

FDIC will provide the applicant with written notification of the final action when the decision is rendered.

(g) *Delegation of authority.* (1) Where the criteria listed in paragraph (g)(2) of this section are satisfied and the applicant agrees in writing to comply with any conditions imposed by the approving FDIC official, other than the standard conditions defined in §303.2(ff), which may be imposed without the applicant's written consent, authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to approve applications for the FDIC's consent to exercise trust powers.

(2) The following criteria must be satisfied before the authority delegated in paragraph (g)(1) of this section may be exercised:

(i) The factors set forth in section 6 of the FDI Act (12 U.S.C. 1816) have been considered and favorably resolved;

(ii) The proposed management of the trust business is determined to be capable of satisfactorily handling the anticipated business; and

(iii) The applicant's board of directors formally has adopted the FDIC Statement of Principles of Trust Department Management available from any FDIC regional office.

(h) *Denials and certain conditional approvals.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director to:

(1) Deny applications for trust powers; and

(2) Approve applications for trust powers where the criteria listed in paragraph (g)(2) of this section are satisfied but the applicant does not agree in writing to comply with any condition imposed by the delegate, other than the standard conditions defined in §303.2(ff) which may be imposed without the applicant's written consent.

**§303.243 Brokered deposit waivers.**

(a) *Scope.* Pursuant to section 29 of the FDI Act (12 U.S.C. 1831f) and part 337 of this chapter, an adequately capitalized insured depository institution may not accept, renew or roll over any brokered deposits unless it has ob-

tained a waiver from the FDIC. A well-capitalized insured depository institution may accept brokered deposits without a waiver, and an undercapitalized insured depository institution may not accept, renew or roll over any brokered deposits under any circumstances. This section contains the procedures to be followed to file with the FDIC for a brokered deposit waiver. The FDIC will provide notice to the depository institution's appropriate federal banking agency and any state regulatory agency, as appropriate, that a request for a waiver has been filed and will consult with such agency or agencies, prior to taking action on the institution's request for a waiver. Prior notice and/or consultation shall not be required in any particular case if the FDIC determines that the circumstances require it to take action without giving such notice and opportunity for consultation.

(b) *Filing procedures.* Applicants shall submit a letter application to the appropriate regional director (DOS).

(c) *Content of filing.* 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 currently 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; and

(8) The reasons the institution believes its acceptance, renewal or rollover of brokered deposits would pose no undue risk.

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

(e) *Expedited processing for eligible depository institutions.* An application filed under this section by an eligible depository institution as defined in this §303.243(e) 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. For the purpose of this section, an applicant will be deemed an eligible depository institution if it satisfies all of the criteria contained in §303.2(r) except that the applicant may be adequately capitalized rather than well-capitalized. 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 procedures will be deemed approved 21 days after the FDIC's receipt of a substantially complete application.

(f) *Standard processing.* For those filings which are not processed pursuant to the expedited procedures, the FDIC will provide the applicant with written notification of the final action as soon as the decision is rendered.

(g) *Conditions for approval.* A waiver issued pursuant to this section shall:

(1) Be for a fixed period, generally no longer than two years, but may be extended upon refiling; and

(2) May be revoked by the FDIC at any time by written notice to the institution.

(h) *Delegation of authority.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to approve or deny brokered deposit waiver applications. Based upon a preliminary review, any delegate may grant a temporary waiver for a short period in order to facilitate the orderly processing of a filing for a waiver.

**§ 303.244 Golden parachute and severance plan payments.**

(a) *Scope.* Pursuant to section 18(k) of the FDI Act (12 U.S.C. 1828(k)) and part 359 of this chapter, an insured depository institution or depository institution holding company may not make golden parachute payments or excess nondiscriminatory severance plan payments unless the depository institution or holding company obtains permission to make such payments in accordance with the rules contained in part 359 of this chapter. This section contains the procedures to file for the FDIC's consent when such consent is necessary under part 359 of this chapter.

(1) *Golden parachute payments.* A troubled insured depository institution or a troubled depository institution holding company is prohibited from making golden parachute payments (as defined in §359.1(f)(1) of this chapter) unless it obtains the consent of the appropriate federal banking agency and the written concurrence of the FDIC. Therefore, in the case of golden parachute payments, the procedures in this section apply to all troubled insured depository institutions and troubled depository institution holding companies.

(2) *Excess nondiscriminatory severance plan payments.* In the case of excess nondiscriminatory severance plan payments as provided by §359.1(f)(2)(v) of this chapter, the FDIC's consent is necessary for state nonmember banks that meet the criteria set forth in §359.1(f)(1)(ii) of this chapter. In addition, the FDIC's consent is required for all insured depository institutions or depository institution holding companies that meet the same criteria and seek to make payments in excess of the 12-month amount specified in §359.1(f)(2)(v) of this chapter.

(b) *Filing procedures.* Applicants shall submit a letter application to the appropriate FDIC regional director (DOS).

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

(1) The reasons why the applicant seeks to make the payment;

(2) An identification of the institution-affiliated party who will receive the payment;