

**BANKING**

**DEPARTMENT OF BANKING AND INSURANCE**

**DIVISION OF BANKING**

**General Provisions**

**Proposed Readoption with Amendment: N.J.A.C. 3:6**

Authorized By: Kenneth E. Kobylowski, Commissioner, Department of Banking and  
Insurance.

Authority: N.J.S.A. 17:1-8, 8.1, and 15; and 17:9A-24, 24b.1, 28.2, 31, 43, 62H, 71 through  
74, 182.1, 195, 256A, 333, and 334.

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

Proposal Number: PRN 2013-157.

Submit comments by January 31, 2014, to:

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The agency proposal follows:

**Summary**

The Department of Banking and Insurance (Department) proposes to readopt N.J.A.C. 3:6, which is scheduled to expire on April 24, 2014, pursuant to N.J.S.A. 52:14B-5.1.c(2).

Subchapter 1 sets forth necessary chapter definitions. The Department proposes to amend the definition of “bank” to correct an erroneous statutory citation.

Subchapter 2 sets forth the approved depositories for investments comprising security funds.

Subchapter 3 limits the amount of loans a bank may make to an executive officer. The amount may not exceed 2.5 percent of the capital funds of the bank or \$25,000, whichever is greater, but in no event more than \$100,000.

Subchapter 4 remains reserved.

Subchapter 5 concerns the sales of Federal funds, which are defined as the temporary transfer and sale of immediately available funds either from one member bank in the Federal Reserve System to another member bank or to another bank not in the Federal Reserve System. The subchapter exempts liabilities arising under Federal funds transactions from the 15 percent of capital limitation on total loans and extensions of credit by a bank to one borrower at one time.

Subchapter 6 permits a qualified bank to invest in variable account notes of a single borrower on a short-term basis. The subchapter sets standards for these instruments, and requires that records be maintained.

Subchapter 7 remains reserved.

Subchapter 8 concerns the conversion of a mutual savings bank to a mutual savings and loan association or of a capital stock savings bank to a bank. In particular, it sets forth the

application requirements and permits the Commissioner to waive these requirements based on specified factors.

Subchapter 9 remains reserved.

Subchapter 10 provides that unsecured days funds may be transferred only to a commercial bank whose deposits are insured by the Federal Deposit Insurance Corporation.

Subchapter 11 permits the investment on a short-term basis of cash held for various fiduciary accounts. In addition, the subchapter sets standards regarding these investments.

Subchapter 12 sets forth the rules for parity for State banks and savings banks with Federal and out-of-State banks.

Subchapter 13 remains reserved.

Subchapter 14 contains the requirements for foreign banks that seek a certificate of authority to transact business in New Jersey.

Subchapter 15 permits a savings bank to lend to its officers and managers according to the same terms and limitations applicable to banks.

Subchapter 16 permits a qualified bank to acquire certain securities for one or more of its trust accounts from itself or an affiliate bank as defined therein, when the qualified bank or affiliate bank holds the security as a result of being the underwriter or a member of the underwriting syndicate of the security, so long as specified conditions are met.

Subchapter 17 concerns the conversion of a bank to a capital stock savings bank. In particular, it sets forth the application requirements, and permits the Commissioner to waive these requirements based on specified factors.

The Department has reviewed these rules and determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated.

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 rules proposed for readoption with amendment apply to all banks and savings banks subject to supervision or regulation by the Department. They will continue to implement the pertinent statutes and the policies of the Department on a wide variety of subjects. The rules give banks and savings banks substantial parity with their Federal and out-of-State counterparts; regulate investments and deposits of banks and savings banks with other institutions; provide guidelines for loans to employees and other related persons; and require the submission of an application to convert a savings bank into a bank or savings and loan association, or to convert a bank into a savings bank. The readoption of the rules on these important subjects is necessary to prevent disruptions in both the private and public sectors. The proposed amendment to N.J.A.C. 3:6-1.1 corrects an error in a statutory citation and will have no social impact.

The rules proposed for readoption with amendment will continue to enable the Department to carry out its mission of requiring banks and savings banks to engage in their business in a manner that is in accordance with safe and sound banking practices and protects consumers, while freeing banks and savings banks from unnecessarily restrictive regulation. Thus, the rules proposed for readoption with amendment will continue to have a beneficial social impact on consumers and banks and savings banks.

### **Economic Impact**

The Department does not expect that the rules proposed for readoption with amendment will have a significant economic impact on banks and savings banks. Furthermore, these rules proposed for readoption give banks and savings banks flexibility in making fiduciary investment decisions within specified standards. This flexibility allows these institutions to make investment decisions based on their economic benefit.

The rules proposed for readoption will also continue to permit the Department to receive necessary funding for performance of services associated with these rules. This has a small impact on the regulated industry.

Outside professional assistance of accountants, financial advisors, and attorneys may be retained by applicants for conversion. Costs for these professionals would be based on the rate contracted for by the institution.

### **Federal Standards Statement**

The rules proposed for readoption with amendment do not contain standards or requirements that exceed standards or requirements imposed by Federal law. These rules continue to apply to New Jersey financial institutions certain Federal standards, set forth at 12 CFR 32(j)(1)(vi), 32.3(a), and 215. In addition, pursuant to the parity provisions in Subchapter 12, banks and savings banks may choose to engage in activities pursuant to the Federal standards. While those Federal standards cannot be identified at this time, in almost all respects they will be more liberal than the State standards. In any event, they are a choice of the regulated entity, not a State regulatory requirement.

### **Jobs Impact**

The Department does not anticipate that any jobs will be lost or generated as a result of the rules proposed for readoption with amendment. Banks and savings banks will use existing staff or retained outside professionals for continued compliance with the rules proposed for readoption with amendment.

### **Agriculture Industry Impact**

The Department does not expect that any agriculture industry impact will result from the rules proposed for readoption with amendment.

### **Regulatory Flexibility Analysis**

Some New Jersey banks, savings banks, and saving and loan associations are small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendment will continue to impose recordkeeping, reporting, and other compliance requirements on these entities as discussed in the Summary above. Much of the compliance requires professional assistance in the form of attorneys, financial advisors, and accountants. The rules proposed for readoption with amendment will continue to require banks and savings banks to operate in a manner that is responsible to the industry, their customers, and the general public. Moreover, the Department does not believe that these requirements are unduly burdensome. They are consistent with prudent banking practices. The purpose of these requirements does not vary based upon business size. Accordingly, no differentiation based on business size is provided.

### **Housing Affordability Impact Analysis**

The rules proposed for readoption with amendment will not have an impact on housing affordability in this State in that the rules proposed for readoption with amendment relate to banking matters.

### **Smart Growth Development Impact Analysis**

The rules proposed for readoption with amendment will not have an impact on smart growth in this State and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey in that the rules proposed for readoption with amendment relate to banking matters.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:6.

**Full text** of the proposed amendment follows (addition indicated in boldface **thus**; deletion indicated in brackets [thus]):

#### 3:6-1.1 Definitions

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

“Bank” means a bank as defined in N.J.S.A. [17:19A]**17:9A**-1(1).

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