

BANKING

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF BANKING

Governmental Unit Deposit Protection

Adopted Repeal: N.J.A.C. 3:1-4

Adopted New Rules: N.J.A.C. 3:34

Proposed: July 19, 2010 at 42 N.J.R 1447(a).

Adopted: October 7, 2010 by Thomas B. Considine, Commissioner, Department of Banking and Insurance.

Filed: October 7, 2010 as R. 2010 d. 253, **without change**.

Authority: N.J.S.A. 17:1-8, 8.1 and 15; 17:9-41 et seq; and P.L. 2009, c. 326.

Effective Date: November 1, 2010.

Expiration Date: November 1, 2015, N.J.A.C. 3:34.

Summary of Public Comment and Agency Response:

The Department of Banking and Insurance received one written comment from James J. Staskel, VP Treasury-Collateral Manager, TD Bank, N.A.

COMMENT: The commenter stated he was seeking clarification regarding N.J.A.C. 3:34-1.2 regarding “eligible collateral.” The commenter noted that “eligible collateral” described in the proposal would include obligations guaranteed or insured by the United States, or any agency or instrumentality of the United States. The commenter requested approval of United States Bank Debt Guaranteed by the Federal Deposit Insurance Corporation to be included as eligible collateral for Governmental Unit Deposit Protection Act (GUDPA) requirements.

The commenter noted that this type of United States Bank Debt Note, a structured sale guarantee note, is guaranteed by the FDIC under the “TLP” program and is backed by the full faith and credit of the United States which fulfills the eligible collateral criteria.

RESPONSE: The Department believes the reference used by the commenter to “TLP” refers to the Temporary Liquidity Guarantee Program of the Federal government. The Department notes that under proposed N.J.A.C. 3:34-1.1, which is substantially similar to existing N.J.A.C. 3:1-4.13, and N.J.S.A. 17:9-41, “eligible collateral” can be any New Jersey State or Federal government obligation that is approved on a specific basis by the Commissioner. Thus, the Commissioner is authorized under both the proposed rule and the previous rule to accept what the commenter has offered as “eligible collateral.” The obligation described in the comment would be considered “eligible collateral” for such time period and to such extent that it is guaranteed by the Federal Deposit Insurance Corporation and backed by the full faith and credit of the United States.

Federal Standards Statement

A Federal standards analysis is not required because the adopted new rules are consistent with, but do not exceed, Federal standards. Federal standards applicable to, but not exceeded, by the adopted new rules are subsection (b) of section 38 of the Federal Deposit Insurance Act, Pub. L. 81-797 (12 U.S.C. § 1831o(b)) and subsections (q) and (r) of section 3 of the Federal Deposit Insurance Act, Pub. L. 81-797 (12 U.S.C. § 1813(q) and (r)).

Full text of the adopted new rules follows:

TEXT