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Federal Deposit Insurance Corporation
CORPORATION GUIDELINES AND POLICIES WITH RESPECT TO SECTION 19

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On September 27, 1968, the Federal Deposit Insurance Corporation's Chairman addressed the following memorandum to all insured banks.

"The Federal Deposit Insurance Corporation has for some time been studying in detail Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829), relating to the requirement for this Corporation's consent prior to any insured bank employing persons who have been convicted of crimes involving dishonesty or breach of trust.

"Section 19 provides as follows:

'Except with the written consent of the Corporation no person shall serve as a director, officer, or employee of an insured bank who has been *convicted*, or who is hereafter convicted of any *criminal offense involving dishonesty or breach of trust*. For each willful violation of this prohibition, the bank involved shall be subject to a penalty of not more than \$100 for each day this prohibition is violated, which the Corporation may recover for its use.'

"Since the enactment of this law in 1950, our Board has reviewed cases coming under it on an ad hoc basis and each case has been judged on its own merits according to the particular facts and circumstances involved. The need for guidelines and standards to be applied prospectively has increased in recent years. Inquiries continue to come in from banking institutions asking what standards should be applied by them in determining whether an application under Section 19 is required. In addition, programs are now underway on both the Federal and state levels to hire and retrain the hardcore unemployed, some of whom may have criminal records, and the banking community will no doubt participate in these programs to some degree. For these reasons, the Board of Directors has adopted the following general guidelines and policies with respect to Section 19. It is our hope that these guidelines will be of assistance to all banks having questions concerning the applicability of our law, and that they will, at the same time, serve to insure the continuing stability and confidence in our banking system."

I. STANDARDS TO BE APPLIED IN DETERMINING WHETHER AN APPLICATION FOR CONSENT IS REQUIRED UNDER SECTION 19

A. There must be present a *conviction of record*. Arrests, pending cases not brought to trial, acquittals, or any conviction which has been reversed on appeal will be excluded from the requirements of Section 19. A conviction which is being appealed will require a Section 19 application until or unless otherwise reversed.

B. The conviction must be for a *criminal offense involving dishonesty or breach of trust*. Felonies as well as misdemeanors wherein dishonesty or breach of trust is involved are included within the definition. Dishonesty is defined to mean "to cheat or defraud for monetary gain or its equivalent, directly or indirectly, or to wrongfully take from any person, property lawfully belonging to that person in violation of any criminal statute or code." [Acts of dishonesty are further defined to include, but not limited to, such acts which involve want of integrity, lack of probity, or involve a disposition to distort, defraud, cheat or to act deceitfully or fraudulently. Furthermore, dishonesty may also include crimes which by federal or state criminal statutes and codes are defined as dishonest.] Breach of trust is defined to mean "a wrongful use, misappropriation, or omission with respect to any property or fund which has been lawfully committed to a person in a fiduciary capacity."

C. Youth Offenders

1. Adjudgment by a court against a person as a "youthful offender" under any youth offender law or adjudgment as a "juvenile delinquent" by a family court or any other court having jurisdiction over minors as defined by state law will not require an application under Section 19. Such adjudications are not considered convictions for criminal offenses.

D. Adults and All Minors Convicted of Crimes

1. The conviction of any adult or minor by a court of competent jurisdiction for any criminal offense involving dishonesty or breach of trust as defined in paragraph B above will require an application for consent prior to a bank's employment of that person.

II. THE CORPORATION'S POLICY WITH RESPECT TO APPLICATIONS MADE UNDER SECTION 19

A. In considering any application made by an insured bank to employ a person who has been convicted of a criminal offense involving dishonesty or breach of trust, the factors to be considered will include but will not be limited to the following:

1. The specific nature of the offense involved and the circumstances surrounding it.
2. The evidence of rehabilitation of the person since the date of his/her conviction (parole, suspension of sentence, and reputation of the person since conviction will be given consideration. Participation by the person in programs on the national or state levels to hire and retrain the hard-core unemployed also will be given consideration.
3. The age of the person at the time of his/her conviction.
4. The position to be held by the person in the bank.
5. The fidelity bond coverage applicable (or to be applicable) to the person."

CORPORATION STATEMENT OF POLICY

The Board of Directors of the Federal Deposit Insurance Corporation approved the following statement of policy at its offices in Washington, D.C., on the 21st day of September, 1976:

The Corporation does not view Section 19 as being punitive in intent. Rather, the essential criterion in assessing such applications is whether the prospective director, officer, or employee constitutes a significant threat or risk to the safety and soundness of the applicant bank, and our policy is to approve applications in which this risk is absent.

Existing Corporation policy on Section 19 applications has involved consideration of the nature and circumstances of the offense, the evidence of rehabilitation, the position to be held by the employee in the bank and the applicability of the bank's fidelity bond coverage to the employee. These remain important considerations in determining the risk to the bank in the employment of the prospective employee.

On this basis, many applications can be routinely approved because the prospective employee will not be in a position to constitute any substantial risk to the safety and soundness of the bank. Employees who will occupy clerical, maintenance, or service positions or, in many banks, administrative or teller positions generally pose no such risk, and on application from the board of directors of the bank, normally will be able to be routinely approved. A more detailed analysis will be required in the case of directors, officers, or other employees in a position to control or influence the disposition of sums of money large in relation to the size of the bank.

APPLICATION PURSUANT TO SECTION 19 OF THE FEDERAL DEPOSIT INSURANCE ACT

SECTION A - APPLICANT BANK INFORMATION

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|---|------------------------|
| 1. NAME OF BANK | 2. DATE OF APPLICATION |
| 3. ADDRESS OF BANK (Street, City, County, State and ZIP Code) | |

We have, in connection with this Request, read the following provision of the Federal Deposit Insurance Act which governs requests by insured banks for the consent of the Federal Deposit Insurance Corporation to the employment, by the Bank, of a person who has been convicted of a crime involving dishonesty or breach of trust, namely:

"Section 19. Except with the written consent of the Corporation, no person shall serve as a director, officer, or employee of an insured bank who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust. For each willful violation of this prohibition, the bank involved shall be subject to a penalty of not more than \$100 for each day this prohibition is violated, which the Corporation may recover for its use."

In support of this Request, the following statements, representations and information are submitted for the purpose of inducing the Federal Deposit Insurance Corporation to grant its written consent to the service as a director, officer, or employee of the bank, a person who has been convicted of a crime involving dishonesty or a breach of trust:

SECTION B - BIOGRAPHICAL INFORMATION CONCERNING THE PROSPECTIVE DIRECTOR, OFFICER, OR EMPLOYEE

| | |
|---|---|
| 1. NAME | 2. ADDRESS (Street, City, State and ZIP Code) |
| 3. DATE OF BIRTH (Mo., Day, Yr.) | |
| 4. PLACE OF BIRTH (City and State) | |
| 5. SOCIAL SECURITY NUMBER | |
| 6. NAME AND ADDRESS OF PRESENT OR MOST RECENT EMPLOYER (Street, City, State and ZIP Code) | |

7. INDICATE TOTAL NUMBER OF VOTING SHARES OF THE BANK'S STOCK DIRECTLY OR INDIRECTLY OWNED OR OTHERWISE CONTROLLED. (Answer "none" if appropriate.)

SECTION C - INFORMATION RELATIVE TO CONVICTION(S)

| 1. DESCRIPTION OR NATURE OF CRIME (a) | DATE OF CONVICTION (b) | NAME AND ADDRESS OF COURT (c) | DISPOSITION (d) |
|--|---------------------------|----------------------------------|--------------------|
| | | | |

NOTE: If additional convictions for crimes involving dishonesty or breach of trust are discovered subsequent to approval of this request, another request may be necessary.

2. Briefly describe the nature of the offense and the circumstances surrounding it. Include age of prospective employee at the time of conviction, date of the offense, and any mitigating circumstances (parole, suspension of sentence, pardon, etc.).

3. Briefly describe the extent of rehabilitation of the prospective director, officer, or employee and attach supporting documents, if any.

4. Attach copies of the Indictment, Information, or Complaint and Final Decree of Judgment, if available. (Normally these can be obtained from the clerk of the court. If not provided, explain reasons for unavailability).

5. List any other pertinent facts relative to the crime which are not disclosed in the indictment.

I do hereby certify that the Biographical Information (Section B) and Information Relative to Conviction (Section C) are true and correct to the best of my knowledge and belief.

SIGNATURE OF PROSPECTIVE DIRECTOR, OFFICER OR EMPLOYEE

DATE SIGNED

NOTE: The information requested in Sections B and C above, including the Social Security Number of the prospective director, officer or employee, is solicited pursuant to Section 19 of the Federal Deposit Insurance Act (12 U.S.C. §1829). This information is necessary to assist the FDIC in assessing the merits of the application. Some of the information, including the Social Security Number, may be provided to any appropriate Federal or State bank regulatory agency and, law enforcement or other governmental agencies for identity verification purposes. Should the information indicate a violation of law, the application may be referred to any agency responsible for investigating or prosecuting such a violation. In addition, in the event of litigation, the application may be presented to the appropriate court as evidence and to counsel in the course of discovery. While submission of the information is voluntary, an omission or inaccuracy may result either in delay in processing the application or in a denial of the application. Falsification of any of the information may serve as a basis for removal of the director, officer or employee if employed by the bank and as grounds for criminal charges.

SECTION D - POSITION TO BE OCCUPIED BY THE PROSPECTIVE DIRECTOR, OFFICER OR EMPLOYEE

1. TITLE OF POSITION (S)

2. Describe the duties and responsibilities of the prospective director, officer or employee. Include extent of supervision exercised over others and/or by others.

NOTE: Should this request be approved, any significant change in the duties and/or responsibilities of the prospective director, officer or employee which occurs within 12 months subsequent to such approval must be reported in writing to the Regional Director of the Federal Deposit Insurance Corporation Region in which the bank is located.

SECTION E - NOTIFICATION OF FIDELITY INSURER

The bank's fidelity insurer is to be notified of all pertinent information regarding the conviction of the prospective employee. Assurances from the fidelity insurer must be obtained, in writing, stating that the prospective director (if applicable), officer, or employee will be covered by the bank's fidelity bond.

This application and the information requested herein may be submitted prior to notification of the bonding company; however, the Corporation's consent will be subject to a condition that written assurance of fidelity coverage to the same extent as others in similar positions be obtained by the bank.

SECTION F - ADDITIONAL INFORMATION IN SUPPORT OF THIS REQUEST

List any other appropriate information.

I do hereby certify that the Board of Directors adopted a resolution which delegated the undersigned the authority to make applications pursuant to Section 19 of the Federal Deposit Insurance Act or has adopted a resolution authorizing this application pursuant to Section 19 of the Federal Deposit Insurance Act.

SIGNATURE OF BANK OFFICIAL

This is an official document of the Federal Deposit Insurance Corporation. Providing false information may be grounds for prosecution under the provisions of Title 18, Section 1001 or 1007 of the United States Code and may be punishable by fine or imprisonment.