

BANKING
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF BANKING

Expedited Branch Applications of Depositories

Posting of Charter and Branch Applications and Acquisition of a Bank or Bank Holding Company Applications on Department Website

Proposed Amendments: N.J.A.C. 3:1-2.1, 2.3, 2.4, 2.5, 2.6 and 2.8, and 3:13-1.2

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

Authority: N.J.S.A.17:1-8.1, 17:1-15e, 17:9A-1 et seq., 17:9A-20H, 17:9A-382, 17:12B-1 et seq. and 17:12B-24

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

Proposal Number: PRN 2003-394

Submit comments by December 5, 2003 to:

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The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) proposes to amend N.J.A.C. 3:1-2.1 and 2.3 which apply to New Jersey State-chartered banks, savings banks and State associations that apply to establish a branch. The Department has reviewed the underlying policy decisions that have led to the current requirements that seek to help maintain the safety

and soundness of those depositories. Based on this review, the Department believes that clarification of the rules for expedited branching approval is necessary. Expedited branching, which was permitted by P.L. 2000, c. 69, allows certain institutions that have been in business for at least three years, all capitalized, adequately managed and have a Community Reinvestment Act rating of “satisfactory” or better, to obtain approval for branches with less paperwork and a limited, focused review by the Department. The result will be the approval of these branches in a faster time period. The proposed amendments at N.J.A.C. 3:1-2.3 would revise the contents of the certification that must accompany applications for expedited branch office approval. The proposed amendments at N.J.A.C. 3:1-2.1, the definitions section, would define the term “trade area” which term is used in N.J.A.C. 3:1-2.3. They would also amend the definition of the term “accepted” in referring to applications filed with the Department, to include both applications for expedited or regular processing.

The Department also proposes to amend N.J.A.C. 3:1-2.3 to require that applications for expedited approval contain additional information. The additional information proposed to be required includes identifying each principal office of a newly opened New Jersey State-chartered depository in the trade area of the branch and a statement that the transaction meets the “arms-length rule” contained in N.J.A.C.3:1-10.1 et seq. The proposed amendment at N.J.A.C. 3:1-2.3 also specifically authorizes the Department to remove an application from expedited processing if major concerns of safety and soundness arise. N.J.A.C. 3:1-2.6 is also proposed to be amended as part of this modernized notice system. The required statement in N.J.A.C. 3:1-2.6(b) about the ability to object is being relocated to N.J.A.C. 3:1-2.6(a)5 and is being modified so that the 10 day time frame to file objections with the Department shall begin to run from the posting

on the Department's website of the notice of the accepted application to branch. Currently the time begins to run was on the date of the bulletins published by the New Jersey Bankers Association and the New Jersey League of Community Bankers. The Department believes that basing the timing on the positions on the Department's website is more appropriate with the advent of the website and its extensive use. Further, it creates a more uniform timing mechanism as compared to having it based on two separate publications that may not come out on the same date.

In addition, the Department proposes to amend N.J.A.C. 3:1-2.8 to clarify the timeframe to object to an expedited application to branch. Lastly, the Department wishes to modernize the system that notifies the banking community of the filing with the Department of applications for new charters for new institutions and of applications and notices for new branches. Therefore, the Department proposes to amend N.J.A.C. 3:1-2.4 and 2.5 and 2.6 and 2.8 and 3:13-1.2 to provide for the posting of notices regarding its receipt of such notices and applications on the Department's website. This change will make the information known much more quickly.

This rule proposal provides for a comment period of 60 days, and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, 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 on expedited branching would apply to all applications to establish a branch of a New Jersey State-chartered bank, savings bank, or association on an expedited basis. The revisions to the process should encourage depositories to use the process

to open branches on an expedited basis. This will result in more branches being available for consumers, at more locations, and in a shorter period of time. The amendments, therefore, should have a beneficial social impact on the banking industry and consumers.

The proposed amendments providing for posting notice of applications for charters or branches on the Department's website will result in the information being made available more quickly and to a larger audience. This would be a beneficial social impact.

Economic Impact

The Department expects that the proposed amendments on expedited branching approval will have a positive economic impact. Depositories seeking to establish branches on an expedited basis will have a clearer explanation of what they are required to do, which may have the benefit of cutting expenses and time to open a branch.

Some depositories may use professionals such as attorneys, accountants or financial services consultants to assist in their branch application process. The expense involved would depend on the rates charged by the professionals and the scope of their engagement.

The posting of notice on the Department's website of charter and branch applications will be done in the regular course of business of the Department by its staff. There will be minimal expense to the Department caused by the proposed amendments providing for posting on the Department's website.

Federal Standards Statement

The proposed amendments do not contain standards or requirements that exceed standards or requirements imposed by Federal law. The proposed amendments apply the Community Reinvestment Act, 12 U.S.C. §§ 2901 et seq. to depositories seeking to establish a branch.

Jobs Impact

The Department does not anticipate that any jobs will be lost as a result of the proposed amendments. If new branches are established, additional jobs will be generated to staff and manage them.

The Department invites commenters to submit any data or studies concerning the jobs impact of the proposed amendments together with their written comments on other aspects of this proposal.

Agriculture Industry Impact

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

Regulatory Flexibility Analysis

Some New Jersey depositories that can take advantage of expedited branching are small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments will impose compliance requirements on depositories that seek to take advantage of the expedited branching process. The compliance required will consist of requiring

applicants for expedited branching to identify newly chartered institutions in the new branch's trade area, certify that the cost of the office complies with limits established in statute and certify that the transaction complies with existing regulations if any executive officer, director or manager has an interest in the premises where the proposed branch is to be located. The proposed amendments will not impose any additional reporting or recordkeeping requirements above what is already required by the existing rule. The Department does not anticipate that compliance with the amendments on expedited branching will require substantial additional professional services, if professionals are being retained. The cost of any professional that may be retained is discussed in Economic Impact above.

The Department does not believe that the compliance requirements are unduly burdensome and finds that they are consistent with prudent banking practices. The purpose of the amended requirements for expedited branching does not vary based upon business size. Accordingly, no differentiation based on business size is provided.

The proposed amendments providing for posting notice of applications for charters or branches on the Department's website does not impose any compliance, reporting or recordkeeping requests on New Jersey depositories.

Smart Growth Impact

The proposed amendments will have no impact on the achievement of smart growth and implementation of the State Plan and Redevelopment Plan.

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

SUBCHAPTER 2. PROCEDURAL RULES

3:1-2.1 Definitions

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

“Accepted” means that an application has been received by the Department and it contains all necessary information required or needed by the Department for its review, **whether for expedited or regular processing**, and the Department has acknowledged in writing that the application is ready for review.

. . . .

“Trade area” means the assessment area of insured institutions as designated for purposes of compliance with the Community Reinvestment Act, 12 U.S.C. §§ 2901 et seq. For uninsured institutions, such as limited purpose trust companies, it means the area within five miles of the institution’s proposed office.

. . . .

3:1-2.3 Branch applications of depositories

(a) – (f) (No change.)

(g) A depository that directly or through a predecessor bank, savings bank or State association by merger or other reorganization has been in business for at least three years, and

which is well capitalized, adequately managed, and if applicable, has received in its most recent examination under the “Community Reinvestment Act of 1977,” 12 U.S.C. §§ 2901 et seq., a rating of not less than “satisfactory record of meeting community credit needs,” or its equivalent, may apply for expedited branch office approval for full branch, mini-branch, relocation, auxiliary and interchange applications by filing for such expedited approval with the Commissioner. The application shall contain:

1. A certification by the depository, **in a form specified by the Commissioner,** that [it] **recites the following:**
 - i. The depository** meets the criteria set forth in (g) above [that it] ;
 - ii. The depository** is entitled to request expedited processing [and that it satisfies the same criteria as required for a non-expedited approval] **and does request such processing;** [and]
 - iii. Information identifying each principal office of a State-chartered bank, savings bank or savings and loan association which has been open for less than three years and is located in the trade area of the applicant’s proposed branch office;**
 - iv. The cost of the proposed branch office and whether the investment in the office complies with the limitations set forth in N.J.S.A. 17:9A-24(13) or 17:12B-166;**
and
 - v. A statement that the transaction complies with N.J.A.C. 3:1-10.1 et seq. regarding the interests of any executive officers, directors, managers and others in the premises, if any.**

(h) The Department may remove an accepted application from expedited review if it presents a significant supervisory or compliance concern, or it raises a significant legal or policy issue requiring additional review.

[2] **(i)** [A notice by the depository that it requests expedited processing.] An **accepted** application **for expedited processing** shall be deemed approved on the 30th day after receipt by the Commissioner, unless approved or denied earlier by the Commissioner in writing, who as part of the application shall consider whether the interests of the public will be served to advantage by the establishment of such branch.

3:1-2.4 Branch application of out-of-State banks and out-of-State associations

(a) (No change.)

(b) An out-of-State bank or out-of-state association, that has at least one branch office in this State, may establish additional branch offices in this State by filing a notice with the Department, so long as the out-of-State bank or out-of-State association is adequately capitalized, will be adequately capitalized and managed after the branch is established and has achieved sufficient compliance with the Community Reinvestment Act. **The Department shall post the notice on the Department's website at www.njdoib.org within a week of receipt.** In addition, the out-of-State bank or out-of-State association shall send notice to the New Jersey Bankers Association, the New Jersey League **of** Community [and Savings] Bankers, and/or their successor organizations, if any, for publication in their weekly bulletins.

(c) (No change.)

3:1-2.5 Charter applications; notice and publication

(a) When a charter application is complete, the Department shall send notice to the applicant setting forth a hearing date. **The Department shall also post notice of the hearing on the Department's website at www.njdoib.org within a week of sending the notice.** In addition, the Department shall send notice to the New Jersey Bankers Association, the New Jersey League **of** Community [and Savings] Bankers, and/or their successor organizations, if any, for publication in their weekly bulletins.

(b) - (d) (No change.)

3:1-2.6 Branch applications; notice and publication

(a) When a branch application is accepted, the Department shall send notice to the applicant and **shall also post notice of the acceptance on the Department's website at www.njdoib.org. The Department shall also advise, in writing,** the New Jersey Bankers Association, the New Jersey League **of** Community 11:21 [and Savings] Bankers, and/or their successor organizations, if any, [for publication] **of the acceptance of the application.** Each notice shall contain the following:

1. The name and mailing address of the applicant;
2. A brief statement of the nature of the application;
3. The precise location of the site involved in the particular application; [and]
4. The date the Department accepted the application[.]; **and**
- 5. The publication of notice shall also include the following statement:**

“An individual, bank, savings bank or savings and loan association may object to any full branch or relocation application, and may request that an oral presentation be conducted. All such requests must be in writing and filed within 10 calendar days of the date of the Department’s publication of notice of the accepted application on its website at www.njdoib.org. Individuals or financial institutions interested in perfecting an objection or request for oral presentation should immediately consult the Department’s procedural rules for guidance.”

(b) [Notice] **The notice** prescribed by (a) above shall be published [in the weekly bulletin of the New Jersey Bankers Association, the New Jersey’s League Community and Savings Bankers, and/or their successor organizations, if any, in the week following acceptance thereof] **on the Department’s website**. [The publication of notice shall also include the following statement:

“You are hereby advised that an individual, bank, savings bank or savings and loan association may object to any full branch or relocation application, and may request that an oral presentation be conducted if so requested in writing and if filed within 10 calendar days of the date of this bulletin. Individuals or financial institutions interested in perfecting an objection or request for oral presentation should immediately consult the Department’s procedural rules for guidance.”]

3:1-2.8 Branch applications; objections and oral presentations

(a) An objection to a branch application must be filed with the Department within 10 days of the [last day of] publication of **the notice prescribed by N.J.A.C. 3:1-2.6(a) on the**

Department's website, or 30 days after that day if an extension is requested in writing within the 10-day period. An objection to a minibranch application must be filed within 20 days after publication. **An objection to an application to branch accepted as expedited as provided in N.J.A.C. 3:1-2.3(g) shall be filed not later than the time set forth in the notice published pursuant to N.J.A.C. 3:1-2.6.**

(b) - (h) (No change.)

3:13-1.2 Application

(a) (No change.)

(b) Upon receipt of a completed application, the Department shall send notice to the applicant, **shall post the notice on the Department's website at www.njdoib.org and shall send notice** to the New Jersey Bankers Association, the New Jersey League of Community Bankers, and/or their successor organizations, if any, for publication in their weekly bulletins.

(c) - (e) (No change.)

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