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Avoiding Common Pitfalls in Applications

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This article identifies some of the common challenges that new filers of notices and applications to the Federal Reserve sometimes face. We also provide tips for managing these challenges. Following these suggestions should help you navigate the application process with greater ease. This article focuses on common issues we see related to Interagency Biographical and Financial Reports (“IBFRs”), the name check process, requests for confidential treatment of information submitted in applications, and public notices of applications published in local newspapers.

“IBFRs”

Individuals complete IBFRs to provide personal financial background and employment data needed to evaluate the competence, experience and integrity of new management and ownership. IBFRs are most often required with notices of change in control, notices of change in director or senior executive officer, or bank holding company formation applications. Individuals frequently provide financial statements that:

- are out-of-date
- do not provide requested financial information on business interests representing significant portions of their net worth, or
- do not balance, or contain supporting schedules that do not balance, to the individual’s financial statement.

Providing incomplete or inconsistent information often results in delays in processing related notices and applications. The instructions for the IBFR provide that financial statements from individuals must have “as of” dates not more than 90 days prior to the date the IBFR is submitted. Schedule D of the financial statement portion of the IBFR directs individuals to submit year-end financial statements, including profit and loss, and cash flow statements for the last two years, for each business interest in which the individual has an interest equal to 10 percent or more of his/her net worth. Taking a few minutes to double check that your financial statements balance and you have thoroughly answered all questions in the IBFR can save processing time.

Name Checks

Like other federal banking agencies, the Federal Reserve conducts name checks on new significant shareholders and key policymakers in connection with processing applications. Delays in completing this process can prevent an application from meeting anticipated processing time frames. Individuals must supply their fingerprints in order for the Federal Bureau of Investigation to perform a portion of this process. This may be done in one of two ways. First, we can provide a fingerprint card to you (with a postage-paid pre-addressed envelope) that you may take to a police station or other law enforcement location. There, law enforcement personnel will fill out the card and take the fingerprints. You should mail the fingerprint card in the pre-addressed envelope once it is completed. The fingerprint card we provide contains a code that facilitates sending the results of the name check to the Federal Reserve. Using a fingerprint card that does not contain this code generally delays the completion of the name check process.

A second method to provide fingerprints involves coming to the Reserve Bank to have fingerprints taken electronically through a device called a Live-Scan terminal. Use of the Live-Scan terminal significantly expedites the FBI name check process. You may contact staff in the Applications section to arrange for an appointment to be fingerprinted using a Live-Scan terminal.

We will notify you as early as possible if we will conduct a name check. Promptly mailing a completed fingerprint card using the pre-addressed envelope or having fingerprints taken electronically will expedite the completion of the name check process and reduce the likelihood of a delay in final action on an application.

Confidentiality Requests

Under the provisions of the Freedom of Information Act an application filed with the Federal Reserve is a public document. However, an applicant may request confidential treatment for information it believes is exempt from disclosure under FOIA. For example, if an applicant believes disclosure of commercial or financial information would likely result in substantial harm to its competitive position or that disclosure of information of a personal nature would result in a clearly unwarranted invasion of personal privacy it may request confidential treatment for such information. However, applicants often request confidential treatment for entire transaction related documents (such as purchase agreements) and shareholder information. Such requests often are not granted. Confidential treatment for certain items

contained in purchase agreements such as the purchase price may be granted but standard “boilerplate” provisions are generally not excluded from disclosure. Applicants must disclose ownership percentages for officers, directors and shareholders controlling more than 10 percent of the applicant, although we can generally grant confidential treatment for information on other shareholders.

Information for which applicants request confidential treatment must be:

- specifically identified in the public portion of the application (by reference to the confidential section)
- separately bound, and
- labeled CONFIDENTIAL.

Further, the request should specifically describe the competitive harm or invasion of personal privacy that would result from public release of the information. Following these instructions will assist the Federal Reserve in making confidentiality determinations and reduce the likelihood of the Reserve Bank asking for clarification or further justification of confidential treatment requests.

Newspaper Notices

Notice of applications usually must be published in a newspaper of general circulation in the communities that will be affected to allow the general public an opportunity to comment. Failure to promptly publish such notice or an incorrect publication that must be corrected and re-published can cause a delay in the processing of an application. The Federal Reserve’s applications filing information website contains instructions for publishing required public notices as well as sample notice forms.

Information for publishing newspaper notices for applications filed with the Federal Reserve Bank of Minneapolis can be found at http://www.federalreserve.gov/bankinfo/afi/res_news_minn.htm.

Staff of the Applications section will gladly review a proposed newspaper publication to ensure it accurately reflects the proposal. Such a review reduces the likelihood that a notice may need to be re-published and thus delay processing of an application.

Following these simple guidelines should help you avoid some of the common delays in processing your application. If you have questions on this article or the applications process in

general, contact staff of the Applications section. Contact information is available at <http://www.minneapolisfed.org/banking/apps/info/contacts.cfm>.

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