

federal deposit insurance generally is not required for such an institution even if the federal interim institution is the surviving charter of a merger with another insured depository institution. See [12 CFR 303.62\(b\)\(2\)](#) and the FDIC's [Statement of Policy on Bank Merger Transactions](#) (section 4.2). Additionally, any depository institution whose insured status is continued pursuant to section 4 of the Federal Deposit Insurance Act is not required to apply to continue its insured status. [12 U.S.C. 1815, 1814](#). [Go back to Text](#)

²A 2 rating under the Uniform Financial Institution System is generally indicative of a satisfactory record of performance in light of the institution's particular circumstances. [Go back to Text](#)

³In a situation in which the FDIC is not to be the primary federal regulator, these determinations will be made in consultation with the primary federal regulator. [Go back to Text](#)

⁴This Statement of Policy provides that the initial capital for a proposed depository institution should be sufficient to provide a leverage ratio of Tier I capital to total estimated assets of at least 8% throughout the first three years of operation. This standard shall also be applied to a recently organized institution applying for deposit insurance. [Go back to Text](#)

⁵Banks that are owned by foreign governments and their subdivisions and banks that are owned or controlled by Native American tribes or bands are distinguished from conventional governmental units and will continue to be reviewed in the same manner as in the past. Banks that are owned by foreign governments and their subdivisions are entitled to "national treatment." (See International Banking Act of 1978, [12 U.S.C. 3101 et seq.](#)). National treatment requires that foreign depository institutions, whether publicly- or privately-owned, receive consistent treatment with domestic entities when operating in the United States. This includes eligibility for deposit insurance, which is a condition of either a state or federal charter. Native American tribes or bands that own or control depository institutions can also be distinguished from a conventional governmental unit that seeks to open or acquire a depository institution. This is because under federal law, Native American tribes and bands function as both governmental and economic, for-profit entities. The Indian Reorganization Act of 1934 (the IRA) (25 U.S.C. 461 et seq.) authorizes not only the creation of tribal governments (see section 16 of the IRA, 12 U.S.C. 476), but also provides for the creation of tribal business corporations pursuant to section 17 of the IRA (25 U.S.C. 477). At the same time, however, a tribal government organized under section 16 of the IRA is not precluded from engaging in business activities. See *Unique v. Gila River Pima-Maricopa Indian Community*, 138 Ariz. 384, 674 P.2d 1376 (1st App. 1984). These legal and policy considerations unique to these two categories of insurance applicants outweigh any concerns that the FDIC may have regarding the ownership of such depository institutions by governmental entities. [Go back to Text](#)