

Office of Thrift Supervision

TB 33 was rescinded 1/13/95. Obsolete.

Handbook: Thrift Activities
Subjects: Fraud and Insider Abuse; Enforcement Actions

Sections: 135; 150
TB 33

September 11, 1989

Authority to Approve Employment of Convicted Persons

Transferred to FDIC
RESCINDED

Summary: This Thrift Bulletin is intended to announce to the thrift industry that the Office of Thrift Supervision ("OTS"), successor in interest to the Federal Home Loan Bank Board ("FHLBB"), does not have the authority previously held by the FHLBB to approve or disapprove requests for employment by FSLIC-insured institutions, of persons convicted of any criminal offense involving dishonesty or breach of trust. With the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), Pub. L. No. 101-73, 103 Stat. 183, the authority to process such requests for employment was transferred to the Federal Deposit Insurance Corporation ("FDIC").

For Further Information Contact:
The Compliance and Enforcement Section, Legal Division, FDIC, at (202) 898-3743 or 3709, for the procedure to follow for submitting a request and/or for further clarification. For answers to questions from OTS, contact Rosemary Stewart, Director of Enforcement, at (202) 906-7622 or Linda Fleming, Enforcement Attorney, at (202) 906-7562.

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Pursuant to former Sections 407(p)(2) of the National Housing Act, 12 U.S.C. 1730(p)(2)(1982) and 5(d)(12)(B) of the Home Owner's Loan Act of 1933, 12 U.S.C. 1464(d)(12)(B) (1982), whenever an individual convicted of a crime involving dishonesty or a breach of trust applied for employment at a Federally or state chartered, FSLIC-insured institution, the individual or the institution had to submit a request to the FHLBB for approval. Because of the

routine nature of many of these requests, on November 19, 1987, the FHLBB delegated the authority to process requests for employment to its Principal Supervisory Agents ("PSA") in the District Offices. To assist in processing these requests, on August 25, 1988, the Office of Enforcement issued to all PSA's, the guidelines for considering employment at insured institutions by an individual with a prior conviction.

With the enactment of the FIRREA on August 9, 1989, Sections 407(p)(2) of the National Housing Act, 12 U.S.C. 1730(p)(2) and 5(d)(12)(B) of the Home Owners's Loan Act of 1933, 12 U.S.C. 1464(d)(12)(B) were repealed, thereby removing the former FHLBB's authority to approve or disapprove requests for employment by convicted individuals. Concurrently, Section 910 of the FIRREA expanded the authority of the FDIC to approve employment by convicted persons seeking a position in any type of insured depository institutions, including savings associa-

tions, by so amending Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829).

Section 910 of FIRREA also expanded significantly the scope of a person's prohibition from the banking and thrift industry if he/she has been convicted.

In particular, Section 910 amended 12 U.S.C. 1829 to provide that, except with the prior written consent of the FDIC, any person who has been convicted of any criminal offense involving dishonesty or a breach of trust may not participate, directly or indirectly, in any manner in the conduct of the affairs of any insured depository institution; and an insured depository institution may not permit such participation. Whoever knowingly violates these provisions may be fined not more than \$1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.

— Rosemary Stewart, Director of Enforcement