

BANKING
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF BANKING

Internal Reorganization of Bank Holding Companies

Proposed Amendment: N.J.A.C. 3:13-1.1 and 1.2

Authorized By: Holly Bakke, Commissioner,
Department of Banking and Insurance

Authority: N.J.S.A. 17:1-8, 8.1 and 15e, 17:9A-8.1 et seq., 17:9A-382 et seq.
and 17:12B-292 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2002-343

Submit comments by November 15, 2002 to:

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The agency proposal follows:

Summary

The Department of Banking and Insurance ("Department") proposes amendments governing bank holding companies and mutual savings bank holding companies. Currently, N.J.A.C. 3:13-1.2 requires a person acquiring a New Jersey bank or New Jersey bank holding company to file an application including: certified copies of board resolutions; lists of New Jersey banks affiliated with the applicants; proof that the applicant has either complied with or been exempted from registration by foreign companies doing business in the state if the applicant is an out-of state bank, and an application fee of \$1,000. The Department has reviewed the

existing rule that internal changes of control where a reorganization moves a subsidiary within the existing organizational framework, yet where the same holding company retains control, requires the complete application and fee. Upon further review, the Department has determined that this type of event should not fall within the ambit of the change of control statute, N.J.S.A. 17"12B-292 et seq. Therefore, the Department is proposing amendments which allow applicants in this situation to file abbreviated applications and which allows those applications to be deemed effective, unless denials are issued by the Department within 10 days. The Department retains the right to deny any application which negatively affects the safety or soundness of the companies involved.

N.J.A.C. 3:13-1.1 is amended to add the definition of internal reorganization.

N.J.A.C. 3:13-1.2(a) is amended to exclude applications made pursuant to the new subsection (e) from the full application requirements. N.J.A.C. 3:13-1.2(a)3ii changes the word “if” to “when” to clarify that the document is required to be sent to the Department.

N.J.A.C. 3:13-1.2(e) is proposed to provide a streamlined application process for requesting an internal reorganization while still enabling the Commissioner to properly monitor bank holding companies. The new subsection provides that applications may be made in letter form and shall require only the name and location of the person proposing to acquire the bank or holding company and the name and location of the bank or holding company.

A 60 day comment period is provided in this rule proposal and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The proposed amendments apply to all persons or entities controlling New Jersey banks or New Jersey bank holding companies. The amendments will make it clear to individuals or companies wishing to reorganize internally a New Jersey bank or bank holding company that they shall follow the abbreviated requirements and application procedures. The amendments will streamline the application procedure for internally reorganizing companies while reserving the Commissioner's right to deny such an application if it affects the safety or financial soundness of the companies involved. The amendments will continue to have a beneficial social impact on the general public, consumers of New Jersey banks and those controlling New Jersey banks and New Jersey bank holding companies.

Economic Impact

It is expected that the amendments will have a positive economic impact on those controlling New Jersey banks and New Jersey bank holding companies. The amendments will streamline the procedure for companies seeking internal reorganization and will exempt them from the application fee.

The amendments will also have a positive economic impact on the consumer by retaining the right of the Commissioner to deny the application of any internal reorganization that would negatively affect the safety or financial soundness of the companies involved.

Federal Standards Statement

The proposed amendments remain consistent with and do not exceed the requirements of 12 U.S.C. §1841 et seq. and the rules promulgated thereunder, 12 C.F.R. 225.1 et seq. Therefore, no Federal Standards analysis is required.

Jobs Impact

The Department does not anticipate that any jobs will be generated or lost as a result of the proposed amendments. Those controlling New Jersey banks or New Jersey bank holding companies will use existing staff for compliance with the new rule. Those controlling New Jersey banks or New Jersey bank holding companies should not have to employ professional services to meet the streamlined application requirements. The new rule will not require additional staff because it will impose no new requirements.

Agriculture Industry Impact

The Department does not expect any agriculture industry impact from the proposed amendments.

Regulatory Flexibility Analysis

Some entities controlling New Jersey banks or New Jersey bank holding companies may be small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments will lessen reporting requirements for all businesses conducting internal reorganizations while not imposing any additional compliance requirements on small businesses conducting external changes of control. The Department believes that as these amendments

streamlines the application process, compliance with this rule will be handled by existing staff and no holding company will have to obtain or increase the use of professional services.

There has been no distinction in the compliance requirements for small businesses as the rule relates to the Department's oversight of bank holding companies and bank holding companies' reorganizations and protection of the financial integrity of those companies. Accordingly, since no undue burden would be imposed, and no distinction could be made without creating a risk to the Department's oversight, no differentiation in compliance issues is made based on business size.

Smart Growth Impact

The Department does not believe that the proposed amendments will have any impact upon the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. BANK HOLDING COMPANY APPLICATIONS

3:13-1.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

“Internal reorganization” means the repositioning of a bank or bank holding company within an affiliated family of entities under common control with no change of the ultimate control.

3:13-1.2 Application

(a) An application, except as provided in (e) below, [by a person] to acquire a New Jersey bank or New Jersey bank holding company shall contain the following **information on a form provided by the Department:**

[1. A completed application on a form provided by the Department;]

Recodify existing 2. – 3. as 1. – 2. (No change in text.)

[4.] 3. Certified copies of:

i. (No change.)

ii. The board resolution of the New Jersey bank or New Jersey bank holding company being acquired approving the proposed acquisition, [if] when such approval has been adopted;

Recodify existing 5. – 7. as 4. – 6. (No change in text.)

(b) – (d) (No change.)

(e) An application involving only an internal reorganization shall be required to contain only the information listed in (a)1 and 2. above. The application may be submitted in letter form and shall be deemed to be approved 10 days from receipt by the Department unless the Department notifies the applicant otherwise. In evaluating an application, the Commissioner shall disapprove the application if, in his or her judgement, the internal

reorganization negatively affects the safety and soundness of the bank, bank holding company or any affiliate.