

Statement by FDIC Chairman Jelena McWilliams on Final Rule: Section 19 of the FDI Act

Last Updated: July 24, 2020

Section 19 of the Federal Deposit Insurance Act (FDI Act) prohibits, without the prior written consent of the Federal Deposit Insurance Corporation (FDIC), any person who has been convicted of certain types of crimes, or who has entered into a pretrial diversion or similar program for such crimes, from working at a bank.

Today, the FDIC Board approved a final rule that codifies the FDIC's Statement of Policy (SOP) related to Section 19 and makes several significant changes to the SOP. The changes narrow the scope of crimes subject to Section 19, enabling more individuals to work for banks without going through the Section 19 application process, without increasing risk to the Deposit Insurance Fund.

The final rule:

- Excludes all offenses that have been expunged or sealed – rather than only certain types of expungements – from the scope of Section 19;
- Allows a person with two, rather than one, minor "*de minimis*" crimes on a criminal record to qualify for the *de minimis* exception;
- Eliminates the five-year waiting period following a first *de minimis* conviction and establishes a three-year waiting period following a second *de minimis* conviction (or 18 months for individuals whose misconduct occurred when they were 21 or younger);
- Increases the *de minimis* threshold for small-dollar, simple thefts from \$500 to \$1,000; and
- Expands the *de minimis* exception for crimes involving the use of fake identification to circumvent age-based restrictions from only alcohol-related crimes to any such crimes related to purchases, activities, or premises entry.

Since the beginning of 2017, the FDIC has approved every Section 19 application that would qualify for relief under the final rule without controversy. While not major in scope, the changes in the final rule will have a major impact on individuals who no longer need to obtain written consent from the FDIC in order to work for a bank.

Additionally, the final rule supports ongoing efforts among the federal financial regulators to address the appropriate role of supervisory guidance compared to notice-and-comment rulemakings. Given the consequences of barring individuals from participating in the banking industry, it is sound public policy to codify the Section 19 SOP through a formal rulemaking.

Thank you.