

July 18, 2025

Ms. Jennifer Jones
Deputy Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Attention: Comments RIN 3064-ZA48

Dear Ms. Jones:

This message responds to the FDIC's July 15, 2025, Request for Information on Industrial Banks and Industrial Loan Companies and Their Parent Companies (RFI).¹ Thank you for seeking clarity on the supervision and regulation of these entities. Based on my experience, and the fact that I'm sure others will respond more specifically to the questions contained in the RFI, I have fashioned this response from the perspective of a former FDIC official who was directly involved in the supervision of Utah industrial banks.

Personal

On November 30, 2017, I retired from the FDIC after 34 years of continuous service with the Division of Risk Management Supervision and its predecessors. For the last 27 years of my career, I was assigned to the San Francisco Regional Office and was responsible for the supervision of the Salt Lake Territory, which includes the States of Utah, Montana, Wyoming and Idaho. I served the last four years before retirement as assistant regional director for the Territory.

Research

The FDIC has devoted considerable resources to the study of industrial banks and their supervision and has consistently concluded that industrial banks pose no more risk to the deposit insurance fund than traditional commercial banks. Over twenty years ago, the FDIC's Advisory Committee on Banking Policy concluded the following with respect to industrial loan companies:

¹ For the purpose of this response, the terms industrial banks and industrial loan companies will be used interchangeably.

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FDIC's supervisory experience with ILCs suggests that ILC charters pose no greater safety and soundness risk than do other charter types. As with any other insured institution, ILCs are subject to examinations and other supervisory activities. The risk posed by any insured depository institution depends on its business plan and management's competency in implementing risk management programs. The FDIC and State chartering authorities directly supervise insured ILCs, which must comply with the FDIC's Rules and Regulations, including but not limited to, requirements for capital standards, safe and sound operations and consumer compliance and community reinvestment. ILCs are also subject to Sections 23A and 23B of the Federal Reserve Act limitations on insured institution transactions with affiliates. ILCs are also subject to Federal Reserve Reg O that governs credit to insiders and their related interests.

The FDIC's Summer 2004 Supervisory Insights article entitled, "The FDIC's Supervision of Industrial Loan Companies: A Historical Perspective", notes that of the 2,543 insured depository institutions that failed during the ten-year period ending in April 2004 only 21 were industrial loan companies and none were located in Utah. In most cases, those industrial banks that failed were small and lacked a strong parent company with the ability to serve as a source of financial strength.

Regulatory Supervision

Even a casual review of the history of the industrial bank industry reveals that the FDIC, in partnership with State regulators, has established a noteworthy record of successfully supervising this industry segment. The key to this effective supervision includes the following:

1. The FDIC's assessment of industrial bank deposit insurance applications, in close coordination with the State regulators, is guided by the statutory assessment factors contained in Section 6 of the Federal Deposit Insurance Act. The process is comprehensive and rigorous, as anyone who has tried to organize a new bank, especially an industrial bank, can attest.
2. As part of the application assessment process, the FDIC considers all factors that could potentially affect the safety and soundness of the proposed new bank, including the activities of the parent company and its other affiliates.
3. Approval of industrial bank deposit insurance applications includes the imposition of non-standard conditions such as parent company agreements designed to ensure that minimum levels of capital and liquidity are maintained. Thereafter, the FDIC's post-approval supervision has proven effective, the cornerstone of which is that most Utah industrial banks are examined annually regardless of the prevailing interval allowed by policy. Those larger industrial banks that aren't examined annually are subject to continuous supervision pursuant to the FDIC's Large Bank Examination Program.
4. Once approved, industrial banks are subject to the full array of laws and regulations applicable to all banks, including Sections 23A and 23B of the Federal Reserve Act, which govern and limit transactions with affiliates. The FDIC

examiners who examine Utah industrial banks and the FDIC legal staff have a deep understanding of these regulations and are experts at enforcing them.

5. The FDIC and State regulators maintain an imposing collection of federal and state supervisory tools and enforcement authority designed to ensure that industrial banks are operated in a safe and sound manner. Should the parent company of an industrial bank pose a financial threat to the industrial bank, the FDIC has the supervisory tools to protect the bank from its parent company.
6. The FDIC's enforcement authority extends to the parent companies and affiliates that are not bank holding companies, as explained more fully in the FDIC's RMS Manual of Examination Policies:

Section 3(u) of the FDI Act defines "institution affiliated parties" to include the controlling stockholder of an insured depository institution, or any shareholder or person who participates in the conduct of the affairs of an insured depository institution, or any independent contractor who participates in certain acts which cause significant adverse effect on an insured depository institution. This would include the parent companies of Industrial Loan Companies and other "nonbank" charters. Under Section 8(b) of the FDI Act, the FDIC can issue Orders against institution affiliated parties.

Furthermore, the Utah Department of Financial Institutions has statutory authority to conduct inspections of industrial bank parent companies pursuant to Section 7-1-501 of the Utah Code. The State has developed an industrial bank holding company inspection program modeled on the Federal Reserve Board's bank holding company inspection program, including the issuance of RFI/C(D) ratings. The assessment of parent company financial condition and risk management structure allows regulators to make an ongoing determination of the parent company's ability to serve as a source of strength.

It is worth noting that because industrial bank parent companies are not subject to the activity restrictions contained in the Bank Holding Company Act, most are large, diversified companies capable of providing considerable support to their bank subsidiaries. Conversely, most traditional bank holding companies are shell companies with limited ability to raise new capital, especially in times of economic stress when it's needed most.

Disparate Treatment

The RFI notes, "Industrial banks are otherwise generally subject to the same restrictions and requirements, regulatory oversight, and safety and soundness examinations as any other state nonmember bank under federal law." This may be the case as a matter of policy, but, in practice, it is not entirely true. The parent companies of all insured depository institutions are supposed to serve as a source of strength to their bank subsidiaries. However, most community bank holding companies are shell companies that hold no appreciable financial resources of their own.

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In practice, the source of strength doctrine seems to apply only to industrial banks. For example, demonstration of source of strength is required as a condition of deposit insurance approval through formal Capital Maintenance Agreements. These agreements require industrial banks to maintain minimum capital ratios, in perpetuity, and oftentimes significantly higher than their commercial bank competitors. The capital ratios are arbitrarily determined by the FDIC and once imposed are usually never renegotiated.²

Lastly, the FDIC holds industrial banks to a higher standard regarding the processing of applications. For example, the normal procedure for processing a deposit insurance application involving a proposed commercial bank follows a long-established protocol whereby as soon as the FDIC determines the application is "substantially complete", it is formally accepted for processing. This decision triggers a field investigation of the proposal and deeper analysis of the application by regional office staff. As a matter of practice, the "acceptance" decision usually takes thirty days after the application is determined to be complete. Under most circumstances, authority to approve non-complex, traditional commercial banking applications has been delegated to the regional directors. Final approval can take six months depending on the nature of the proposal.

In the case of *de novo* industrial bank proposals, the established protocol for just accepting an application has been altered. Oddly, the decision to formally accept an industrial bank application is now granted at the same time the Board approves the application. Reserving authority to act on industrial bank proposals extends the processing time, sometimes by months or even years. Very few *de novo* industrial bank applications have been approved in the past fifteen years. In some cases, such applications are simply ignored and allowed to languish, sometimes for years, until the organizers finally abandon the proposal out of frustration and after having spent a considerable amount of money, sometimes in the millions of dollars.

The disparate treatment to which industrial banks are subjected also exists when it comes to processing routine proposals such as merger applications. In the case of commercial banks that meet the criteria for expedited processing, non-complex merger applications such as purchase and assumption applications are usually acted upon within forty-five days after receipt of a complete application. When it comes to industrial banks that meet the objective criteria for expedited processing, action by the FDIC on virtually identical applications can take as much as a year, largely because the FDIC Board has reserved to itself authority to act on such applications.

² In October 2003, Medallion Bank, Salt Lake City, Utah, and its parent company, Medallion Financial Corporation, entered into a capital maintenance agreement requiring the bank to maintain a Tier 1 leverage ratio of no less than fifteen percent, among other things. This level was determined by the FDIC based on a business plan that included a high concentration in loans to finance taxicab medallions in New York and Chicago. Since then, the bank has eliminated its medallion concentration and otherwise "derisked" its balance sheet. The bank has demonstrated decades of successful operations, as confirmed by successive satisfactory regulatory examinations, but appeals for relief from the minimum required capital levels have been consistently denied.

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Conclusion

The industrial bank industry, which is a very small component of the U.S. banking industry, has generally outperformed its commercial banking peers in nearly every key performance metric. Studies have determined that industrial banks pose no more risk to the deposit insurance fund than other charter types. In her April 25, 2007, testimony before the U.S. House of Representatives Committee on Financial Services, former FDIC Chairman Sheila Bair noted the following:

The ILC charter has proven to be a strong, responsible part of our nation's banking system. ILCs have offered innovative approaches to banking. Many have contributed significantly to community reinvestment and development.

The FDIC and the State regulators have the experience and tools necessary to critically evaluate industrial bank deposit insurance applications and to effectively supervise industrial banks once they commence operations. However, the manner in which *de novo* industrial bank proposals and other routine applications are processed is distinctly different. This apparent bias has existed for many years and accounts for the dearth in *de novo* industrial banks and the precipitous decline in the number of industrial banks in general.

I appreciate the opportunity to contribute to this discussion. Please contact me by email message at [REDACTED] or by phone at [REDACTED] with any questions you may have.

Sincerely,

[REDACTED]
Joseph M. Hull