

## I. INTRODUCTION

The procedures set forth in Section 303.11(f) of the FDIC Rules and Regulations shall apply to filings for which no appeal procedures are provided by regulation or other written instruction.<sup>1</sup>

Case Managers must consult with the Regional Office management and Legal and appropriate Washington Office (WO) Section (RMAS, LBS) on any such request for reconsideration to ensure that the appropriate procedures and timelines are followed. Refer to Applications Overview, Section 1.1 of these Procedures, for information regarding filings involving state savings associations.

## II. CONTENT OF A REQUEST FOR RECONSIDERATION

Any applicant may file a request for reconsideration (Request) with the appropriate Regional Director within 15 days of receiving notice from the FDIC that a filing has been denied. As required in Section 303.11(f) of the FDIC Rules and Regulations, a Request must contain the following information:

1. A resolution of the applicant's board of directors authorizing filing of the Request, or a letter signed by the individual(s) filing the Request if the applicant is not a corporation;
2. Relevant, substantive information that for good cause was not previously set forth in the filing; and,
3. Specific reasons why the FDIC should reconsider its prior decision.

## III. RECEIVING AND PROCESSING THE REQUEST

Processing a Request can be a two-step process. First, the FDIC must review the Request and determine whether reconsideration will be granted. The FDIC must then notify the applicant of the FDIC's determination whether reconsideration will be granted or denied within 15 days of receipt of the Request. Second, if reconsideration is granted, the FDIC will reconsider its determination on the original filing and must notify the applicant of the final agency decision on the filing within 60 days of receipt of the Request.

Case Managers are to review and process requests following the steps below and included in *Applications Overview*, Section 1.1 of these Procedures.<sup>2</sup> Case Managers should note that the procedures that follow assume the Request pertains to a denial issued by the respective Regional Office (RO) under delegated authority. Cases involving a denial issued by the WO require significant and timely coordination between the RO and WO, and heightened attention to the applicable timeframes.

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<sup>1</sup> Appeal procedures for a denial of a change in bank control notice, notice of a change in senior executive officer or board of directors, or an application pursuant to Section 19 of the FDI Act are contained in Part 308 of the FDIC Rules and Regulations, Subparts D, L, and M, respectively. For further guidance on appeal procedures for these types of filings, refer to Sections 5, 6 and 17 of these Procedures, respectively.

<sup>2</sup> Case Managers are to read and follow the general guidance and expectations for all applications regarding receipt and acceptance, recordkeeping responsibilities, DCP notifications, WO action or input, delegations, and other instructions as applicable, in *Applications Overview*, Section 1.1 of these Procedures.

Determination on the Request

1. Establish the system record. The Request is to be entered into the appropriate internal database within three days of receipt. In all cases, dates and comments in the record should be updated regularly to reflect the current status of the application.
2. Forward a copy of the Request to the WO (*i.e.*, appropriate Section Chief for the Risk Management and Applications Section (RMAS) or the Large Bank Supervision Branch (LBS)). The WO must be involved early in the process due to the timeframes for the FDIC to respond to the applicant.
3. Requests should be reviewed immediately upon receipt to determine whether the Request is complete. Requests that do not comprehensively address and support each of the filing requirements should be deemed substantially incomplete after consulting with RO management and Legal, as well as WO (RMS and Legal), if appropriate. Deficiencies should be promptly communicated to the applicant orally and in writing to enable the applicant to supplement the Request within the 15-day period. Further, the applicant should be notified that failure to submit the necessary information may result in the request being returned or denied. However, Case Managers are cautioned that requests for information should be limited to the information necessary to fairly evaluate the Request.
4. Analyze the Request and complete the appropriate Summary of Investigation (SOI) form.<sup>3</sup> Retrieve the Application Summary Statement from the system of record and attach it to the SOI. The SOI should address:
  - Receipt of a board resolution authorizing filing of the Request, or a letter signed by the individual(s) filing the Request if the applicant is not a corporation;
  - Summary of relevant, substantive information that for good cause was not previously set forth in the filing;

Note that changes to the underlying application are more appropriately addressed through a new filing rather than a request for reconsideration.

  - Specific reasons why the FDIC should or should not reconsider its prior decision; and,
  - The RO recommendation.
5. If the RO intends to grant the Request, following consultation with the WO, prepare a letter to notify the applicant of the FDIC's decision to grant the Request. The letter should indicate that the FDIC is not approving the original filing; rather, the FDIC will reevaluate its previous determination.
6. If the RO intends to recommend denial of the Request, WO and RO Legal should be consulted. If deficiencies in the content of the Request could result in a return or denial

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<sup>3</sup> Case Managers are to follow the general instructions and detailed discussion of SOI requirements for all types of applications located in *Summary of Investigation*, Section 1.2 of these Procedures, as well as the specific instruction in this Section.

of the Request, the RO should advise the applicant of the deficiencies. This includes the applicant's failure to provide relevant, substantive information that for good cause was not previously set forth in the filing and/or the failure to provide specific reasons why the FDIC should reconsider its prior determination. Refer to *Denials and Disapprovals*, Section 1.2 of these Procedures, for further instruction

7. If the RO recommends denying the Request, forward a draft denial letter, the SOI, and any other pertinent information to the WO for final processing and action. The draft denial letter should set forth the specific reason(s) for the denial. The bases for a denial will generally center on the applicant's failure to provide relevant, substantive information that for good cause was not previously set forth in the filing, and/or the failure to provide specific reasons why the FDIC should reconsider the prior decision.
8. Update the appropriate internal database to reflect the FDIC's action on the Request, the date of the action, the date forwarded to the WO, if applicable, hours spent processing the application, and any other required information.

### Reconsideration

1. If the RO grants reconsideration, notify by email the appropriate Section Chief (RMAS or LBS) and WO Legal that a letter was issued granting reconsideration, and noting the specific date (not later than 60 days from receiving the substantially complete Request) by which the FDIC's final decision on the Request must be issued. Attach the letter sent to the applicant.
2. Obtain and analyze the SOI for the original filing and assess the impact the information provided in the Request, if known and available at the time of the denial, would have had on the original filing. Each relevant statutory factor evaluated under the original filing must be re-evaluated in light of the new information, particularly those factors the RO originally found unfavorable.
3. Comments should describe the information provided, explain why the information was not previously set forth in the filing, and address the impact of the information on the evaluation of the original filing and the relevant statutory factors. The memorandum should provide the RO's recommendation.

If the RO determines that the information provided in the Request would not have resulted in a different determination (*i.e.*, the prior denial determination remains well supported after considering the information provided in the Request), prepare a draft letter to notify the applicant that the FDIC has reconsidered the filing and affirms the prior determination. The letter should explicitly state that the affirmation of the prior determination is a final agency determination.

If the RO determines that the information provided in the Request supports a different decision (*i.e.*, an approval of, or non-objection to, the original filing), prepare a draft letter to notify the applicant that the FDIC has reconsidered the filing and, based on the information provided in the Request, approves or does not object to the original filing. As appropriate, the approval or non-objection may be subject to conditions.<sup>4</sup> The RO

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<sup>4</sup> Any non-standard conditions must be agreed to in writing by the applicant before approval. Refer to *Standard and Non-standard Conditions* in Section 1.11 of these Procedures.

should not contact the applicant regarding any possible conditions, however, as authority to reconsider rests with the Division Director, Supervisory Appeals Review Committee, or FDIC Board.

4. Forward the SOI, the draft letter, the original SOI, and any other pertinent information to the WO (RMAS or LBS Section Chief) for final processing and action. RMAS will consult with WO Legal prior to finalizing a recommendation, and the WO will advise the RO when final action has been taken. The WO will advise the applicant of the FDIC's decision.

#### **IV. TIME FRAME FOR PROCESSING**

Request for Review:

Regulatory: Within 15 days of receipt of a Request, the FDIC will notify the applicant whether reconsideration will be granted or denied.

RO Processing Guidelines: If granting, 15 days from receipt. If recommending denial, forward the RO recommendation to the WO within 10 days from receipt of the Request.

Reconsideration:

Regulatory: The FDIC will notify the applicant of its final decision within 60 days of receipt of the Request.

RO Processing Guidelines: 30 days from receipt (this includes the 15 days to grant the Request) to forward RO recommendation to the WO.

RO Guidelines for  
Mutual to-Stock  
Conversion

Reconsiderations: 20 days from receipt (this includes the 15 days to grant the Request) to forward RO recommendation to the WO.

#### **V. PUBLICATION REQUIREMENT**

None.

#### **VI. DELEGATED AUTHORITY**

Delegations of authority regarding applications, notices, and other filings are discussed in *Applications Overview*, Section 1.1 of these Procedures.

#### **VII. REFERENCES**

*Section 303.11(f) of the FDIC Rules and Regulations, 12 CFR § 303.11(f)*