

Davis Polk Comments on the FDIC's Proposed Amendments to its Guidelines for Appeals of Material Supervisory Determinations

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The Federal Deposit Insurance Corporation (**FDIC**) has taken another important step to increase transparency and accountability in the supervisory process by [proposing amendments](#) to its existing Guidelines for Appeals of Material Supervisory Determinations (the **Proposal**).

In a comment letter submitted this week, Davis Polk & Wardwell LLP commended the FDIC on the Proposal, endorsing in particular the Proposal's recognition that the FDIC's Legal Division should play an important role in the resolution of appeals of material supervisory determinations. We believe that foundational principles of fairness and due process dictate that the FDIC's Legal Division should be involved in every appeal of a material supervisory determination, providing advice as necessary on the legal interpretation of any statutes, regulations or guidance at issue in the appeal.

Davis Polk's comments also offer our support for the FDIC's proposed replacement of its current little used Supervision Appeals Review Committee with a new, independent Office of Supervisory Appeals (the **Office**). Notably, under the Proposal, the Office would be staffed by external candidates with bank supervisory or examination experience who come from outside the career structure of the FDIC. We believe this staffing model would ensure that the Office has the broad range of expertise necessary to address the issues that could be presented by an appeal of a material supervisory determination, while also creating a structure designed for fair and neutral decision-making. We also support the point made in the comment letter [jointly filed](#) by the American Bankers Association and the Bank Policy Institute that examiners should not have ex parte communications with the Office while an appeal is pending.

Read the [full comment letter](#).