



One Mission. Community Banks.

August 26, 2020

Robert E. Feldman
Executive Secretary
Attention: Comments, Federal Deposit Insurance Corporation
550 17th Street NW,
Washington, DC 20429

Dear Mr. Feldman:

I am writing today with comments on the proposed Guidelines for Appeals of Material Supervisory Determinations for your consideration. The FDIC is to be commended for working on the appeals process and for having it report in to the Director rather than to the supervisory group. It is a step in the right direction but it is not enough to gain the trust of bankers who felt the appeals process was stacked against them in the last recession.

The review group must consist of at least five people. Three can be from the FDIC so you retain the majority of the votes and control of the process. The other two should be banking industry representatives. I would suggest the Independent Community Bankers Association (ICBA) gets to nominate one representative and the American Bankers Association (ABA) gets to nominate the other. This would give large banks and community banks a seat at the table for appeals. This would signal you were really genuine about creating a fair process to bankers while also reassuring your supervisory teams that the FDIC still retains the majority vote and has not given up control of the appeals process. This would be fair and equitable to all parties.

The appeals process should not be abused by bankers. It should be for the major items where the FDIC executive in charge of an exam and the regional office do not agree with the assessment of the banker and where both sides feel there is strong justification for their position, and neither side will agree with the other. Just having an appeals process should cause most issues to get resolved at the regional level if the appeals process is perceived to be fair by all involved – bankers and regulators. Perhaps banks should be limited to one appeal per exam cycle – not really sure about how to handle this part of it. Appeals should be rare and should be for critical issues. Criteria will need to be developed for appeals. Again, it is better for all parties if nearly all disputes can be handled at the regional level. Banking associations could be helpful in resolving issues at the regional level if you want us involved in the process.

Feel free to share my comments with Director Lowe and Chairwoman McWilliams. We all want a fair and equitable appeals process.

Sincerely,



Michael J. Tierney
President and CEO