



MERGER APPLICATIONS

FIL-109-2001
December 28, 2001

TO: CHIEF EXECUTIVE OFFICER

SUBJECT: *Consideration of a New Factor in Bank Merger Act Transactions - "Anti-Money Laundering Record"*

Beginning January 1, 2002, the Federal Deposit Insurance Corporation (FDIC), in evaluating and acting on applications filed under section 18 (c) of the Federal Deposit Insurance Act (commonly known as the Bank Merger Act), will expressly consider the anti-money laundering record of each involved insured depository institution in determining the appropriateness of granting consent to the proposed transaction. The addition of this new evaluation factor is required by the USA PATRIOT Act (Pub. L. No. 107-56), signed into law on October 26, 2001.

The USA PATRIOT Act augments the U.S. government's existing authority to prevent, detect and prosecute terrorism and international money laundering. Title III of the new law places significant responsibilities on the banking agencies to monitor institutions under their supervision in regard to compliance with anti-money laundering laws and regulations. Section 327 of the law amends the Bank Merger Act, adding a new factor for consideration in deciding covered merger transactions. The factor reads: "In every case, the responsible agency shall take into consideration the effectiveness of any insured depository institution involved in the proposed merger transaction in combating money laundering activities, including in overseas branches." Section 327 makes a parallel amendment to section 3 of the Bank Holding Company Act. Consideration of the new factor is required on applications submitted after December 31, 2001.

The FDIC is coordinating with the other federal banking agencies to finalize how the agencies will apply this new requirement. Previously, an institution's record in this regard was only generally considered under the "financial and managerial resources" factor. The FDIC's consideration of the anti-money laundering record will initially include an analysis of each participating depository institution's record of compliance with applicable Bank Secrecy Act requirements, including the adequacy of policies and procedures, as well as ongoing compliance with financial recordkeeping regulations. Significantly adverse findings in this area may form the basis for a denial of the application.

New informational requirements relating to Bank Merger Act applications are not imposed at this time, as a sufficient supervisory record is generally available to make a determination under the new factor without the need for additional specialized information. The FDIC intends to publish proposed interim changes to the FDIC Statement of Policy on Bank Merger Transactions and its merger-related regulations in the near term.

For further information, please contact Kevin W. Hodson in the Division of Supervision at 202-898-6919; or Carl J. Gold, 202-898-8702, or Robert C. Fick, 202-898-8962, in the Legal Division.

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Director

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