



Banking Participation by Persons Convicted of Crimes

FIL-80-97
August 13, 1997

TO: CHIEF EXECUTIVE OFFICER
SUBJECT: *FDIC Proposes Amending Its Policy Statement on Banking Participation by Persons Convicted of Crimes*

The FDIC Board of Directors has proposed amending its Statement of Policy on banking participation by a person who has been convicted of a crime of dishonesty, breach of trust or money laundering, or who has entered a pretrial diversion or similar program connected with the prosecution of such an offense, pursuant to Section 19 of the Federal Deposit Insurance Act. Comments on the proposal, which is attached, will be accepted through September 22, 1997.

The policy statement is intended to interpret and clarify Section 19, which was significantly expanded by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and the Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990.

The proposal to amend the policy statement reflects the FDIC's efforts to aid bankers and the general public in understanding the complexities of the revised Section 19.

The proposed policy statement provides interpretations on a number of issues, including:

- who is a person,
- what constitutes participation,
- what is a pretrial diversion or similar program,
- what constitutes crimes of dishonesty or breach of trust,
- what are the procedures to be followed in filing a Section 19 application, and
- what are the criteria for evaluating a Section 19 application.

The proposal also includes two significant changes to longstanding FDIC policies concerning Section 19. First, the proposed Statement of Policy requires a Section 19 application in those cases where there is an expungement of record. This is a departure from previous practice, which provided that a person who had received a complete expungement of record did not have to file a Section 19 application. Second, the proposed policy statement permits a person who is a shareholder, but who is prevented from exercising his or her voting rights, to file a Section 19 application on his or her own behalf without having an insured depository institution also file an application. Comments are specifically requested on whether a non-bank applicant should be

permitted to file a Section 19 application and, if so, under what circumstances the practice should be allowed.

For more information about the proposal, please contact James Orlowsky, Review Examiner in the Division of Supervision, at (202) 898-6763 or Nancy L. Alper, Counsel in the FDIC's Legal Division, at (202) 736-0828.

Nicholas J. Ketcha Jr.
Director

Attachment: Federal Register, 24 July 1997, pp 39840-39843. Also available on the FDIC's web site at –

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