

§ 303.222 Service at another insured depository institution.

In the case of a person who has already been approved by the FDIC under this subpart or section 19 of the FDI Act in connection with a particular insured depository institution, such person may not become an institution affiliated party, or own or control directly or indirectly another insured depository institution, or participate in the conduct of the affairs of another insured depository institution, without the prior written consent of the FDIC.

§ 303.223 Applicant's right to hearing following denial.

An applicant may request a hearing following a denial of an application in accordance with the provisions of part 308 of this chapter.

§§ 303.224–303.239 [Reserved]

Subpart M—Other Filings

§ 303.240 General.

This subpart sets forth the filing procedures to be followed when seeking the FDIC's consent to engage in certain activities or accomplish other matters as specified in the individual sections contained herein. For those matters covered by this subpart that also have substantive FDIC regulations or related statements of policy, references to the relevant regulations or statements of policy are contained in the specific sections.

§ 303.241 Reduce or retire capital stock or capital debt instruments.

(a) *Scope.* This section contains the procedures to be followed by an insured state nonmember bank to seek the prior approval of the FDIC to reduce the amount or retire any part of its common or preferred stock, or to retire any part of its capital notes or debentures pursuant to section 18(i)(1) of the Act (12 U.S.C. 1828(i)(1)).

(b) *Where to file.* Applicants shall submit a letter application to the appropriate FDIC office.

(c) *Content of filing.* The application shall contain the following:

(1) The type and amount of the proposed change to the capital structure and the reason for the change;

(2) A schedule detailing the present and proposed capital structure;

(3) The time period that the proposal will encompass;

(4) If the proposal involves a series of transactions affecting Tier 1 capital components which will be consummated over a period of time which shall not exceed twelve months, the application shall certify that the insured depository institution will maintain itself as a well-capitalized institution as defined in part 325 of this chapter, both before and after each of the proposed transactions;

(5) If the proposal involves the repurchase of capital instruments, the amount of the repurchase price and the basis for establishing the fair market value of the repurchase price;

(6) A statement that the proposal will be available to all holders of a particular class of outstanding capital instruments on an equal basis, and if not, the details of any restrictions; and

(7) The date that the applicant's board of directors approved the proposal.

(d) *Additional information.* The FDIC may request additional information at any time during processing of the application.

(e) *Undercapitalized institutions.* Procedures regarding applications by an undercapitalized insured depository institution to retire capital stock or capital debt instruments pursuant to section 38 of the FDI Act (12 U.S.C. 1831o) are set forth in subpart K (Prompt Corrective Action), § 303.203. Applications pursuant to sections 38 and 18(i) may be filed concurrently, or as a single application.

(f) *Expedited processing for eligible depository institutions.* An application filed under this section by an eligible depository institution as defined in § 303.2(r) will be acknowledged in writing by the FDIC and will receive expedited processing, unless the applicant is notified in writing to the contrary and provided with the basis for that decision. The FDIC may remove an application from expedited processing for any of the reasons set forth in § 303.11(c)(2). Absent such removal, an application processed under expedited processing will be deemed approved 20 days after the FDIC's receipt