

§ 303.15

§ 303.15 Certain limited liability companies deemed incorporated under State law.

(a) For purposes of the definition of “State bank” in 12 U.S.C. 1813(a)(2) and this Chapter, a banking institution that is chartered as a limited liability company (LLC) under the law of any State is deemed to be “incorporated” under the law of the State, if

(1) The institution is not subject to automatic termination, dissolution, or suspension upon the happening of some event (including, *e.g.*, the death, disability, bankruptcy, expulsion, or withdrawal of an owner of the institution), other than the passage of time;

(2) The exclusive authority to manage the institution is vested in a board of managers or directors that is elected or appointed by the owners, and that operates in substantially the same manner as, and has substantially the same rights, powers, privileges, duties, responsibilities, as a board of directors of a bank chartered as a corporation in the State;

(3) Neither State law, nor the institution’s operating agreement, bylaws, or other organizational documents provide that an owner of the institution is liable for the debts, liabilities, and obligations of the institution in excess of the amount of the owner’s investment; and

(4) Neither State law, nor the institution’s operating agreement, bylaws, or other organizational documents require the consent of any other owner of the institution in order for an owner to transfer an ownership interest in the institution, including voting rights.

(b) For purposes of the Federal Deposit Insurance Act and this Chapter,

(1) Each of the terms “stockholder” and “shareholder” includes an owner of any interest in a bank chartered as an LLC, including a member or participant;

(2) The term “director” includes a manager or director of a bank chartered as an LLC, or other person who has, with respect to such a bank, authority substantially similar to that of a director of a corporation;

(3) The term “officer” includes an officer of a bank chartered as an LLC, or other person who has, with respect to such a bank, authority substantially

12 CFR Ch. III (1–1–10 Edition)

similar to that of an officer of a corporation; and

(4) Each of the terms “voting stock,” “voting shares,” and “voting securities” includes ownership interests in a bank chartered as an LLC, as well as any certificates or other evidence of such ownership interests.

[68 FR 7308, Feb. 13, 2003]

§§ 303.16–303.19 [Reserved]

Subpart B—Deposit Insurance

§ 303.20 Scope.

This subpart sets forth the procedures for applying for deposit insurance for a proposed depository institution or an operating noninsured depository institution under section 5 of the FDI Act (12 U.S.C. 1815). It also sets forth the procedures for requesting continuation of deposit insurance for a state-chartered bank withdrawing from membership in the Federal Reserve System and for interim institutions chartered to facilitate a merger transaction. Each bank that results from the conversion of a Federal savings association into multiple banks pursuant to section 5(i)(5) of the Home Owners’ Loan Act, 12 U.S.C. 1464(i)(5), is treated as a proposed depository institution or a *de novo* institution, as appropriate, for purposes of this subpart.

[67 FR 79247, Dec. 27, 2002, as amended at 73 FR 2145, Jan. 14, 2008]

§ 303.21 Filing procedures.

(a) Applications for deposit insurance shall be filed with the appropriate FDIC office. The relevant application forms and instructions for applying for deposit insurance for an existing or proposed depository institution may be obtained from any FDIC regional director.

(b) An application for deposit insurance for an interim depository institution shall be filed and processed in accordance with the procedures set forth in § 303.24, subject to the provisions of § 303.62(b)(2) regarding deposit insurance for interim institutions. An interim institution is defined as a state-