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Federal Deposit Insurance Corporation Holds De Novo Outreach Conference

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As part of its recent efforts to encourage de novo bank applications, on October 13, 2016, the ***Federal Deposit Insurance Corporation (FDIC)*** held a Community Banking De Novo Outreach Meeting in its New York Regional Office. The program was entitled "Strategies for Successful De Novo Bank Applications." The panels and presentations, which included representatives of the Office of the Comptroller of the Currency (OCC), the Federal Reserve Bank of New York and the New York State Department of Financial Services, in addition to FDIC senior staff members, discussed the current posture of the agencies with regard to de novo bank applications and outlined in some detail the FDIC's procedures and requirements for de novo deposit insurance applications. The FDIC also assembled a panel of bankers who had successfully formed de novo banks in Massachusetts, New York and New Jersey. Each banker on the panel shared their story of their de novo experience, the issues they encountered, and stressed the importance of working and communicating with the regulators in every step of the process. While there were some new developments discussed at the outreach meeting, the overall message being conveyed by the FDIC was to inform the industry representatives in attendance at the conference that a fundamental shift had occurred at the FDIC with regard to de novo bank applications. The FDIC staff highlighted, among other developments, the FDIC's decision in April of this year to reduce from seven to three years the period of heightened regulatory scrutiny to which newly chartered banks are subject. TThe FDIC's Director of the Division of Risk Management Supervision, Doreen R. Eberley, also stated that the FDIC would not rule out approving new banks in any part of the country, despite the high rate of failure of de novo banks in certain regions, so long as the business plan presented evidence for a sustainable banking franchise.

Furthermore, the presenters stressed that de novo applications would be processed promptly – unlike in the period from 2010 through early this year, during which time only three new banks were chartered in the U.S. In this regard, the FDIC staff stated a target processing period of 4-6 months between a deposit insurance application being deemed substantially complete and its approval. OCC staff referenced a 120-day processing period to conditional approval.

The majority of the presentations at the meeting concerned the FDIC's application process, and most content was derived from the FDIC's policy guidance – specifically, the FDIC Statement of Policy on Applications for Deposit Insurance (originally issued in 1998), and Financial Institution Letters

FIL-56-2014 and FIL-24-2016, providing supplemental guidance related to such Statement of Policy.

Among the key takeaways from the FDIC's application process presentations were the following:

- **Business Plan**. Perhaps the most critical component of the de novo application process. While this element has always been important, the FDIC's business plan requirements now call for much more granularity than formerly, and the agency expects that the business plan's financial projections will be consistent both with the narrative business plan and with the bank's proposed operations as detailed in the application.

- **Capital Requirements**. The FDIC confirmed that it has no minimum initial capital requirement and that the proposed capitalization of a new bank should depend on realistic business plan projections based on the market to be served and the proposed type of operations. Director Eberley noted that the (few) recently approved de novo deposit insurance applications proposed initial capitalization ranging from $16 million to $25 million. In addition, staff confirmed the FDIC's written policy in stating that a de novo business plan must provide for a minimum Tier 1 leverage ratio of at least 8% throughout the first three years of operation (with a higher level required for those proposals with heightened risk profiles).

- **Management**. The FDIC has increased its expectations regarding the amount of information regarding proposed management in a de novo application. The FDIC now requires the application to identify, and provide full background information for, the proposed bank's CFO and CLO, in addition to its President and CEO – all of whom must have strong banking experience. In addition, the FDIC advises that it may be necessary to identify a qualified BSA officer in the initial application.

The FDIC will continue its de novo outreach initiative with a similar conference at its Atlanta Regional Office on November 29, 2016. In addition, Chairman Martin Gruenberg has stated that the FDIC will publish a "practical guide" for chartering a new bank by the end of 2016.

While further guidance from the FDIC will be forthcoming by the end of this year, our key takeaway from this conference is that the banking regulators have lifted the informal moratorium on de novo bank charter and insurance applications, and are once again open for business. The most difficult challenge for de novo applicants, however, will be presenting a business plan which demonstrates a sustainable and profitable banking franchise, given reasonable and supportable assumptions.

FDIC guidance regarding de novo insurance applications is available here:

- **FDIC Statement of Policy on Applications for Deposit Insurance**

- **Financial Institution Letter (FIL-24-2016) Supplemental Guidance Related to the FDIC Statement of Policy on Applications for Deposit Insurance**

- **Interagency Charter and Federal Deposit Insurance Application**

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