- Deposit insurance.

The Case Manager should ensure that the Division of Depositor and Consumer Protection (DCP) Review Examiner is included in the distribution of covered applications. The appropriate internal tracking form can also be used to initiate contact with DCP, summarize key elements of the application, and provide any comments. The Case Manager should consult with Washington Office DCP, RMS, and Legal Division staff, as appropriate.

II. EXPEDITED PROCESSING AND REMOVAL

For an institution to be eligible for expedited processing¹, it must have been assigned an Outstanding or Satisfactory CRA rating and a 1 or 2 Compliance rating by its Primary Federal Regulator as a result of its most recent examination.

The following circumstances may warrant the removal of the application from expedited processing following consultation among DCP, RMS, and Legal:

- Filings subject to public notice or if an adverse comment is received that warrants additional investigation or review;
- Filings subject to an evaluation of CRA performance; a CRA protest is received that warrants additional investigation or review;
- The Regional Director determines that the filing presents a significant CRA² or compliance concern;
- Filings that present a significant supervisory concern or raise a significant legal or policy issue; or
- Other good cause as determined by the Regional Director.

III. APPLICATION CONSIDERATIONS

Upon receipt of a covered application, the Case Manager will request a review, and DCP personnel must make an assessment of the applicant's record of performance under the CRA and Compliance for each covered application filed with the FDIC and must provide a recommendation based on that assessment. The FDIC will consider the institution's CRA

¹ It is the responsibility of DCP and RMS to determine whether an application should be removed from expedited processing because of a CRA protest or compliance problem of significant concern. DCP has the responsibility for determining whether comments received regarding an applicant's CRA record constitutes a protest. Refer to Section 1.1 for a full definition of expedited processing.

² A significant CRA concern could include, among other scenarios, a determination that although an institution may have an institution-wide CRA rating of satisfactory or better, the rating is less than satisfactory in one or more rated areas.

performance, Compliance rating, merits of any CRA protest, and other information in reaching a finding on the statutory factors involving the Management, Convenience and Needs of the Community to be Served, and other factors, as appropriate. In reviewing a merger application, these elements should be considered for each institution involved in the transaction, as well as for the resultant institution.

Adverse findings concerning an applicant's CRA performance could result in denial or conditional approval of an application. The FDIC will consider the evaluation of CRA performance, as well as other information such as management performance, in reaching a finding on the statutory factors involving Management and Convenience and Needs of the Community to be served.

An institution's CRA and Compliance performance will generally not raise supervisory concerns if it has been assigned a CRA rating of Outstanding or Satisfactory and a compliance rating of 1 or 2. In addition, the institution should not be subject to any outstanding formal or informal enforcement actions related to discrimination or other illegal credit practices impacting CRA performance. Further, the institution should not present any other significant compliance issues, such as a less than satisfactory CRA rating in one or more rated areas, or other concerns.

An institution with a CRA rating of Needs to Improve and/or a compliance rating of 4 or 5 or an outstanding formal or informal enforcement action related to fair lending or compliance performance will be considered to have a record that raises supervisory concerns. In a case of an institution with a compliance rating of 3, Case Managers should consult with Regional Office (RO) management and DCP. An adverse recommendation will generally be warranted unless:

- The time period since the previous CRA examination has been longer than one year, and the institution asserts and the RO verifies, that the applicant has taken appropriate action to address the criticisms in the Report of Examination.
- An institution has demonstrated that it substantially addressed outstanding CRA and/or compliance related provisions set forth in an outstanding informal or formal enforcement action that is similar to performance requirements that otherwise would be established for conditional approval, and the RO has confirmed, either through an examination or visitation, that corrective action has been taken.

An institution will be considered to have a record that warrants a recommendation of denial when its CRA rating is Substantial Non-Compliance. This recommendation will remain appropriate until a future examination shows that the institution has improved its performance to a composite Satisfactory level.

Commitments for future action, offered by an applicant to address specific concerns raised in the report of examination, will be considered in the application process.

IV. COORDINATION OF APPLICATION REVIEWS

The RO must consult with the Washington Office before it makes a recommendation for approval with conditions. The terms of any proposed conditions and their imposition will be discussed with the applicant. RMS may extend or reopen the comment period under certain circumstances and if good cause exists.

DCP should advise RMS as to whether any concerns exist regarding CRA or compliance performance within seven calendar days of receipt of RMS notification for applications by institutions with a Satisfactory or Outstanding CRA Rating, no CRA Protest, and a 1 or 2 Compliance Rating and no outstanding informal or formal enforcement action.

For any institution in which there are significant CRA or compliance concerns, DCP will provide a written memorandum to RMS detailing its analysis of the applicant's record within 15 calendar days of receipt of the notification for any application.

For applications for deposit insurance, DCP will review the institution's descriptive plan for meeting its CRA objectives and provide a recommendation to RMS within seven calendar days of receipt of the notification. If DCP proposes to conduct a field investigation, it should be coordinated with RMS's field investigation, and the results must be forwarded to RMS within seven calendar days of the conclusion of DCP's onsite review.

REFERENCES

Section 303.5 and Part 345 of the FDIC Rules and Regulations