

Banking Law

July 2, 2012

Bye-Bye to the DFI

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By virtue of legislative inaction, on June 30, 2012, Governor Brown's Reorganization Plan 2 (GRP 2) has been approved. As part of an overall effort to improve efficiency within state government, GRP 2 consolidates the State's oversight of financial businesses by merging the California Department of Financial Institutions (DFI) and the California Department of Corporations (DOC) into a larger Department of Business Oversight (DOBO). While the DFI and DOC would be preserved as divisions under the new Department, professionals within the banking community and advisors to the banking community have expressed a number of concerns about this reorganization, including the following:

- Consolidation could devalue the state banking charter, as reducing the DFI's status to a division would weaken its regulatory focus, impede service and innovation within the primary bank regulatory agency and result in California-chartered banks converting to national charters. In addition, reducing the position of the current Commissioner of Financial Institutions to a Deputy Commissioner could weaken the strength of the leader of California state banks in the eyes of other state and national bank regulators and could inhibit the quality of candidates for this new position.
- As reported by the California Assembly Committee, which examined GRP 2, some have argued that the DFI and DOC are not good candidates for consolidation because they have different regulatory focuses. The DFI regulates depository institutions, ensuring the safety and soundness of their business practices, while the DOC handles more consumer- and retail-oriented financial transactions, such as licensing securities brokers and dealers, investment advisers and financial planners, consumer and commercial lenders, payday lenders, escrow companies, and certain other fiduciaries. Whether there are efficiencies to be found in consolidating these divergent functions remains an open question.
- Assessments on state-chartered banks could increase in order to finance the work of the new DOBO, whether or not that work benefits financial institutions.
- Reducing the DFI to a division could cause loss of qualified supervisory professionals within the DFI, who would leave to pursue other opportunities or would be replaced by state employees who do not have experience working with financial institutions.

The ultimate restructuring of the DFI and DOC and the launching of the new DOBO will be completed by July 1, 2013. Until that time, there will be the opportunity for continued input on the implementation of GRP 2. Manatt, Phelps & Phillips, LLP, will be both (i) monitoring the developments around GRP 2 closely through our nationwide banking

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professionals and our unique legislative advocacy practice based in Sacramento, California, and (ii) advocating on behalf of the many financial institution clients we represent to preserve the integrity of the state banking charter.

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