Speeches and Testimony

Statement by FDIC Chairman Jelena McWilliams on Changes to Supervisory Appeals Process

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In August 2020, the FDIC issued a proposal to replace the Supervisory Appeals Review Committee (SARC) with a new Office of Supervisory Appeals to satisfy the statutory requirement that each federal banking agency and the National Credit Union Administration establish an independent intra-agency appellate process to review material supervisory determinations.

Since January 2007, 51 appeals have been filed to the SARC out of 113,448 exams.[1] While I would like to believe that the low number of past appeals is indicative of a meeting of the minds between our examiners and the banks they examine, I consider it my duty to ensure that the appeals process is robust, fair, and independent.

Today, the FDIC will vote to finalize the proposal. As proposed, the new Office will be an independent, standalone unit within the FDIC with final authority to decide supervisory appeals. The Office will make findings only on material supervisory determinations, consistent with laws, regulations, and FDIC policies, and will not establish new policy, which remains the exclusive purview of the FDIC Board of Directors.

In line with the proposal, the FDIC will recruit external candidates to staff the Office, limiting eligibility to individuals with direct experience with the examination process, such as former bank examiners, who would serve staggered, time-limited, nonpermanent terms. All reviewing officials would be cleared for conflicts of interest and subject to the FDIC's usual requirements for confidentiality. Limiting eligibility to only those with direct supervisory experience ensures candidates will have a thorough understanding of the supervisory process and relevant expertise to understand the range of issues that might be presented in appeals.

The new Office will achieve several goals – most importantly, to promote an independent, consistent appeals process. By limiting eligibility to former examiners and recruiting externally, the FDIC anticipates attracting impartial candidates who are less likely to have established relationships with individuals involved in the supervisory process. Imposing time-

limited terms decreases the likelihood officials would serve in furtherance of longer-term career goals. Establishing a standalone Office whose sole function is resolving appeals ensures the reviewing officials will have the capacity to review each case with the proper attention and diligence, particularly should the volume of appeals increase. Finally, while the FDIC currently has controls in place to promote consistency in examinations, a more robust appeals process with an independent body will further help ensure that examiners are applying policies consistently.

A robust, fair, and independent appeals process is crucial to ensure consistency and accountability in our exams. I support finalizing the new guidelines and would like to thank the staff for all their hard work.

[1] Total appeals includes a number of appeals that were not decided upon because the appeal was withdrawn by the institution, the issues were found not to be appealable, or the institution closed. Total exams includes safety and soundness, trust, information technology, Bank Secrecy Act, consumer protection, and Community Reinvestment Act examinations conducted by FDIC as primary federal supervisor.