PRESS RELEASE
Federal Deposit Insurance Corporation

December 20, 1994

FDIC PROPOSES NEW APPEALS PROCESS FOR SUPERVISORY DECISIONS

FOR IMMEDIATE RELEASE

The FDIC Board of Directors today proposed guidelines for a new process institutions could use to appeal supervisory decisions involving examination ratings, adverse classifications of significant assets, and the adequacy of loan loss reserves.

An "independent" appeals process for "material supervisory determinations" is required by Section 309 of the Riegle Community Development and Regulatory Improvement Act of 1994 for the FDIC as well as the other federal regulators of banks, thrifts and credit unions. The law defines an independent appeals process as one where the review is by an agency official who does not directly or indirectly report to the person who made the supervisory determination being questioned.

The new program would replace a less formal appeals process adopted by the FDIC in February of 1992, although the agency always has considered and responded to disagreements that institutions have had with its supervisory determinations.

Under the FDIC's proposed guidelines, an institution first would be encouraged to attempt to resolve the disputed matter with the regional office of the FDIC division that made the supervisory determination -- either the Division of Supervision (DOS) for safety and soundness matters or the Division of Compliance and Consumer Affairs (DCA) for fair lending, Community Reinvestment Act (CRA) and other consumer protection matters. However, the institution could file an appeal with the Washington-based director of the appropriate division within 60 days after receiving written notification of the initial FDIC decision. That division director either would have to grant the change requested by the institution or promptly refer the matter to a special committee consisting of the FDIC's Vice Chairman, General Counsel, an internal ombudsman and the two division directors. This committee of senior FDIC officials would have to decide the appeal and notify the institution of its decision. From the time the FDIC receives an appeal, it would reach a final decision and notify the institution within 60 days.

Certain types of determinations would not be subject to this appeals process. The new law specifically exempts decisions to appoint a conservator or receiver for a failing institution, and "prompt corrective action" taken when an institution's capital falls below specified levels. Additionally, the FDIC's proposed guidelines would not cover formal enforcement actions and risk classifications for assessing deposit insurance premiums because review of these determinations is covered by other FDIC procedures.

The proposed guidelines also contain safeguards against possible retaliation by FDIC examiners. Any alleged misconduct would be promptly investigated and, if confirmed, subject to disciplinary or remedial action.

The FDIC's appeals process is expected to be used primarily by the state-chartered banks the agency supervises. However, it also would be available to insured institutions supervised by the Office of the Comptroller of the Currency, the Federal Reserve Board or the Office of Thrift Supervision when subjected to the FDIC's "back-up" enforcement authority.

Written comments on the FDIC proposal will be accepted for 30 days after it appears in the Federal Register.