

BANKING
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF BANKING

General Provisions

Readoption with Amendment: N.J.A.C. 3:26

Proposed: August 7, 2006 at 38 N.J.R. 3107(a)

Adopted By: November 21, 2006 by Steven M. Goldman, Commissioner
Department of Banking and Insurance.

Filed: November 21, 2006 as R.2006 d. 443, without change

Authority: N.J.S.A. 17:1-8.1, 17:1-15(e), 17:12B-48(21) and 17:12B-197.

Effective Date: November 21, 2006, Readoption
December 18, 2006, Amendment

Expiration Date: November 21, 2011

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

Pursuant to Executive Order No. 27 (1994), a Federal standards analysis is required when an agency adopts, readopts, or amends rules that exceed any Federal standards or requirements, and must include in the rulemaking document a comparison with the Federal law or rule. There are no Federal standards applicable to the readopted at this time.

New Jersey associations may, in the future, become subject to Federal standards pursuant to a proper exercise of parity in accordance with N.J.A.C. 3:26-4.1. While the Federal standards applicable in such cases cannot be identified at this time, no applicable State standards may exceed them because parity with Federal institutions may only be exercised pursuant to the pertinent Federal standards.

The readopted rules on State association parity, however, also continue to provide that certain State statutory and regulatory consumer protection requirements may not be avoided through parity: for example, State criminal usury limitations; protections against predatory lending and the requirement to offer New Jersey Consumer Checking Accounts. In some cases, these limitations on activities by State-chartered State associations may exceed Federal standards applicable to Federally-chartered banks, savings banks, and savings associations – that is, the State-chartered institutions will be subject to more limitations than their Federal counterparts. The limitations in the readopted rules may restrict New Jersey State associations from certain types or levels of activity in which their Federal counterparts may conceivably be permitted to engage in at the present time or in the future. Notwithstanding these limitations, New Jersey-chartered State associations would, because of parity, continue to be able to offer many new services and products to New Jersey consumers that are not specifically authorized by applicable New Jersey statutes and rules, and reap the resulting economic benefits.

The Department views the limitations as reasonable and necessary to discharge the Commissioner's statutory responsibility to promulgate rules for the appropriate regulation of New Jersey-chartered State associations. Specifically, the Department is required to implement the legislative authorization in the Parity Act, N.J.S.A. 17:13B-1 et seq., to promulgate rules with the objective of achieving substantially competitive parity between State-chartered and Federally-chartered institutions, with the goal of maintaining a vigorous dual banking system. Solid benefits will be afforded to New Jersey consumers by the continued viability of laws addressing consumer checking accounts, criminal law including usury, and high cost residential mortgages. Finally, the Department sees no technological obstacle to the regulated community's continued compliance with these limitations.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C.

3:26.

Full text of the adopted amendment follows:

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