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FDIC Updates Guidelines for Appeals of Material Supervisory Determinations



By **Daniel Meade**
Partner | Financial Regulation

On May 17, the Federal Deposit Insurance Corporation (“FDIC”) issued [Financial Institutions Letter 22-2022](#) updating the FDIC’s *Guidelines for Appeals of Material Supervisory Determinations*. The revised Guidelines restore the Supervision Appeals Review Committee (“SARC”) as the final level of review in the agency’s supervisory appeals process. The SARC had previously been the final level of review until the FDIC established the Office of Supervisory Appeals in [2021](#). The revised Guidelines took effect May 17, 2022, but the FDIC is soliciting comment on the revised Guidelines with a comment period of 30 days.

The membership of the SARC will be similar to how it was composed before 2021. The SARC will include: one inside member (*i.e.*, not the Comptroller of the Currency or CFPB Director) of the FDIC’s Board of Directors (serving as Chairperson); a deputy or special assistant to each of the other inside Board members; and the FDIC General Counsel as a non-voting member. The restoration of the SARC is the main change to the updated Guidelines. The revised Guidelines also permit electronic submission of appeals and provide e-mail addresses that institutions may use to submit a request for review to the appropriate Division Director or an appeal to the SARC. Otherwise, the Guidelines remain largely unchanged.

Material supervisory determinations subject to the Guidelines include CAMELS, CRA and other exam ratings; Truth in Lending Act (Regulation Z) restitution; decisions to initiate informal enforcement actions (such as memoranda of understanding); and matters requiring board attention. Material supervisory determinations do not include appointment of a conservator or receiver for an insured depository institution; prompt corrective action pursuant to section 38 of the FDI Act; determinations for which other appeals procedures exist (such as determinations of deposit insurance assessment risk classifications and payment calculations); and formal enforcement-related actions and decisions.
