

Amendment to the FDIC's Proposed Statement of Policy on Qualifications for Failed Bank Acquisitions

I. Current Language

In order to address concerns it has regarding ownership structures involving more than de minimis investments that typically involve a shell holding company owned by another entity or other entities that avoid certain of the responsibilities of bank and thrift ownership, the FDIC is establishing standards for bidder eligibility that would be applicable to (a) private capital investors in a company (other than a bank or thrift holding company that has come into existence or has been acquired by an Investor at least 3 years prior to the date of this policy statement), that is proposing to directly or indirectly assume deposit liabilities, or such liabilities and assets, from a failed insured depository institution in receivership, and to (b) applicants for insurance in the case of de novo charters issued in connection with the resolution of failed insured depository institutions (hereinafter "Investors").

II. Language with Proposed Amendment

In order to address the concerns raised mainly by ownership structures involving more than de minimis investments that typically involve a shell holding company owned by another entity or other entities that avoid certain of the responsibilities of bank and thrift ownership, the FDIC is establishing standards for bidder eligibility that would be applicable to (a) private capital investors in a company (other than a bank or thrift holding company that has come into existence or has been acquired by an Investor at least 3 years prior to the date of this policy statement), that is proposing to directly or indirectly assume deposit liabilities, or such liabilities and assets, from a failed insured depository institution in receivership, and to (b) applicants for insurance in the case of de novo charters issued in connection with the resolution of failed insured depository institutions (hereinafter "Investors").

The *Capital Commitment*, *Source of Strength*, and *Cross Guarantees* requirements shall not apply to an investor (1) that is a bank holding company subject to the supervision and regulation of the Federal Reserve under the Bank Holding Company Act; (2) that is proposing directly or indirectly to assume deposit liabilities, or such liabilities and assets, from a failed insured depository institution in receivership through a transaction that is subject to the prior approval of the Federal Reserve under the Bank Holding Company Act; and (3) that the FDIC does not determine lacks sufficient managerial resources and expertise to support its insured depository institution subsidiary that will hold the liabilities, or the liabilities and assets, to be acquired from a failed insured depository institution in receivership (hereinafter "Excepted Investor"). The *Capital Commitment*, *Source of Strength*, and *Cross Guarantees* requirements also shall not apply to third party investors that invest in an Excepted Investor.