



**Center for
Employment
Opportunities**

March 13, 2020

Robert E. Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Re: Notice of proposed rulemaking: Incorporation of Existing Statement of Policy Regarding Requests for Participation in the Affairs of an Insured Depository Institution by Convicted Individuals.

Dear Mr. Robert E. Feldman,

Thank you for the opportunity to comment on your notice of proposed rulemaking: Incorporation of Existing Statement of Policy Regarding Requests for Participation in the Affairs of an Insured Depository Institution by Convicted Individuals. The Center for Employment Opportunities (CEO) appreciates the FDIC's efforts to codify rules that positively impact justice-involved individuals in obtaining employment.

CEO's mission is to provide immediate, effective and comprehensive employment services to individuals recently returning home from incarceration. Our program has two core components: the transitional employment we offer to all of our program participants immediately upon entry to the program, and the vocational services that we provide to help our participants get and keep full-time jobs (job coaching and development, job placement, retention and support). Our program helps participants gain the workplace skills and confidence needed for a successful transition to a stable, productive life.

CEO began as a demonstration project in the 1970s and has since become the leading employment-centered reentry organization in the country. We target our services to individuals at the highest risk of returning to the criminal justice system; all of whom are unemployed when they arrive at CEO. Many of our participants have never been in the workforce, and less than 16 percent have attained any degree beyond a high school degree or its equivalent. Yet, our program model has proven to have a strong impact with our participants -- reducing their likelihood of returning to jail and prison and successfully reconnecting them to the workforce.

There are currently 2.3 million people incarcerated in the United States, with 640,000 people released from U.S. state prisons annually.¹ These statistics shape the average job candidate -- 1 in 3 Americans have a criminal record that will appear in a background check, 80 percent of those

¹ ["Back to Business: How Hiring Formerly Incarcerated Job Seekers Benefits Your Company."](#) *American Civil Liberties Union* (2017).



records involve a felony conviction.² Justice-involved individuals experience significant barriers in obtaining work opportunities, increasing the likelihood of returning to prison or jail. Research indicates that access to employment is the single most important factor in reducing recidivism.³

As the FDIC considers potential alternatives to the proposed rules, we believe the Corporation's guidance can be expanded to offer greater opportunities to justice-involved individuals.

The *De Minimis* Criteria

The FDIC requests comments in regards to expanding exceptions to the filing requirement - or the *de minimis* exception to filing - therefore automatically granting approval without requiring an application for individuals applying to work within the banking industry. The new changes include expanding exceptions if the person was 21 or younger and has completed all sentencing or program requirements to qualify for the *de minimis* exception to filing, allowing an individual to automatically be eligible, if at least 30 months have passed. This is a positive start in providing relief to low-risk convictions. The proposed rule allows for individuals with an offense punishable by imprisonment for a term of one year or less and served three days or less of jail time, in addition to the cooling off period of five years prior to the application, to qualify for the *de minimis* exception. We recommend expanding the *de minimis* criteria to include a longer term of imprisonment from just one year regardless of how long the person served with any other restrictions being conviction related. This would allow for a wider range of minor offenses that consider the inequities within sentencing and the justice system broadly. These policies significantly limit the number of individuals who would qualify considering many minor offenses can often lead to longer sentencing depending on a variety of factors, including a given state's sentencing and release policies which may be based on debunked ideas on deterrence. Research has also shown that race and socioeconomic class disparities present in sentence length and incarceration time served are not rooted in risk to recidivate or severity in the original offense. Those disparities still rife in the criminal justice system should not be carried through to disparities in who is able to find employment.

Regulatory reforms intended to assist more individuals with a criminal record with finding work should include policy to remove barriers to employment, including conviction restrictions to occupations. More individuals with a criminal record employed means lower rates of recidivism, or individuals returning to incarceration, and a stronger workforce.

Criminal records should only be disqualifying if they are directly related to the duties and responsibilities of the occupation. In the case of this proposal, the FDIC should narrowly interpret applicable crimes and expand the periods of time post-conviction when an individual may work at

² Ibid.

³ Ibid.

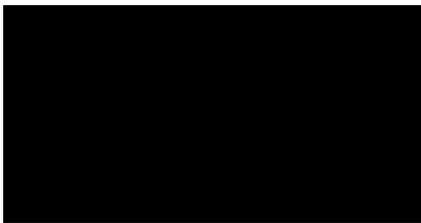


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a FDIC-insured institution. For any process related to occupational licensing, or in this case obtaining insurance, the process should be clear and transparent and include written denials in all instances so the process may be easily understood and accessible to individuals.

We thank you for the opportunity to comment on the proposed regulation and believe it is a positive start in creating more employment opportunities for people with criminal convictions.

Sincerely,



Bill Heiser
Senior Director of State Policy
Center for Employment Opportunities