

## I. INTRODUCTION

Section 303.251 of the FDIC Rules and Regulations sets forth the procedures to be followed by an insured depository institution (IDI) to seek the prior consent of the FDIC for additional time to fulfill a condition contained in an approval of a filing issued by the FDIC or to consummate a transaction that was the subject of an approval by the FDIC.

Extension of time applications most commonly relate to the following types of applications: establishment of a domestic branch, mergers, retirement of capital, and deposit insurance.

An extension of time approval should be commensurate with the reasonable period of time needed to consummate the transaction. As a matter of policy, an extension will not be granted for a period exceeding one year.

Case Managers must consult with the Washington Office (WO) on any filing related to a state savings association 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. FORM OF APPLICATION

Applicants should submit a letter application to the appropriate Regional Office (RO) in accordance with Section 303.251 of the FDIC Rules and Regulations. Extension of time applications can also be filed electronically through the FDIC's secure, internet-based communication channel. Refer to *Applications Overview*, Section 1.1 of these Procedures for more information regarding applications filed through electronic communication channel.

The application should contain the following information:

1. A description of the original approved application;
2. Identification of the original time limitation;
3. The additional time period requested; and,
4. The reason for the request.

The FDIC may request additional information at any time during processing of the filing.

## III. ACCEPTING AND PROCESSING THE APPLICATION

Case Managers should review and process extension of time applications following the steps below and refer to *Applications Overview*, Section 1.1 of these Procedures, for general processing guidance for all application types.<sup>1</sup>

Under no circumstances should an extension request be granted subsequent to expiration of

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<sup>1</sup> Case Managers are to follow the general guidance and expectations for all applications regarding receipt and acceptance, recordkeeping responsibilities, DCP notifications, WO action or input, delegations, and other applicable instructions in *Applications Overview*, Section 1.1 of these Procedures.

the approval action. In such a case, since the underlying approval has expired, Case Managers should inform the institution that a new application for the underlying transaction or activity is necessary.

A request to extend the time to either comply with conditions imposed through the approval of the underlying application or to consummate the proposed transaction also requires Case Managers to consider whether the facts and circumstances warrant exercising the FDIC's right to alter, suspend or withdraw the prior approval pursuant to the standard conditions. The request may result in the FDIC modifying conditions imposed, adding appropriate conditions, or suspending or withdrawing the approval.

1. Establish the record in the appropriate internal database. All applications are to be entered into the system of record within three days of receipt. The record number of the original application is required to establish the extension record. If the original application has been extended, use the record number of the most recent extension. In all cases, dates and comments in the record should be updated regularly to reflect the current status of the application.
2. Complete the appropriate Summary of Investigation (SOI) form. Retrieve the Application Summary Statement from the appropriate internal database and attach it to the SOI.

The SOI comments should address the specifics of the request, including the date of the original approval, the expiration of the approval period per the original approval and the timeframe in which the applicant expects to achieve compliance with the condition in question or to consummate the approved transaction. The comments should briefly describe the IDI's current condition and supervisory status, and address the reasons why the condition was not met or the proposal was not consummated as originally expected. The SOI should also state the RO recommendation.

In analyzing the request for extension, consideration should be given to any changes that have occurred since approval of the underlying application that could negatively impact the original resolution of any statutory factor for the initial approval or other regulatory requirements. Case Managers are also to consider (as applicable) any other supervisory developments, including with respect to the institution's overall safety and soundness, the institution's Community Reinvestment Act and consumer protection performance, and any specialty examination programs. Material developments that negatively impact the original resolution of any statutory factor or regulatory requirement may serve as the basis for exercising the FDIC's right to alter, suspend, or withdraw its prior approval pursuant to the standard conditions, or denying the extension request.

3. If approval is being recommended, prepare a draft approval letter. Consider whether the existing conditions should be reiterated or referenced in the subject approval letter.
4. If the applicant's request for an extension provides insufficient bases for approval, a recommendation to deny the request may be appropriate. If recommending denial, prepare a draft disapproval letter. Refer to *Denials and Disapprovals*, Section 1.3 of these Procedures, for further instruction.
5. If the original application was acted on by the WO and authority has not been otherwise delegated, forward a copy of the SOI, the draft letter, and any other pertinent information to the WO for final processing and action. Refer to *Applications Overview*, Section 1.1 of

these Procedures for additional instructions regarding applications that require WO action or input. Otherwise, the application may be acted on at the RO level, so long as the delegate would have had authority to act on the original application.

6. Update the appropriate internal data base to reflect the date forwarded to the WO, if applicable, the final action, the date of the action, the expiration date, the hours devoted to the application, and any other required information.

#### **IV. EXPIRATION TRACKING AND SHORT TERM EXTENSIONS**

Approvals for many application types expire, unless consummated within a fixed period. Each RO is required to establish a system for tracking the status of approvals that are subject to expiration. The tracking procedures should ensure that RO staff is provided at least 60 days advance notice of approval expirations, allowing sufficient time to contact the applicant to determine whether a request for an extension of time is necessary. Case Managers can also track expiring applications in the Active Tasks menu option of the appropriate internal database.

If an applicant submits an extension request prior to the approval expiration, but RO staff cannot make a determination on the request prior to the expiration date, then, after consultation with the WO, an extension of time may be granted for the purpose of finalizing the review. Comments in the system of record should note specific reasons for such extensions.

#### **V. TIME FRAME FOR PROCESSING**

Statutory: None.

RO Processing Guideline: 30 days from receipt of a substantially complete application.

#### **VI. PUBLICATION REQUIREMENT**

None.

#### **VII. DELEGATED AUTHORITY**

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

#### **VIII. REFERENCES**

*Section 303.251 of the FDIC Rules and Regulations*