



Office of Inspector General

June 2009
Report No. AUD-09-015

FDIC's Brokered Deposit Waiver Application Process

AUDIT REPORT

Office of Audits



oig



Federal Deposit Insurance Corporation

FDIC's Brokered Deposit Waiver Application Process

Why We Did The Audit

Brokered deposits (BD) are receiving considerable attention because of recent bank failures involving excessive reliance by FDIC-insured financial institutions on such deposits to support aggressive asset growth. A BD is any deposit that is obtained, directly or indirectly, from or through the mediation or assistance of a deposit broker. On February 27, 2009, FDIC staff reported to the FDIC's Board of Directors that BD waiver application activity was increasing and was expected to continue.

An institution's ability to solicit and accept BDs is linked to its capital level as provided in the Federal Deposit Insurance (FDI) Act and FDIC Rules and Regulations. In general, insured depository institutions that are considered to be adequately capitalized (including well capitalized institutions subject to certain supervisory directives) may not accept, renew, or roll over any BD unless the institution has applied for and has been granted a waiver by the FDIC.

The objective of this audit was to assess the FDIC's BD waiver application process for FDIC-insured financial institutions. The scope of our audit did not include assessing the merits of the FDIC's decisions to grant waivers or the extent to which the FDIC ensures that institutions comply with the conditions of approval for BD waivers.

Background

BDs have been used by insured financial institutions for years as a wholesale funding source to support asset growth. When properly managed, BDs offer institutions a number of important benefits such as ready access to funding. However, BDs can be a higher-cost and more volatile funding source and, as such, present potential liquidity, earnings, and other risks that must be properly managed.

In 2005, the FDIC modified its *FDICconnect* system to permit institutions to electronically submit applications for BD waivers. The FDIC's Division of Supervision and Consumer Protection (DSC) has been delegated responsibility to waive the prohibition on the acceptance, renewal, or rollover of BDs if it determines that the waiver does not cause an unsafe or unsound banking practice (i.e., undue risk to the institution). Specifically, DSC regional Case Managers are responsible for reviewing and processing BD waiver applications submitted by insured financial institutions in accordance with the procedures in the *Case Manager Procedures Manual*.

Audit Results

DSC has established a BD waiver application process consistent with the FDIC Rules and Regulations. The process includes a review of applications by DSC's regional offices (RO) and the Risk Management and Applications Section in Washington, D.C. (WO). The process also includes monitoring to identify when an institution is required to submit a BD waiver application and specific conditions tied to an approved waiver. To assess controls in the process, we reviewed a sample of 19 BD waiver applications out of the 70 BD applications submitted from January 1, 2008 to August 15, 2008. Out of those 19 sampled waiver applications, 8 were withdrawn or returned, and 11 were approved by the FDIC.

DSC generally processed BD waiver applications in accordance with established controls. Specifically, DSC reviewed applications for completeness before acceptance; entered information into the FDIC's application tracking system; prepared a Summary of Investigation, which serves to document the Case Manager's analysis of the application; and contacted the primary federal regulator to discuss the waiver request. However, the FDIC's procedures need to be clarified with regard to a written acknowledgement of the application in certain circumstances. Also, for the 11 approved applications we sampled, the approval letters for 8 applications did not clearly state that the waiver may be revoked by the FDIC at any time by written notice to the institution—which is a condition of approval. The ROs are taking steps to incorporate that condition into their approval letter template. In addition, three approval letters did not include the nonstandard conditions that the *Case Manager Procedures Manual* states should normally be included in the letter, such as limits on the volume, rates, and maturities of new BDs. Ensuring that conditions for approvals are clearly stated will help to facilitate compliance with established controls in the BD waiver application process.

The WO review was instituted in the first quarter of 2008 to provide an additional level of control and to facilitate reporting to senior FDIC management officials, including the Chairman, on BD waiver requests. However, formal written procedures for the WO review process have not yet been established. Consequently, we found that the ROs are preparing and submitting a variety of documents to the WO. The lack of formal written procedures to clearly define the information needed for the WO review and when the RO should submit such information to the WO could affect the consistency and sufficiency of the WO review and cause delays in the application process. In addition, the decision to discontinue expedited processing was not publicly announced. Such an announcement would have added transparency to the process. Furthermore, institutions submitted only 2 of the 19 applications in our sample through *FDICconnect*. Promoting wider use of *FDICconnect* for this transaction could increase the efficiency of the process by helping to ensure institutions submit complete BD waiver applications and allowing the application to be sent automatically to the application tracking system from *FDICconnect* once the RO accepts the application. These improvements would help ensure that information about the number and nature of applications is immediately available to the WO. Given the increase in BD waiver application activity, strengthening these controls in the BD waiver application process will help ensure the consistency and sufficiency of the process.

Recommendations and Management Response

We recommended that the Director, DSC: (1) clarify its policies and procedures related to the acknowledgement provision in the FDIC Rules and Regulations and the conditions to be included in a BD waiver approval letter, (2) establish formal written procedures for the WO review of BD waiver applications, (3) determine whether a public announcement is warranted with regard to the decision to temporarily suspend expedited processing, and (4) further encourage financial institutions to use *FDICconnect* to submit BD waiver applications.

The FDIC agreed with our recommendations and is taking responsive action.



DATE: June 5, 2009

MEMORANDUM TO: Sandra L. Thompson, Director
Division of Supervision and Consumer Protection

FROM: /Signed/
Russell A. Rau
Assistant Inspector General for Audits

SUBJECT: *FDIC's Brokered Deposit Waiver Application Process*
(Report No. AUD-09-015)

The subject final report is provided for your information and use. Please refer to the Executive Summary, included in the report, for the overall audit results. Our evaluation of your response has been incorporated into the body of the report. The recommendations are resolved but will remain open until we have determined that agreed-to corrective action has been completed and is responsive.

If you have questions concerning the report, please contact me at (703) 562-6350 or Mark F. Mulholland, Deputy Assistant Inspector General for Audits, at (703) 562-6316. We appreciate the courtesies extended to the audit staff.

Attachment

cc: James H. Angel, Jr., OERM

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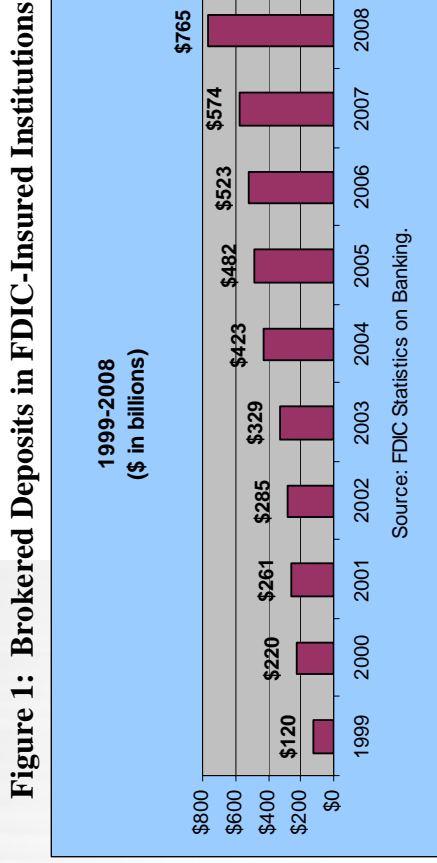
FDIC's Brokered Deposit Waiver Application Process

Background

- A brokered deposit (BD) is any deposit that is obtained, directly or indirectly, from or through a deposit broker. Deposit brokers have traditionally provided intermediary services matching yield-focused investors with financial institutions offering potentially higher-yielding FDIC-insured deposits than would be available in the investor's local market.
- FDIC-insured financial institutions have used BDs since the early 1950s as a wholesale funding source to support asset growth. Rates paid by institutions on BDs are often higher than those paid in local markets but can be lower than the cost of unsecured wholesale market funding due to FDIC insurance coverage eliminating credit risk. Thus, BDs can offer institutions an attractive source of liquidity.
- Core deposits are typically lower-cost funding sources than BDs. In addition, the cost of core deposits often lags behind other funding sources during periods of rising interest rates. Further, core deposits tend to be stable over time because customers making these deposits typically have borrowing and other relationships with the institution. Conversely, customers making non-core deposits, including BDs, are generally focused on rates and may not have any other relationship with the institution. Thus, BDs can be a more volatile, higher-cost source of funding than core deposits and can present increased asset quality, liquidity, earnings, and interest rate risk.
- When properly managed, BDs offer institutions a number of important benefits. For example, BDs allow institutions ready access to funding in national markets when deposit growth in the local market lags planned asset growth or otherwise limits investment opportunities. However, BDs can facilitate faster asset growth than can be prudently managed by the institution. In addition, the higher cost of BDs can result in the institution pursuing higher returns on assets. Together, these factors can increase risk related to asset quality.

Background

- BDs are receiving considerable attention because of recent bank failures involving excessive reliance on such deposits to support rapid loan growth. As previously discussed, BDs can introduce asset quality, earnings, liquidity, and interest rate risk in insured depository institutions. Moreover, BD levels are a factor in determining deposit insurance assessment rates for certain institutions pursuant to changes in the FDIC regulation regarding the risk-based assessment system, effective April 1, 2009.
- As depicted in Figure 1, BDs grew from approximately \$120 billion to approximately \$765 billion from December 31, 1999 to December 31, 2008.



Background

- According to section 29, *Brokered Deposits*, of the Federal Deposit Insurance Act (FDI Act), institutions that are not well capitalized may not accept brokered deposits, but under section 29, the FDIC may approve waivers for adequately capitalized institutions.
- An institution's ability to solicit and accept BDs is linked to its capital level, as provided in the regulations implementing section 38, *Prompt Corrective Action*, of the FDI Act. Table 1 summarizes the capital categories defined in the pertinent section of the FDIC Rules and Regulations.
- In general, a well capitalized insured depository institution may solicit and accept, renew, or roll over any BD without restriction, unless the institution is subject to certain supervisory directives, in which case, the institution is considered adequately capitalized.
- An adequately capitalized insured depository institution may not accept, renew, or roll over any BD unless it has applied for and has been granted a waiver by the FDIC.
- An undercapitalized, significantly undercapitalized, or critically undercapitalized insured depository institution may not accept, renew, or roll over any BD.

Table 1: Prompt Corrective Action Capital Categories

Capital Category	Total Risk-Based Capital	Tier 1 Risk-Based Capital	Leverage Capital
Well capitalized	10 percent or more	6 percent or more	5 percent or more
Adequately capitalized	8 percent or more	4 percent or more	4 percent or more
Undercapitalized	Less than 8 percent	Less than 4 percent	Less than 4 percent
Significantly undercapitalized	Less than 6 percent	Less than 3 percent	Less than 3 percent
Critically undercapitalized	An institution is critically undercapitalized if its tangible equity is 2 percent or less regardless of the institution's other capital ratios.		

Source: Section 325.103 of the FDIC Rules and Regulations.

Background

- Section 29, *Brokered Deposits*, of the FDI Act contains rules for BDs, including waivers for BDs.
- Section 303.243 of the FDIC Rules and Regulations defines procedures for filing BD waiver applications, including requirements for expedited and standard processing of such applications.
- Part 337 of the FDIC Rules and Regulations contains substantive requirements for BD waiver applications. Specifically, it states that the FDIC may waive the prohibition for an adequately capitalized institution to accept, renew, or roll over BDs if the FDIC determines that such acceptance, renewal, or rollover does not constitute an unsafe or unsound banking practice. The regional offices (RO) of the FDIC's Division of Supervision and Consumer Protection (DSC) have the delegated authority to approve waiver applications.

Rules for Expedited and Standard Processing of BD Waiver Applications

Expedited Processing for Eligible Depository Institutions

- An application filed by an eligible depository institution will be acknowledged and receive expedited processing, unless the applicant is notified in writing to the contrary and provided a basis for that decision.
- An application processed under expedited procedures will be deemed approved 21 days after the FDIC's receipt of a substantially complete application, absent contrary notice.
- The FDIC may remove an application from expedited processing if certain conditions exist or the appropriate Regional Director determines that a filing presents a significant supervisory concern or other good cause exists for removal.
- Factors for determining whether an institution is eligible for expedited processing include supervisory ratings and whether the institution is subject to some type of enforcement or administrative action.

Standard Processing

- For those filings that are not processed pursuant to expedited procedures, the FDIC will provide the applicant with written notification of the final action as soon as the decision is rendered.
- The FDIC's guideline for standard processing of a BD waiver application is 30 days.

Source: Sections 303.243(e) and (f), 303.2(r), and 303.11(c)(2) of the FDIC Rules and Regulations and sections 20 and 40 of the *Case Manager Procedures Manual*.

Background

- Generally, the FDIC's concerns in reviewing BD waiver applications pertain to the institution's liquidity risk, interest rate risk, earnings risk and in particular, the institution's use of BDs to support rapid growth.
- Section 337.6 of the FDIC Rules and Regulations describes restrictions on the interest rates that institutions may pay for such deposits.
- On February 27, 2009, FDIC staff reported to the FDIC's Board of Directors that BD waiver application activity was increasing and was expected to continue increasing.
- In about the last 5 years, the FDIC has received approximately 240 BD waiver applications—70 of these applications were received from January 1, 2008 through August 15, 2008. According to DSC officials, the FDIC approved 26 of the 70 waiver applications. The remaining applications were either returned to or withdrawn by the institution.

Interest Rate Restrictions for Adequately Capitalized Institutions with Waivers to Accept Brokered Deposits

Any adequately capitalized insured depository institution that has been granted a waiver to accept, renew, or roll over a brokered deposit may not pay an effective yield on any such deposit which, at the time that such deposit is accepted, renewed, or rolled over, exceeds by 75 basis points:

- a. The effective yield paid on deposits of comparable size and maturity in such institution's normal market area for deposits accepted from within its normal market area; or
- b. The national rate paid on deposits of comparable size and maturity for deposits accepted outside the institution's normal market area. The national rate shall be:
 - (1) 120 percent of the current yield on similar maturity of U.S. Treasury obligations; or
 - (2) in the case of any deposit at least half of which is uninsured, 130 percent of such applicable yield.

Source: Section 337.6(b)(ii) of the FDIC Rules and Regulations. The FDIC issued a final rule, effective January 1, 2010, that defines nationally prevailing deposit rates as a direct calculation of national averages, as computed and published by the FDIC based on data available to it.

Audit Objective

- The audit objective was to assess the FDIC's BD waiver application process for FDIC-insured financial institutions.
- To evaluate the BD waiver application review process, we reviewed a non-statistical sample of 19 of the 70 BD waiver applications submitted from January 1, 2008 through August 15, 2008. As part of our review, we used information in DSC's Virtual Supervisory Information on the Net Application Tracking System (VISION AT), which is the official system of record for all applications submitted to the FDIC.
- The scope of this audit did not include assessing the merits of the FDIC's decisions to grant waivers or the extent to which the FDIC ensured that institutions complied with the terms of BD waivers.
- We conducted this performance audit in accordance with generally accepted government auditing standards. Appendix 1 of this report discusses our audit objective, scope, and methodology in detail.

Audit Results

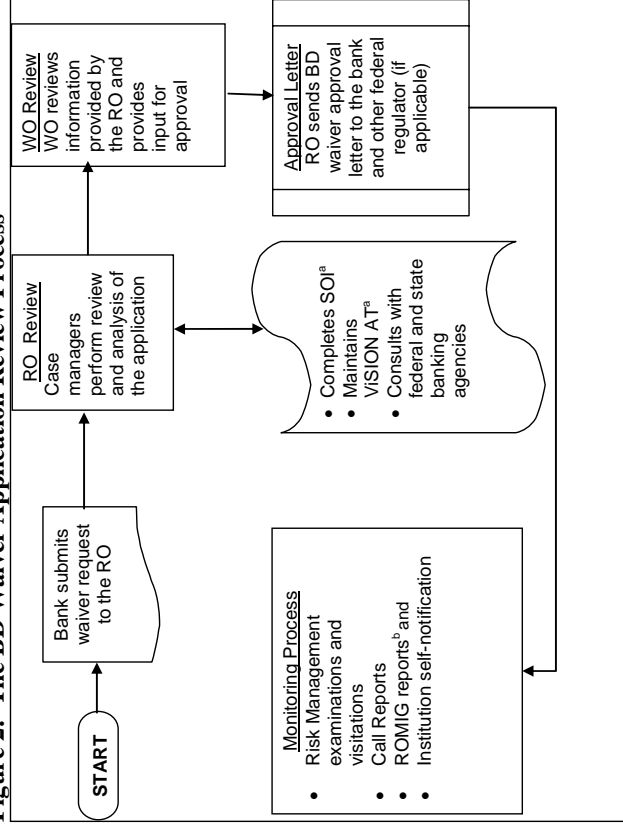
Brokered Deposit Waiver Application Process

- The FDIC has established a process to review BD waiver applications submitted by FDIC-insured financial institutions that is generally consistent with the FDIC Rules and Regulations. Nevertheless, opportunities exist to strengthen controls and ensure that the application review process is as efficient as possible.
- The BD waiver application process includes:
 - monitoring when institutions are required to submit a request for a waiver;
 - submitting a letter application by the institution;
 - reviewing applications at the RO level, that is, by DSC Case Managers, in conjunction with RO management;
 - conducting a “parallel” review by the Risk Management and Applications Section in Washington, D.C. (WO);
 - approving application waiver requests in writing; and
 - monitoring specific conditions tied to the BD waiver.

Audit Results

- DSC RO Case Managers review and evaluate BD waiver applications filed by institutions within their caseload to determine whether the application should be approved.
- RO management reviews and approves (if appropriate) the Case Manager's recommendation. Figure 2 illustrates the key aspects of the BD waiver application review process.
- DSC's *Case Manager Procedures Manual* defines the Case Manager's responsibilities for reviewing and processing waiver applications as:
 - Ensuring that BD waiver applications contain the eight components defined by the FDIC Rules and Regulations section 303.243(c) (see page 10).
 - Notifying eligible institutions in writing that an application is removed from expedited processing and the basis for that decision, when required (see page 5).

Figure 2: The BD Waiver Application Review Process



Source: OIG analysis.

^a A Summary of Investigation (SOI) and DSC's VISION AT are discussed in detail later in this report.

^b Regional Office Management Information Groups (ROMIG) are in each region and aid in the identification and management of risk through the development, implementation, and maintenance of monitoring systems and the preparation of special studies, analyses, and reports for regional management.

Audit Results

- Ensuring that ViSION AT records are created and updated promptly.
- Consulting with the primary federal regulator and any applicable state regulator to obtain their views on the application, including the imposition of conditions.
- Completing the SOI to document the analysis of the application and the conclusion as to whether or not the waiver should be approved.
- Preparing the waiver approval letter.

Content Requirements for the BD Waiver Application Letter

The application shall contain the following:

1. The time period for which the waiver is requested.
2. A statement of the policy governing the use of brokered deposits in the institution's overall funding and liquidity management program.
3. The volume, rates, and maturities of the brokered deposits held and anticipated during the waiver period sought, including any internal limits placed on the terms, solicitation, and use of brokered deposits.
4. How brokered deposits are costed and compared to other funding alternatives and how they are used in the institution's lending and investment activities, including a detailed discussion of asset growth plans.
5. Procedures and practices used to solicit brokered deposits, including an identification of the principal sources of such deposits.
6. Management systems overseeing the solicitation, acceptance, and use of brokered deposits.
7. A recent consolidated financial statement with balance sheet and income statements.
8. The reasons the institution believes its acceptance, renewal, or rollover of brokered deposits would pose no undue risk.

Source: Section 303.243(c) of the FDIC Rules and Regulations.

Audit Results

- However, the *Case Manager Procedures Manual* does not clearly address how BD waiver applications for eligible institutions “will be acknowledged in writing by the FDIC” according to Section 303.243(e) of FDIC Rules and Regulations.
 - The acknowledgement requirement of section 303.243(e) does not clearly specify what is to be acknowledged or when acknowledgement must be provided.
 - The *Case Manager Procedures Manual* has provisions regarding “acceptance letters” and “approval letters” that may be sent to the applicant, depending on the circumstances, but does not equate either letter with the acknowledgement requirement of the regulations.
- By revising the *Case Manager Procedures Manual* to address the acknowledgement requirements of section 303.243(e), the FDIC procedures will be designed to help ensure compliance with that section. (We note that Part 303, which includes the aforementioned section, addresses various other types of applications and includes acknowledgement requirements for those other applications.) Also, a waiver acknowledgement could be beneficial in helping institutions assess their sources of funding.

Written Communication Provisions *Case Manager Procedures Manual* for BD Waiver Applications

- If an application is considered substantially incomplete, the application should be returned with a letter outlining the deficiencies.
- If the application is deemed substantially complete, an acceptance letter should be prepared if it is necessary to notify the applicant of the acceptance date. In cases where the application is being acted upon in a very short time period, as in the case with expedited processing procedures, a **separate acceptance letter is unnecessary.**
- If a filing is removed from expedited processing, the applicant will be informed in writing of the reason(s).
- For applications other than those receiving expedited processing, an acceptance letter **may be prepared if deemed necessary.**
- A letter of approval should be prepared and sent to an institution with copies sent to the appropriate federal or state banking agencies.

Source: Sections 20 and 40 of the *Case Manager Procedures Manual*. Boldface added for emphasis.

Audit Results

Regional Office Review

- We analyzed a non-statistical sample of 19 BD waiver applications filed with the FDIC during the period January 1, 2008 through August 15, 2008 and found that the ROs generally processed the waiver applications in accordance with established procedures, including applicable timeframes. However, we determined that controls could be strengthened in two process areas as noted in Table 2.
- Of the 19 BD waiver applications sampled, 8 were withdrawn or returned because the institution either did not substantially complete the application or did not agree with the conditions imposed for the waiver approval. The 11 remaining applications were approved by the FDIC.

Table 2: OIG Sample Results

Key Process Step	Audit Conclusion
The Case Manager completed the required data fields in VISION AT.	X See page 16 for details.
The Case Manager consulted with the primary federal regulator.	✓
The Case Manager completed the SOIs.	✓
The Case Manager prepared the approval letter.	X See page 13 for details.
The application was processed within applicable timeframes for expedited or standard processing.	✓ (Applications in the sample were processed in 32 days on average.)

Source: OIG analysis of SOIs, BD waiver application packages, and data in VISION AT for the applications sampled.

- ✓ For the sampled item, the process was generally followed. Any exceptions noted were considered to be insignificant and/or were adequately explained by the RO.
- X Controls in this area could be strengthened.

Audit Results

- While the *Case Manager Procedures Manual* provides the conditions for approving BD waiver applications, the manual does not explicitly state that the approval letter should include the two conditions of approval described in bullets at the right. The manual is clearer with regard to the non-standard conditions that need to be included in the approval letter.
- For the approval letters we reviewed, the language pertaining to the conditions for approval varied among the ROs.
 - Notably, approval letters for 8 of the 11 approved waiver applications in our sample did not contain the condition that the waiver may be revoked by the FDIC at any time by written notice to the institution, which is one of the two conditions for approval. In two cases, RO officials responded that they would update their approval letter templates to include this language.

Conditions for Approval

A waiver issued pursuant to this section shall:

- Be for a fixed period, generally no longer than 2 years, but may be extended upon refiling; and
- May be revoked by the FDIC at any time by written notice to the institution.

The following non-standard conditions will normally be included in approval letters provided the applicant has agreed to them in writing:

1. Volume, rates, and maturities of newly issued BDs will be limited to the amounts projected in the application, or more conservative levels determined to be appropriate by the Regional Director.
2. A statement that, in granting a waiver, the FDIC has relied upon the information and statements provided by the applicant, and any material change in the institution's condition or representation may result in termination of the waiver. The institution will be responsible for notifying the FDIC of any material change.
3. The institution shall maintain and have readily available for the examiner review, records showing that its acceptance of BDs met the rate limits imposed by section 337.6 and section 29 of the FDI Act.
4. Any waiver granted will expire immediately should the institution become "undercapitalized" as the term is defined by its appropriate federal banking agency.

Source: Section 40 of the *Case Manager Procedures Manual*.

Audit Results

- Three approval letters did not include the non-standard conditions listed in the *Case Manager Procedures Manual*. RO officials stated that the non-standard conditions were inadvertently omitted from two of the approval letters, but RO staff had discussed the non-standard conditions with the two institutions. RO officials advised us that they had determined that the non-standard conditions were not appropriate for the circumstances involving the remaining approval letter.
- Ensuring that applicable conditions for approvals are clearly stated in approval letters will help facilitate compliance with established controls in the BD waiver process.

Audit Results

- Generally, ROs monitor the need for a BD waiver through:
 - Risk management examinations and visitations.
 - Quarterly Consolidated Reports of Condition and Income (Call Report).
 - Reports prepared by the ROMIG (based on data in Call Reports or Thrift Financial Reports).
 - An institution’s self-notification.
- When an institution’s capital level falls from the well capitalized category to the adequately capitalized category, the RO sends the institution a notification letter similar to the illustration at the right.

Sample Notification Letter to an Institution with Regard to Its Capital Category for Purposes of Prompt Corrective Action

Based on a preliminary analysis of your September 30, 20XX, Reports of Condition and Income, we calculate your key capital ratios as follows:

<i>Total Risk-Based Capital Ratio</i>	<i>_____</i>	<i>%</i>
<i>Tier 1 Risk-Based Capital Ratio</i>	<i>_____</i>	<i>%</i>
<i>Tier 1 Leverage Ratio</i>	<i>_____</i>	<i>%</i>

It has been determined that your bank falls within the Adequately Capitalized capital category, due to the Total Risk-Based Capital Ratio, and was deemed to have been notified of this category on October 30, 20XX, (the deadline for filing the September 30, 20XX Call Report), pursuant to 12 C.F.R. §325.102(b)(1). We recommend that you carefully review the restrictions concerning brokered deposits, found in Section 29 of the FDI Act (12 U.S.C. §1831f) and Section 337.6 of the FDIC Rules and Regulations (12 C.F.R. §337.6), that apply to adequately capitalized institutions.

Pursuant to Section 337.6(b) of the FDIC Rules and Regulations (12 C.F.R. §337.6(b)), an adequately capitalized insured depository institution may not accept, renew or roll over any brokered deposits unless it has obtained a waiver of this prohibition from the FDIC. The application procedures for requesting a brokered deposit waiver are contained in Section 303.243 of FDIC Rules and Regulations (12 C.F.R. §303.243). Brokered deposits that were previously accepted while the institution was well capitalized, as defined in Section 38 of the FDI Act, do not require a waiver. However, these brokered deposits may not be renewed or rolled over until the institution has obtained a waiver from the FDIC.

Source: Excerpt from a notification letter provided by RO officials.

Audit Results

- The *Case Manager Procedures Manual* states that all applications, including BD waiver applications, should be entered into ViSION AT upon receipt. The manual defines information that should be recorded in the ViSION AT module (see illustration at the right).
- Additionally, the WO had orally specified information to be recorded in ViSION AT regarding BD waiver applications.
- We found that the Case Managers generally entered information in ViSION AT as required. However, the Case Managers did not always specify the conditions imposed for waiver approvals.

Information to be Recorded in ViSION AT

Requirements per Case Manager Procedures Manual

- Describe proposal sufficient to identify any unique feature
- Describe problem areas and/or policy matters
- Specify reasons for processing delays
- Identify any non-standard conditions imposed

WO requirements

- Reason the institution is requesting a BD waiver
- Proposed use or purpose of the BDs
- Waiver request period
- If the waiver is for participation in the Certificate of Deposit Account Registry Service program, name the program involved.
- Conditions of the BD waiver, including non-standard conditions.
- Reason why the institution is not well capitalized.

Source: Section 20.1 of the Case Manager Procedures Manual and the June 18, 2008 Risk Analysis Center presentation entitled, *BDs: Issues, Risks, and Policies*.

Audit Results

Washington Office Review

- Because of heightened concerns about the increased use of BDs as a source of funding, the WO initiated a “parallel” review of BD waiver applications in the first quarter of 2008. WO officials explained that the review process was instituted to provide a secondary-level review and to facilitate reporting to senior FDIC management officials, including the Chairman, on BD waiver applications. After the WO review process was instituted, DSC decided to temporarily discontinue expedited BD waiver application processing of BD waiver applications.
- The FDIC Rules and Regulations require that, if a filing by an eligible depository institution is removed from the expedited process, the FDIC will promptly provide the applicant with a written explanation. Only two of the 19 applications we sampled were eligible for expedited processing. One application was reviewed before DSC’s decision to remove applications from expedited processing and was approved under the 21-day expedited processing timeframe. With respect to the other application, the FDIC did not provide the institution with a written notification. However, RO officials told us that the institution had been informed of the change in the FDIC’s processes for processing BD waiver applications, and we noted reference to those discussions in the correspondence we reviewed.
- The FDIC did not publicly announce its decision to temporarily discontinue expedited processing of brokered deposit waiver applications. Such an announcement would have added transparency to the process, particularly in light of potential public expectation, grounded in the FDIC’s regulations, that BD waiver applications submitted by eligible depository institutions would receive expedited processing.
- The WO uses ViSION AT data to monitor and report on the status of BD waiver applications that institutions have submitted and ROs have accepted.

Audit Results

- The WO begins its review of a BD waiver application upon receipt of a RO summary of a BD waiver application request. Review examiners in the WO are responsible for providing an analysis of the information provided by the RO and recommending whether the WO should concur with the RO's determination to grant a waiver. The completed analysis is routed through the appropriate Section Chief to the Associate Director, Risk Management Examinations Branch, or to the Senior Deputy Director, Supervisory Examinations, who notifies the RO of the WO's concurrence.
- Procedures for the WO review process were communicated to the ROs orally through routine discussions. The WO process was also reiterated in June 2008 during a Risk Analysis Center presentation entitled, *BDs: Issues, Risks, and Policies*. However, DSC has not yet established formal written procedures for the WO review process. Consequently, the ROs are preparing and submitting a variety of documents to the WO. The results of our sample of submitted documents are shown in Table 3, which follows.

Audit Results

Table 3: Documents Submitted by the ROs to the WO

Application Included in OIG Sample ^a	Type of Document				
	Bank Application	SOI	RO Summary	Approval Letter	Email Summary
1		✓			✓
2	✓	✓		✓	✓
3		✓			✓
4		✓		✓	✓
5	✓		✓		
6	✓		✓		
7		✓ ^b		✓	
8	✓	✓		✓	
9			✓		

Source: OIG analysis.

^a Only nine of the BD waiver applications included in the OIG sample were received and accepted after the WO review process was instituted.

^b The RO submitted a draft SOI to the WO.

- While the ROs provided information to the WO for their review and concurrence of BD waiver applications, the information was not consistent among the ROs. For example, some ROs prepared separate summaries for the WO, while others submitted the completed SOIs.
- Written procedures that define the information needed for the WO review (and when such information should be submitted) would help ensure that established policies and procedures are followed and promote a consistent, repeatable, and disciplined process. Such procedures would also allow the WO to more easily assess its process and create efficiencies, if needed, in the future, given the expected increase in the volume of activity.

Audit Results

- We also noted that financial institutions submitted only 2 of the 19 BD waiver applications in our sample through *FDICconnect*. *FDICconnect* is the secure Internet channel for FDIC-insured institutions to conduct business and exchange information with the FDIC.
- *FDICconnect* has been available to financial institutions for BD waiver applications since June 28, 2005. The FDIC issued a Financial Institution Letter, dated July 1, 2005, encouraging institutions that had not yet registered for *FDICconnect* to do so as soon as possible so that they could benefit from the opportunities the system provides.
- Further encouraging financial institutions to submit BD waiver applications through *FDICconnect* could increase the efficiency of the application process. The BD waiver application page in *FDICconnect* explains the legal requirements for requesting a waiver, defines the term brokered deposit, and requires the user to input the institution's capital category at the time of submission. Additionally, the required fields in *FDICconnect* address the information institutions must submit to apply for a waiver (see page 10).
- The use of *FDICconnect* would allow information in the application to be automatically uploaded to ViSION AT after the waiver application is accepted by the RO. The actual application and information about the number and nature of BD waiver applications pending would then be immediately available to the WO for purposes of initiating its review and management reports on BD waiver applications prepared for senior FDIC officials, including the Chairman.

Recommendations

We recommend that the Director, DSC:

1. Clarify DSC's policies and procedures related to BD waiver applications to:
 - Address the written acknowledgment requirement in FDIC Rules and Regulations Part 303 related to applications filed by eligible institutions, including the timeframes and contents of the written acknowledgement.
 - Advise the ROs about conditions to be included in an approval letter, or develop a standard template for approval letters to help promote compliance with established procedures.
2. Establish formal written BD waiver application review procedures for the WO review process to ensure consistency and adherence to the process and for future assessment of the process. Consideration should be given to:
 - formally defining specific data to be recorded in ViSION AT,
 - defining the documents and their contents, for example, a preliminary summary or the completed SOI, that the ROs should submit to the WO and when that submission should occur.
3. Determine whether it would be appropriate to make a public announcement regarding the decision to temporarily suspend expedited processing for eligible depository institutions.
4. Further encourage financial institutions to use *FDICconnect* to submit BD waiver applications to enhance efficiency in the BD waiver application process.

Corporation Comments and OIG Evaluation

On May 21, 2009, the Director, DSC, provided a written response to the draft of this report. Management's response is presented in its entirety in Appendix 3. Management agreed with our findings and recommendations.

- In response to recommendation 1, DSC agreed to issue a Regional Director Memorandum clarifying the procedures on the acknowledgement provision in the FDIC Rules and Regulations and the conditions to be included in a BD waiver approval letter.
- In response to recommendation 2, DSC agreed to provide formal procedures for the WO review of BD waiver applications that reinforce the requirements in the *Case Manager Procedures Manual*.
- In response to recommendation 3, DSC agreed to determine the most effective means for notifying insured depository institutions of the Corporation's decision to temporarily suspend the expedited processing for BD waiver Applications.
- In response to recommendation 4, DSC agreed to continue to encourage insured financial institutions to use *FDICconnect* to submit BD waiver applications. On June 2, 2009, a DSC official clarified management's written response to this recommendation. The official indicated that DSC plans to include in its notification letters to institutions (regarding capital levels as discussed on page 15) standard language that encourages the use of *FDICconnect* when filing BD waiver applications.

A summary of management's response to each of the report's recommendations is in Appendix 4. DSC's planned actions are responsive to our recommendations. The recommendations are resolved but will remain open until we determine that the agreed-to corrective actions have been completed and are responsive.

OBJECTIVE, SCOPE AND METHODOLOGY

Objective

The objective of this audit was to assess the FDIC's BD waiver application process for FDIC-insured financial institutions. We conducted this performance audit from August 2008 through April 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Scope and Methodology

To address the audit's objective, we:

- Reviewed relevant laws, rules, regulations, policies, procedures, guidance, and other controls pertaining to the BD waiver process.
- Interviewed FDIC officials in Washington, D.C., and RO officials in Atlanta, Georgia; Dallas, Texas; Chicago, Illinois; Kansas City, Kansas; Memphis, Tennessee; New York City, New York; and San Francisco, California.

We focused our analysis on a non-statistical sample¹ of FDIC-supervised financial institutions that submitted one or more applications for BD waivers during the period January 1, 2008 through August 15, 2008. Table 4 summarizes the universe of BD waiver applications received by the FDIC based on ViSION AT data, adjusted for applications entered in error, and the number of BD waivers we sampled.

¹ The results of a non-statistical sample cannot be projected to the intended population by standard statistical methods.

Table 4: OIG Sample Information

Number of Waiver Applications Received Based on ViSION AT Data (January 1 - August 15, 2008)	79
Less the Number of Waiver Applications Identified as Inactive per ViSION AT*	9
Adjusted Number of Waiver Applications Received	70
Number of Financial Institutions that Submitted the 70 Waiver Applications	58
Number of Financial Institutions Sampled	19
Percentage of Institutions Included in the Sample	32%

Source: OIG analysis of data in ViSION production tables.

* DSC officials indicated to us that inactive applications represented applications entered in error.

We evaluated whether each sampled BD waiver application had been processed consistent with the FDIC Rules and Regulations and DSC's procedures. As part of our analysis, we determined whether:

- all eight elements required for the application were reviewed;
- contact was made with other regulators, if applicable, to obtain their views on the waiver applications;²
- the SOIs were complete;
- ViSION AT comments were complete;
- waiver approval letters were complete;
- applications were submitted to the WO for review and concurrence;
- the WO provided feedback to the RO after the review; and
- sampled applications were included on the Chairman's weekly BD waiver report.

The scope of this audit did not include assessing the merits of the FDIC's decisions to grant waivers or the extent to which the FDIC ensures that institutions comply with the terms of BD waivers.

Internal Control

To assess the relevant control activities, we identified the processes related to the BD waiver application process. These controls included policies and procedures contained in the *Case Managers Procedures Manual*.

² As part of the BD waiver review process, the FDIC provides notice to the depository institution's appropriate federal banking agency and any state regulatory agency that a request for a BD waiver has been filed and will consult with the agency or agencies prior to taking action on the institution's request.

Reliance on Computer-processed Information

For purposes of the audit, we did not rely on computer-processed information to support our significant findings, conclusions, and recommendations. Our assessment centered on evaluating both the RO and WO review process. We did, however, rely on information in ViSION AT in order to identify the universe of applications submitted during the period January 1, 2008 through August 15, 2008.

Performance Measurement

We reviewed annual performance plans and FDIC strategic plans to identify goals, objectives, and results and determine whether the Corporation has (1) established quantifiable performance measures and (2) developed and analyzed data to assess program, project, or function performance related to its efforts to identify risk in those institutions involved in BD waiver applications.

We determined that the FDIC's *2005-2010 Strategic Plan*, *2008 Annual Performance Plan*, *2008 Corporate Performance Objectives*, and *2007 Annual Report* had no specific information related to our objective.

Compliance With Laws and Regulations

We reviewed applicable laws and regulations related to the FDIC's BD waiver application process. We found no instances where the FDIC was not in compliance with applicable laws and regulations. However, as mentioned in the report, we identified certain procedures that should be revised so as to clarify the intent of Part 303 of FDIC Rules and Regulations regarding acknowledgement of applications for eligible depository institutions.

We assessed the risk of fraud and abuse related to the audit objective in the course of evaluating audit evidence.

CORPORATION COMMENTS



Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Division of Supervision and Consumer Protection

May 21, 2009

TO: Russell A. Rau, Assistant Inspector General for Audits
Office of Inspector General

FROM: Sandra L. Thompson, Director
Division of Supervision and Consumer Protection

SUBJECT: Response to Draft Report Entitled
FDIC's Brokered Deposit Waiver Application Process (2008-033)

This audit assessed the FDIC's brokered deposit (BD) waiver application process for insured financial institutions. We appreciate your review and are pleased that you found the FDIC in compliance with applicable laws and regulations. Your report includes four recommendations with which DSC agrees.

Accordingly, DSC agrees to:

- issue a Regional Director Memorandum by September 30, 2009, clarifying our procedures on the acknowledgement provision in the FDIC Rules and Regulations and the conditions to be included in a BD waiver approval letter.
- provide formal procedures for the Washington Office review of BD waiver applications that reinforce the requirements in the Case Manager Manual. We will deliver these procedures in the same Regional Director Memorandum referenced above by September 30, 2009.
- determine the most effective means to notify insured depository institutions by September 30, 2009, of our decision to temporarily suspend the expedited processing for BD waiver applications.
- continue to encourage insured financial institutions to use *FDICconnect* to submit BD waiver applications.

We appreciate the opportunity to comment on your review and your suggestions on how DSC may enhance the processing of BD waiver applications.

MANAGEMENT RESPONSE TO RECOMMENDATIONS

This table presents the management response on the recommendations in our report and the status of the recommendations as of the date of report issuance.

Rec. No.	Corrective Action: Taken or Planned	Expected Completion Date	Monetary Benefits	Resolved: ^a Yes or No	Open or Closed ^b
1	DSC will issue a Regional Director Memorandum, clarifying procedures on the acknowledgement provision in the FDIC Rules and Regulations and the conditions to be included in a BD waiver approval letter.	09/30/09	\$0	Yes	Open
2	DSC will provide formal procedures for the WO review of BD waiver applications that reinforce the requirements in the Case Manager Manual. These procedures will be included in the same Regional Director Memorandum referenced in recommendation 1.	09/30/09	\$0	Yes	Open
3	DSC will determine the most effective means to notify insured depository institutions of the decision to temporarily suspend the expedited processing for BD waiver applications.	09/30/09	\$0	Yes	Open
4	DSC will continue to encourage insured financial institutions to use FDICconnect to submit BD waiver applications.	09/30/09	\$0	Yes	Open

- ^a Resolved – (1) Management concurs with the recommendation, and the planned, ongoing, and completed corrective action is consistent with the recommendation.
 (2) Management does not concur with the recommendation, but alternative action meets the intent of the recommendation.
 (3) Management agrees to the OIG monetary benefits, or a different amount, or no (\$0) amount. Monetary benefits are considered resolved as long as management provides an amount.

^b Once the OIG determines that the agreed-upon corrective actions have been completed and are responsive to the recommendations, the recommendations can be closed.

ACRONYMS USED IN THE REPORT

BD	Brokered Deposit
DSC	Division of Supervision and Consumer Protection
FDI	Federal Deposit Insurance
RO	Regional Office
ROMIG	Regional Office Management Information Group
SOI	Summary of Investigation
ViSION AT	Virtual Supervisory Information on the Net Application Tracking
WO	Washington Office