



ADMINISTRATIVE RULES OF MONTANA

2.59.2206 CAPITAL ADEQUACY OF A PROPOSED NEW DEPOSITORY BANK

- (1) The applicant must provide reasonable assurances that the proposed new depository bank will have adequate initial paid-in capital sufficient to accomplish the following:
 - (a) establish an undivided profits account in an amount great enough to absorb initial operating losses under foreseeable business conditions;
 - (b) maintain total capital and surplus accounts of adequate size to permit the proposed investment in building, land, furniture, and fixtures within the limitation of 100% of capital and surplus as imposed by 32-1-423, MCA;
 - (c) provide protection for depositors' funds to the same extent that the average of all insured commercial banks in the proposed depository bank's peer group provides capital protection, measured by the most current peer group data available on total capital accounts and reserves as a percentage of total assets. The proposed depository bank's reasonably estimated total assets at the end of its first three years of operation must be the basis upon which this standard will be projected; and
 - (d) to enable the depository bank to furnish competitive services that will ensure an amount of business sufficient to assure its success.
- (2) The applicant must provide sufficient initial capital of each proposed new depository bank to be sufficient for a tier 1 capital to assets leverage ratio of not less than 8 percent throughout the first three years of operation. In addition, the institution must maintain an adequate allowance for credit losses. The business plan should not assume, for the first three years of operation, any new or additional capital raises beyond the initial capital contributions made during the institution's organization phase. During the first three years of operation, cash dividends must be paid only from net operating income, and should not be paid until an appropriate allowance for credit losses has been established and overall capital is deemed adequate by the department. Applicants should not assume that the institution will make any dividend payments during this time frame.
- (3) Preferred or convertible preferred stock may not be issued without the prior approval of the department. If approved, preferred and convertible preferred stock may not be retired for a period of three years after commencement of bank operations without the prior approval of the department, in which case, the department may require the sale of additional common stock to remedy any impairment of capital.
- (4) A new depository bank must have a capital structure that the department deems safe, sound, and adequate based on the capital adequacy factors set forth in this rule.

Implementing statute(s): 32-1-240, MCA

History: Eff. 12/6/73; AMD, Eff. 4/4/77; AMD, 1994 MAR p. 1146, Eff. 4/29/94; TRANS, from Commerce, 2001 MAR p. 1181; AMD, 2010 MAR p. 215, Eff. 1/29/10; TRANS and AMD, from 2.60.303, 2025 MAR, Notice No. 2025-900, Eff. 9/13/25.