

April 21, 2014

Ms. Doreen R. Eberley
Director
Division of Risk Management Supervision
550 17th Street, NW
Washington, D.C. 22429-9990

Dear Ms. Eberley:

Thank you for meeting with us on January 23, 2014 to clarify the FDIC's de novo bank application and supervision policies.

The meeting helped to dispel some misconceptions concerning the capital requirements for de novo banks. You clarified that the FDIC:

- does not require that de novo banks have in place from inception sufficient capital in order to maintain a capital leverage ratio of at least 8% for a seven year period;
- continues to require sufficient capital from inception that is calculated to maintain a capital leverage ratio of at least 8% for a three year period;
- does not require seven year pro forma financial statements to be submitted in the application process;
- continues to require three year pro forma financial statements to be submitted in the application process; and
- under FIL-50-2009, requires state nonmember banks to submit, prior to the expiration of the three year initial de novo period, pro forma financial statements and business plans for the period covering the fourth through the seventh year, and to continue to be subject to the bar on material changes to or deviations from their business plans unless they have obtained FDIC prior approval.

We appreciate your statement that the FDIC welcomes proposals to organize de novo banks; however, we continue to hear from our constituents and others that FDIC policies and practices are inhibiting the formation of de novo institutions.

For example, it has been reported to us that the requirement that a state nonmember de novo bank is subject to FDIC approval for any material change or deviation in its business plan during the fourth through seventh year serves as a major deterrent to organizing groups and their efforts to raise sufficient capital in their communities.

There are also reports that at pre-filing meetings with the FDIC, the organizers have been advised that they need to raise capital upfront in amounts sufficient to maintain a leverage ratio of at least 8% for a seven year period.

Others cite the increasingly lengthy and uncertain application process as a deterrent to forming de novo banks. There is also concern with second guessing the judgment of the organizing group over the need for a de novo community bank and the viability of the business plan. Apparently, some would-be applicants are overwhelmed by the uncertainty of approval and timely processing of the applications, and thus decide not to take the considerable risk of subjecting themselves to those uncertainties.

The only de novo application reflected on the FDIC's website is an organizing group from American Samoa. The only application approved this year is Bank of Bird-In-Hand in an Amish farming community in Pennsylvania.

Given the continuing dearth of de novo applications, we urge FDIC to revisit its policies and practices to assure itself that it is not unnecessarily inhibiting the formation of de novo banks.

For example, is it really necessary to require state nonmember de novo banks to resubmit detailed business plans and pro forma financial statements prior to the third year of their existence for years four through seven when the FDIC has a robust examination process in place for de novo institutions through year seven? We believe the FDIC has ample authority through the examination process and its formidable enforcement powers to prevent de novo institutions from engaging in unsafe or unsound banking practices.

In addition, it may be helpful for the FDIC to advise staff that meet with de novo bank applicants and process applications that the FDIC is not requiring initial capital to cover the full seven year period, that the application process will not overwhelm applicants, and that the FDIC will not question the judgment of the organizing group of the need for a de novo bank in the market unless it is clearly erroneous.

Given the misperceptions surrounding the FDIC's policies and practices, we suggest that the FDIC issue a new FIL to help dispel misconceptions and reaffirm the FDIC's support for the formation of de novo banks.

Sincerely,



David Baris
Executive Director
American Association of Bank Directors



Christopher Cole
Sr. Vice President & Sr. Regulatory Counsel
Independent Community Bankers of America