On May 1, 2017, the FDIC released its "Applying for Deposit Insurance – A Handbook for Organizers of De Novo Institutions" (the "Handbook") to assist potential organizers of new or "de novo" institutions with the deposit insurance application process and the path to obtaining deposit insurance for newly chartered banks. The Handbook highlights three primary activities: (1) Pre-Filing Activities, (2) the Application Process, and (3) Pre-Operating Activities. Our prior post addressed Part I of the Application Process - Pre-Filing Activities. This week’s article provides an overview of Part II – The Application Process.

Application Review Process

Once an applicant’s pre-filing meetings are complete, organizers must submit an application for federal deposit insurance under Section 5 of the FDIC Act, which may include a charter application to either the OCC or relevant state authority. If applicable, holding company application(s) must also be submitted to the Federal Reserve Board.

The FDIC’s processing time varies depending on a specific proposal, but generally, a de novo submission will be acted upon within 4-6 months after filing of a substantially complete application. An application is deemed substantially complete when an applicant has submitted the necessary information for the FDIC to consider the relevant statutory factors.
Application Content

An application’s core includes the following eight sections based on statutory factors enumerated in Section 6 of the FDI Act:

- Overview
- Management
- Capital
- Convenience and Needs of the Community – CRA
- Premises and Fixed Assets
- Information Systems
- Business Plan and Financial Projections
- Other Information

FDIC Staff Field Investigations

Applications for deposit insurance are evaluated at both the FDIC regional office and field office levels. A regional office case manager (primary point of contact) will refer an application to the field office for investigative review, which includes interviews with organizers and proposed directors. These meetings reinforce directors’ responsibilities with respect to managing an insured depository institution and assess their ability to execute an applicant’s business plan.

Approval Conditions

Standard approval conditions include, but are not limited to, the following: minimum initial and ongoing capital for the three-year de novo period, fidelity bond insurance coverage, and financial statement audit requirements.

Typically, non-standard conditions are imposed when the FDIC deems such conditions necessary to mitigate a unique risk profile. Common non-standard conditions include FDIC approval of business plan changes, employment agreements and stock options plans, bank policies, and additional directors or officers. Most non-standard conditions do not exceed the three-year de novo term.

© 2020 Jones Walker LLP

Source URL: https://www.natlawreview.com/article/fdic-s-de-novo-handbook-part-ii-application-process