



Supervisory Appeals

FIL-28-95
April 4, 1995

TO: CHIEF EXECUTIVE OFFICER
SUBJECT: *Guidelines for Appealing Supervisory Determinations*

The FDIC has approved the attached guidelines establishing an appeals process for material supervisory determinations made by agency examiners and regional supervisory officials. The guidelines became effective when adopted by the FDIC Board of Directors on March 21, 1995.

Institutions now have 60 days following receipt of written notice of a material supervisory determination to file an appeal with a special committee in the Washington headquarters composed of the Vice Chairman of the FDIC, the Director of the Division of Supervision, the Director of the Division of Compliance and Consumer Affairs, the General Counsel, and the Ombudsman. The committee will consider and decide the appeal, and notify the institution of its decision within 60 days. Material supervisory determinations that may be appealed include:

- Examination ratings, such as CAMEL, compliance, and Community Reinvestment Act (CRA) ratings;
- Determinations relating to the adequacy of loan loss reserve provisions;
- Disputed asset classifications exceeding 10 percent of total capital;
- Determinations relating to violations of law or regulation; and
- Other determinations that may have an effect on an institution's capital, earnings, operating flexibility, its capital category for prompt corrective action purposes, or otherwise affect the nature and level of supervisory oversight accorded the institution.

Certain determinations may not be appealed under the new guidelines. These include decisions to take prompt corrective action pursuant to section 38 of the Federal Deposit Insurance Act, determinations for which other appeals procedures exist (such as determinations relating to deposit insurance assessment risk classifications), and decisions to initiate formal or informal enforcement actions.

An institution may appeal any material supervisory determination but it first should make a good faith effort to resolve the matter with the on-site examiner and/or the appropriate FDIC regional office. The on-site examiner and the regional office are expected to respond promptly to the concerns raised. If an institution is unable to resolve the dispute with the on-site examiner or regional office, it may appeal the determination to the Washington office. While attempting to resolve the dispute with the examiner or the regional office is encouraged, it is not a condition for filing an appeal with the Washington office.

An institution wishing to file an appeal with the Washington office should have the merits of the disputed determination considered by its board of directors, which must authorize the appeal. The appeal submission should include: a detailed description of the issues in dispute; the surrounding circumstances; the institution's position regarding the dispute; any arguments to support that position (including the citation of any relevant statute, regulation, policy statement or other authority); how the resolution of the dispute would impact the institution and why such impact would be material; and a description of the good faith efforts to resolve the dispute with the on-site examiner and/or the regional office staff, and the results of those efforts.

Appeals relating to safety and soundness may be submitted to:

Mr. Stanley J. Poling
Director, Division of Supervision
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Appeals relating to consumer protection, fair lending or CRA may be submitted to:

Mr. Paul L. Sachtleben
Director, Division of Compliance and Consumer Affairs
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

The guidelines also contain provisions designed to protect institutions from possible retaliation by agency examiners or other FDIC supervisory officials as a result of filing an appeal. Any institution that believes it is the subject of retaliation may file a complaint with the appropriate Division Director or the Ombudsman. If confirmed, the FDIC employee will be subject to appropriate disciplinary action. The Ombudsman may be addressed at:

Ombudsman
Office of the Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

John W. Stone
Executive Director

Attachment: [PDF Format](#) (61 kb, [PDF help](#) or [hard copy](#)), [HTML Format](#)

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