
FDIC's New ILC Parent Company Rule Benefits FinTechs

State industrial loan company (“ILC”) charters have long been of interest to commercial firms that wish to provide banking services to customers, but that do not wish to be regulated as holding companies by the Federal Reserve Board. ILCs generally offer customers limited deposit products and commercial and/or consumer loans (e.g., credit cards). Recently, ILC charters have come into focus as of interest to FinTechs, with the FDIC approving deposit insurance applications by [Square Financial](#) and [NelNet](#) to create *de novo* ILCs.

The FDIC anticipates continued interest in the establishment of ILCs from FinTechs and other commercial firms. In a [final rule](#) issued in mid-December, the FDIC clarified its standards for approving applications for ILC deposit insurance from parent companies that are not subject to consolidated supervision by the Federal Reserve Board. Under the new rule, parent companies will be required to enter into written agreements with the FDIC and the ILC subsidiary to:

- Furnish an initial listing, with annual updates, of the parent company’s subsidiaries to the FDIC;
- Consent to FDIC examination of the parent company and its subsidiaries;
- Submit an annual report on the parent company and its subsidiaries, and such other reports as requested, to the FDIC;
- Maintain such records as the FDIC deems necessary;
- Cause an independent annual audit of the ILC;
- Limit the parent company’s representation on the ILC’s board of directors or managers, as the case may be, to 50 percent;
- Maintain the ILC’s capital and liquidity at such levels as deemed appropriate by the FDIC and take such other action to provide the ILC with a resource for additional capital or liquidity;
- Enter into a tax allocation agreement; and
- Depending on the facts and circumstances, provide, adopt, and implement a contingency plan that sets forth strategies for recovery actions and the orderly disposition of the ILC without the need for a receiver or conservator.

The new rule will assist FInTechs and other commercial firms in understanding the FDIC's regulatory expectations prior to beginning the ILC chartering and deposit insurance application process.

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