

# De Novo Banks

# Organizing a De Novo Bank

- Submits an application to the FDIC and State Banking Agency
  - A mission statement
  - A business plan with three years of financial projections
  - Policies for loans, investments and other operations of the bank
- The regulatory agencies review this information closely
  - Possible modifications at the direction of the regulators
- Approval must be received prior to opening

# Regulatory Orders

- All De Novo Banks are subject to at least one Order
  - Provisions or requirements must be met
  - Issued concurrently with approval to open

# Types of Orders

- FDIC Order
  - Deposit insurance is approved
  - Will remain in place for seven years
- State Agency Order
  - The charter is approved
  - May contain provisions similar to the FDIC's Order

# Provisions of an Order

- Unique to each bank
- Certain provisions must be satisfied before the bank opens, while other provisions are on-going requirements

# Complying with the Order

- Monetary fines can be imposed against the bank, board and senior management for violations of an Order
- A board with a blatant disregard for an Order, applicable laws and/or regulations represents a significant regulatory concern

# Common On-Going Provisions:

- Capital Minimums
  - Sets a minimum capital level
  - Capital should never decline below the minimum
- Business Plan Adherence
  - Must operate within the FDIC-approved business plan

# Deviations

- Deviating from the business plan is the most common deviation
  - All Orders granting Deposit Insurance require banks to receive **prior approval** from the FDIC before deviating
  - Contact FDIC immediately to discuss areas deviated without prior notification



# Deviations That Require Prior Approval

- Changes to the balance sheet or off-balance sheet
  - Changing the funding structure
  - Lending outside of approved activities

# Deviations That Do Not Require Prior Approval

- Exceeding or not meeting income statement goals
  - Exceeding interest income projections for a given period
  - Exceeding interest expense projections for a given period
- Income statement performance and deviations from projections are reviewed and considered at each examination

# Director Do's

- Review the Order in its entirety
- Be proactive
- Ensure that management adheres to the Order and provisions