

CHAPTER 5 – CHARTER APPLICATIONS

Section 1. Authority; Scope.

This Chapter provides for matters that apply generally to the Commissioner's involvement in application proceedings before the Board. Because the Commissioner is directly and intrinsically involved in such proceedings, this Chapter must be read in the context of Chapter 3 of the Board Regulations.

Section 2. Special Definitions.

(a) As used in this Chapter:

(i) "Acceptance date" means the date of the acceptance notice.

(ii) "Acceptance notice" means the notice required under Section 3 (c) (i) Section 3(c)(ii), as the case may be.

(iii) "Applicant" means the single incorporator or the group of incorporators named in an application. All financial institutions shall have at least five (5) incorporators, except for a trust company, which shall have at least one (1) incorporator.

(iv) "Application" means the completed application prescribed in Section 3(a), including all exhibits and other materials attached to or otherwise filed simultaneously with the application form, together with all other information required by the Commissioner under Section 3.

(v) "Commencement date" means, as the context may require, the acceptance date in the case of an application, the receipt date in the case of a petition, or the date of the hearing notice in the case of a submission.

(vi) "Comment period" means the period of time that begins on the commencement date and ends on that date which is ten (10) days before the hearing.

(vii) "FDIC application" means the application of a proposed institution for insurance of deposits by FDIC.

(viii) "Hearing" means the public hearing by the Board on an application, as provided in the Board Regulations.

(ix) "Incorporator" means an adult individual of sound mind who intends singly or with others to incorporate or organize a financial institution.

(x) "Presiding officer" means the person designated by the Board to serve as the presiding officer of a hearing.

(xi) "Proposed institution" means the financial institution that the applicant proposes to organize.

Section 3. Application Required; Filing; Incomplete Application; Extension.

(a) To organize a financial institution, the incorporators shall submit to the Commissioner an application. Each application shall be in writing and contain the information required in Section 4. In the case of a trust company, the application shall name and be executed by at least one (1) incorporator; in all other cases, the application shall name and be executed by at least five (5) incorporators.

(b) The applicant shall submit its application with the Commissioner for evaluation. The Commissioner shall keep and maintain the application as provided in Section 8.

(c) Within thirty (30) days after the date on which an application is submitted to the Commissioner for evaluation, he shall give written notice to the applicant either:

(i) that the application is in order and has been accepted for filing or

(ii) that deficiencies exist in the information required to be included in the application and identifying each with reasonable particularity.

(d) If the Commissioner notifies the applicant of deficiencies in the application, the applicant shall correct the identified deficiencies and resubmit the application within ninety (90) days after the date of the notice of the deficiencies. If the applicant fails to submit a corrected application within such 90-day period, the applicant shall be deemed for all purposes to have withdrawn the application as of 5:00 p.m., Cheyenne, Wyoming local time, on the last day of such 90-day period.

(e) Within thirty (30) days after the date on which a corrected application is submitted to the Commissioner for further evaluation, he shall give written notice to the applicant either:

(i) that the application is in order and has been accepted for filing or

(ii) that the application is rejected as incomplete.

Section 4. Content; Electronic Media.

(a) To be accepted for filing, each application shall be comprised of the following information:

(i) The signatures of all incorporators, verifying the contents of the application;

(ii) Three (3) duplicate originals of the articles of incorporation satisfying the requirements of Section 5;

(iii) The by-laws proposed for adoption either by the incorporators simultaneously with incorporation or by the board of directors of the proposed institution at its first meeting, indicating which method will be used to adopt the by-laws;

(iv) Evidence satisfactory to the Commissioner that the proposed institution has paid-in capital stock as required by the Banking Statutes;

(v) A complete, true and accurate copy of the proposed institution's completed FDIC application or, in the case of a trust company, the proposed institution's completed application on the form prescribed from time to time by resolution of the Commissioner;

(vi) The name, proposed title and residence post-office address of each individual proposed to serve as an executive officer of the corporation during any part of the corporation's first year of existence;

(vii) A statement with supporting evidence, demonstrating that the conditions in the community in which the proposed institution would transact business afford reasonable promise of successful operation;

(viii) A statement with supporting evidence, demonstrating that the proposed capital and surplus are adequate in light of current and prospective conditions;

(ix) A statement with supporting evidence, demonstrating that the proposed executive officers and proposed directors have sufficient experience, ability and standing to afford reasonable promise of successful operation;

(x) As to each depository institutions and trust companies then open for business in the home county, a list of the name of the entity, its president (and branch managers, if the local presence is a branch), its local street address, and its local telephone and fax numbers such financial institutions and trust companies;

(xi) A copy of any bonds obtained in accordance with W.S. 13-6-206;

(xii) If applicable, the designation of an agent for service of process described in Section 7; and

(xiii) Any other information required by these Regulations or as requested by the Commissioner.

(b) The obligation to provide the information required for an application is a

continuing obligation. The applicant shall supplement the application promptly when, but only to the extent that, significant information in the application changes materially and should its FDIC application change in any way.

(c) The applicant shall also deliver the application to the Commissioner on electronic media. The Commissioner shall reasonably assist applicants and reasonably cooperate with them in assuring substantial compliance with this subsection.

Section 5. Filing Fee; Withdrawn Applications.

(a) At the same time as it submits an application to the Commissioner for evaluation, the applicant shall pay to the Commissioner a fee in the amount of \$15,000 or, in the case of an interim bank, \$4,000.

(b) If an application is withdrawn at any time before the hearing, the filing fee shall be refunded to the applicant, reduced by the amount of all expenses authorized by W.S. 13-2-208.

(c) If an application is rejected, it shall be treated under this Section as if it were withdrawn as of 5:00 p.m., Cheyenne, Wyoming local time, on the last day of the 30-day time period described in Section 3(e).

Section 6. Articles of Incorporation.

(a) The articles of incorporation for a proposed institution shall include the following information:

(i) The name of the proposed institution;

(ii) The objects for which the corporation is organized, together with a statement that the corporation is organized for no other purpose than the accomplishment of legitimate and lawful objects;

(iii) A statement that the articles of incorporation are made to enable the incorporators:

(A) In the case of a bank, to avail themselves of the advantages of the banking laws and regulations of the State of Wyoming;

(B) In the case of an interim bank, to avail themselves of the advantages of the banking laws and regulations of the State of Wyoming but only to the extent necessary to serve as a vehicle to facilitate a merger and change of ownership of an existing bank in accordance with W.S. 13-4-108;

(C) In the case of a savings and loan association, to avail themselves

of the advantages of the savings and loan laws and regulations of the State of Wyoming;

(D) In the case of trust companies, to avail themselves of the advantages of the trust company laws and regulations of the State of Wyoming and the general corporation laws of the State of Wyoming; or

(E) In the case of a bank or a savings and loan association that also desires to engage in the trust business in this state, to avail themselves of the advantages of the trust company laws and regulations of the State of Wyoming;

(iv) The object for which the corporation is organized;

(v) In the case of an interim bank, a statement that it

(A) shall not operate independently,

(B) shall not conduct banking business, and

(C) shall exist only so long as is necessary to serve as a vehicle to facilitate a merger and change of ownership of an existing bank in accordance with W.S. 13-4-108;

(vi) In the case of a trust company, such other matters as may be required under the Wyoming Business Corporation Act;

(vii) The term of its existence, which may be perpetual, except that, in the case of an interim bank, its term of existence shall not be longer than is necessary to serve as a vehicle to facilitate a merger and change of ownership of an existing bank in accordance with W.S. 13-4-108;

(viii) The street address at which its principal place of business will be located;

(ix) The amount and par value of each class of its common capital stock and the number of shares in each class authorized to be issued (in the case of a savings and loan association, common stock must have a par value of at least \$100 per share and be issued as a single class);

(x) Except for a savings and loan association, the amount and par value of each class of preferred capital stock and the number of shares in each class authorized to be issued, specifying all rights, powers and incidents of each class of such stock;

(xi) The amount of capital actually paid in;

(xii) The name, residence post-office address and occupation of each

shareholder subscribing for more than ten percent (10%) of the capital stock of the corporation and the number and class of shares subscribed for;

(xiii) The number of directors (which shall be five (5) or more, in the case of a bank, an interim bank or a savings and loan association, or any number, in the case of a trust company);

(xiv) The names, residence post-office address and occupation of each member of the board of directors that is expected to serve during any part of the corporation's first year of existence;

(xv) The name, occupation and residence post-office address of each incorporator; and

(xvi) The number of shares of capital stock, by class, for which each incorporator has subscribed.

(b) The articles of incorporation for a trust company may also include such matters as are permitted under the Wyoming Business Corporation Act.

(c) The articles of incorporation for any proposed institution may include an indemnification provision consistent with Chapter 2, Section 4.

Section 7. Designation of Agent for Service of Process.

Should the applicant be comprised of a group of incorporators, the application shall be accompanied with a designation by all incorporators of one of them to serve as agent on behalf of each and all of them for service of process and delivery of materials. All materials to be served on or delivered to the applicant shall be served on or delivered to the designated agent and shall not require service or delivery on all incorporators.

Section 8. Confidentiality.

(a) To reduce the possibility of disclosure of protected material that is in the Division's possession in connection with an application, the Commissioner shall maintain a case file, a correspondence file and a confidential file for each application.

(b) The case file shall consist only of the following documents:

(i) the application;

(ii) the acceptance notice;

(iii) the proof of publication submitted by the applicant;

(iv) the written findings of the Commissioner's investigation and examination; and

(v) all formal notices, motions and other documents filed with, served on, delivered to or issued by the Board, by the Commissioner or by the presiding officer in connection with the hearing.

(c) The correspondence file shall include all documents produced or received in connection with an application, except for those documents required to be kept in the case file or the confidential file.

(d) The confidential file shall consist of materials that contain information that is protected material.

(e) Only those portions of the case file and the correspondence file that are subject to public inspection under the Wyoming Public Records Act shall be available for public inspection.

Section 9. Investigation and Examination by Commissioner.

Promptly after the acceptance date, the Commissioner shall make a careful investigation and examination, as described in W.S. 13-2-211.

Section 10. Written Comments.

A person may file written comments on an application with the Commissioner during the comment period. The Commissioner shall promptly deliver to the Chairman and to all parties copies of all comments received by him, although he may determine to deliver comments on a weekly or other periodic basis. The applicant may respond in writing to any comments at any time before the conclusion of the hearing.