

**BANKING**

**DEPARTMENT OF BANKING AND INSURANCE**

**DIVISION OF BANKING**

**Savings Account Promotions**

**Proposed New Rules: N.J.A.C. 3:37**

Authorized By: Richard J. Badolato, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-15.e and P.L. 2015, c. 236.

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

Proposal Number: PRN 2017-041.

Submit comments by May 19, 2017, to:

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The agency proposal follows:

**Summary**

P.L. 2015, c. 236 (the Act), which was titled “An Act concerning certain savings account promotions and supplementing Title 17 and Title 5 of the Revised Statutes” was signed into law in January 2016. The Department of Banking and Insurance (Department) is authorized by the

Act to promulgate rules necessary to effectuate the provisions of the Act. The Department, therefore, proposes these new rules to permit banks, savings banks, savings and loan associations, and credit unions to conduct savings account promotion raffles if they so choose.

Proposed new N.J.A.C. 3:37-1.1 sets forth the purpose and the scope of the chapter.

Proposed new N.J.A.C. 3:37-1.2 sets forth the required definitions.

Proposed new N.J.A.C. 3:37-1.3 sets forth the required minimum standards and disclosures that a financial institution must make to customers participating in the savings account promotion and the criteria that must be met to establish eligibility for participation.

Proposed new N.J.A.C. 3:37-1.4 requires financial institutions conducting savings account promotions to maintain appropriate books and records.

The Department's proposal provides for a comment period of 60 days and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, is excepted from the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

### **Social Impact**

The proposed new rules will encourage consumers to engage in savings programs and develop habits for regular savings, which should lead to the creation of wealth. These proposed new rules, therefore, should have a positive social impact on banking consumers and the banking and credit union industries.

### **Economic Impact**

The Department does not anticipate any significant economic impact on the banking and credit union industries as a result of the proposed new rules. Additional money may be deposited in financial institutions as a result of the savings promotions, which will have a positive economic impact on the savers and the institutions.

### **Federal Standards Statement**

A Federal standards analysis is not required because the proposed new rules are similar to, but do not exceed, Federal standards set forth in the American Savings Promotion Act, Pub. L. No. 113-251.

### **Jobs Impact**

The Department does not anticipate that any jobs will be generated or lost as a result of the proposed new rules. To the extent that the proposed new rules help promote a healthy New Jersey banking industry, the climate for business and job growth is improved. The Department invites commenters to submit any data or studies concerning the jobs impact of the proposed new rules, together with any written comments on other aspects of the notice of proposal.

### **Agriculture Industry Impact**

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

### **Regulatory Flexibility Analysis**

The proposed new rules will apply to banks, savings banks, savings and loan associations, and credit unions. A number of them are small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. These institutions will be required to maintain records of the savings account promotion as part of these proposed new rules, which the Department does not view as imposing substantial new reporting requirements. Further, the Department does not believe that any significant new professional services will be needed to comply with the new rules.

There has been no distinction made in the recordkeeping or other compliance requirements for small businesses, as the requirements generally relate to the Department's

oversight of the banking industry. The Department's interest in the effective oversight of the industry applies regardless of business size. No differentiation in compliance requirements, therefore, is provided based on business size.

### **Housing Affordability Impact Analysis**

The proposed new rules will have an insignificant impact on the affordability of housing in New Jersey and it is unlikely that the proposed new rules would evoke a change in the average costs associated with housing because the proposed new rules concern savings account promotions.

### **Smart Growth Development Analysis**

The proposed new rules 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 proposed new rules relate to banks, savings banks, savings and loan associations, and credit unions and their ability to conduct savings account promotion raffles if they so choose.

**Full text** of the proposed new rules follows:

## CHAPTER 37

### SAVINGS ACCOUNT PROMOTIONS

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 3:37-1.1 Purpose and scope

(a) This subchapter implements P.L. 2015, c. 236, which permits financial institutions to conduct savings account promotions.

(b) This subchapter shall apply to all financial institutions that opt to conduct savings account promotions.

### 3:37-1.2 Definitions

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

“Commissioner” means the Commissioner of the New Jersey Department of Banking and Insurance.

“Department” means the New Jersey Department of Banking and Insurance.

“Eligible individual” means a natural person who:

1. Is at least 18 years of age; and
2. Is an account holder who holds a qualified account with the financial

institution conducting the savings account promotion.

“Financial institution” means a New Jersey chartered bank, savings bank, savings and loan association, or credit union as defined in N.J.S.A. 17:13-80.c.

“Qualified account” means a savings account, time deposit, share account, share certificate, or other savings program held at a financial institution and bearing interest at a rate comparable to the rate on other such accounts at the financial institution. “Qualified account” includes an account in which the eligible individual has an interest individually or jointly with another natural person. “Qualified account” does not include a tax deferred account, trust account, or any account where the named account holder is not a natural person.

“Savings account promotion” means a raffle conducted by a financial institution in compliance with this chapter.

3:37-1.3 Required disclosures and minimum standards

(a) A financial institution may conduct a savings account promotion provided that the sole consideration required for a chance to win a designated prize is the deposit of a minimum specified amount of money in a qualified account.

(b) A financial institution shall provide that each entry must have an equal chance of being drawn.

(c) A financial institution may limit the number of entries that may be submitted by an eligible individual.

(d) A financial institution may not conduct a savings account promotion in a way that jeopardizes the financial institution's financial condition, unfairly discriminates, or misleads an eligible individual or the public.

(e) A financial institution conducting a savings account promotion shall:

1. Post the terms and conditions of the savings account promotion in any location where entries may be submitted and shall include such terms and conditions in any printed materials or electronic media advertising the savings promotion; and

2. Include the following terms and conditions for a savings account promotion in all raffle information:

i. No other action, purchase, or other consideration is necessary to enter the savings account promotion;

ii. Each entry has the same chance of winning the savings account promotion;

iii. The chance of winning the savings account promotion will be determined based on the number of entries received;

- iv. Any limitations on the number of entries that an eligible individual may submit;
- v. Any specific requirement on the length of time that the money must remain on deposit in a qualified account in order to participate in a savings promotion; and
- vi. The winner is solely responsible for all applicable Federal and State taxes.

#### 3:37-1.4 Maintenance of books and records

A financial institution that conducts a savings account promotion under this subchapter shall maintain books and records, including, but not limited to, copies of all advertisements relating to the conduct of the savings account promotion sufficient to facilitate an independent audit or an examination by the Department of the savings account promotion.