

Statement by Martin J. Gruenberg, Member, FDIC Board of Directors Final Rule: Incorporation of Existing Statement of Policy Regarding Requests for Participation in the Affairs of an Insured Depository Institution by Convicted Individuals

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The Final Rule before the FDIC Board would incorporate the FDIC's Statement of Policy implementing Section 19 of the Federal Deposit Insurance Act into its regulations.

As a general rule, Section 19 prohibits, without the written consent of the FDIC, a person convicted of a crime involving dishonesty, breach of trust, or money laundering from serving as an institution-affiliated party, or owning or controlling an insured depository institution, or otherwise participating in its affairs.

Over the past several years, in response to questions and concerns raised about the scope of the prohibition, the FDIC has on a number of occasions revised and updated its Statement of Policy after public notice and opportunity for comment. This Final Rule incorporates the Statement of Policy into regulation. It would also make a number of changes to the FDIC's interpretation of Section 19 to expand the scope of relief available for certain offenses.

Specifically, the Final Rule would exclude from Section 19 all covered offenses that have been expunged or sealed by a court of competent jurisdiction or by operation of law.

In addition, the Final Rule would make a number of changes to expand the *de minimis* exception¹ for offenses under Section 19 for which a person will be deemed automatically approved and no application required. These changes include:

- the use of a fake or false identification by a person under the age of 21 to circumvent age based restrictions on purchases, activities or entry, not just alcohol-related purposes;
- the increase of the small dollar theft threshold from \$500 to \$1000;
- the increase from one to two covered *de minimis* offenses on a person's criminal record to qualify for the *de minimis* exception;
- the decrease in the amount of time that must elapse from 5 years to 3 years (36 months to 18 months when the misconduct occurred when the individual was 21 or younger) following the date of conviction before two covered offenses may be deemed *de minimis*;
- the elimination of the waiting period when there is only one covered *de minimis* offense.

These changes reflect careful consideration of thoughtful comments received from the banking industry, public interest groups, and academic institutions. The objective is to expand employment opportunities in the banking industry consistent with the underlying requirements of the statute. It will be important for the FDIC to review periodically the impact of codifying the Section 19 policy and consider further changes as experience warrants.

I am pleased to support this Final Rule.

¹No offense committed against an insured depository institution or insured credit union, however, can qualify as *de minimis*.