

Case Managers should implement the following procedures for filings that may be denied, disapproved, or subject to objection:

1. If, after receipt of any additional information, denial, disapproval, or objection remains appropriate, the Regional Director or designee and the Regional Counsel should be consulted and concur that the proposed action is supported by the facts and circumstances.
2. If the Regional Office (RO) intends to forward a recommendation for denial, disapproval, or objection to the Washington Office (WO), the Risk Management and Applications Section, Large Bank Supervision Branch, or Complex Financial Institutions Group Section Chief should be notified and consulted as soon as possible. WO Legal review should also be completed, as appropriate.
3. The Case Manager should consult with the appropriate members of Regional management and RO Legal regarding filings where disapproval, denial, or objection is considered. This consultation should involve determining which FDIC representatives will participate in discussion with the proponent(s). The Case Manager, together with RO Legal, should contact the proponent(s) and/or representing counsel as soon as possible to communicate concerns raised by the filing and to provide a final opportunity to submit any relevant information not previously provided that might impact the decision. When appropriate, such discussions should include an explanation of appeal rights and timeframes for such appeals, as outlined in Section 303.11(f) and Part 308 (Subparts D, L, and M) of the FDIC Rules and Regulations.
4. At the FDIC's discretion applicants may be offered the opportunity to withdraw the filing. In the event the filing is withdrawn, the FDIC's actions and communications should be documented in a memo to the file and at the appropriate system of record. Note that withdrawals must be received in writing.
5. If the filing is not withdrawn, the FDIC's determination and the basis for the action must be communicated either through an order and statement, or a letter, as appropriate. Whether through a cover letter to the order and statement, or through a separate letter, the applicant must be notified of their appeal rights should the filing be denied.

Note that the public may request copies of a denied, disapproved, or withdrawn filing, as well as the FDIC's determination, in accordance with the Freedom of Information Act (FOIA). The Case Manager should review the information in the application file to ensure confidential, personal, and proprietary information is not included in the non-confidential section of the file. If the RO receives a request for a copy of a denied, disapproved, or withdrawn filing under the FOIA, the Case Manager should consult with the RMS FOIA contacts, RO Legal, and as appropriate WO Legal and RMS.

REFERENCES

Sections 303.11(f) and 308 (Subparts D, L, and M) of the FDIC Rules and Regulations