§ 303.207 Application for payment of principal or interest on subordinated debt.

(a) Scope. Any critically undercapitalized insured depository institution shall submit an application to pay principal or interest on subordinated debt.

(b) Content of filing. Applications shall describe the proposed payment and provide an explanation of action taken under section 38(h)(3)(A)(ii) of the FDI Act (action other than receivership or conservatorship). The application also shall explain how such payments would further the purposes of section 38 of the FDI Act (12 U.S.C. 1831o). Existing approvals pursuant to requests filed under section 18(i)(1) of the FDI Act (12 U.S.C. 1828(i)(1)) (capital stock reductions or retirements) shall not be deemed to be the permission needed pursuant to section 38.

§ 303.207 Restricted activities for critically undercapitalized institutions.

(a) Scope. Any critically undercapitalized insured depository institution shall submit an application to engage in certain restricted activities.

(b) Content of filing. Applications to engage in any of the following activities, as set forth in sections 38(i)(2)(A) through (G) of the FDI Act, shall describe the proposed activity and explain how the activity would further the purposes of section 38 of the FDI Act (12 U.S.C. 1831o):

1. Enter into any material transaction other than in the usual course of business including any action with respect to which the institution is required to provide notice to the appropriate federal banking agency. Materiality will be determined on a case-by-case basis;
2. Extend credit for any highly leveraged transaction (as defined in part 325 of this chapter);
3. Amend the institution’s charter or bylaws, except to the extent necessary to carry out any other requirement of any law, regulation, or order;
4. Make any material change in accounting methods;
5. Engage in any covered transaction (as defined in section 23A(b) of the Federal Reserve Act (12 U.S.C. 371c(b))).