

ii. Be reduced by the booked value of any intangible assets set up on the balance sheet which represent non-material values over and above physical assets, such as goodwill, deferred losses and intangible assets.

2. The term "surplus" shall, in the case of a savings bank, include undivided profits, any reserve for contingency, reserve for securities and reserve for bad debts as computed for Federal income tax purposes, but shall:

i. Exclude any specifically allocated reserves or reserves for known specific charges; and

ii. Be reduced by the booked value of any intangible assets set up on the balance sheet which represent non-material values over and above physical assets, such as goodwill, deferred losses and intangible assets.

3. The term "undivided profits" shall, in the case of an association, include any reserve for contingency required by any law or regulation and any reserve for bad debts as computed for Federal income tax purposes, but shall:

i. Exclude any specifically allocated reserves or reserves for known specific charges; and

ii. Be reduced by the booked value or any intangible assets set up on the balance sheet which represent non-material values over and above physical assets, such as goodwill, deferred losses and intangible assets.

Amended by R.1991 d.186, effective April 1, 1991.

See: 22 N.J.R. 1809(a), 23 N.J.R. 997(a).

Required that "surplus" and "undivided profits" be reduced by the booked value or any intangible assets set up on the balance sheet which represent non-material values over and above physical assets.

Amended by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Rewrote (a)3.

3:1-4.8 Substitution of collateral

Public depositories shall have the right to make substitutions of eligible collateral between valuation dates without notification to and approval by the Commissioner; provided, that any substituted collateral have a market value as of the date of substitution which is at least equal to the market value of the collateral so replaced as reported on the last valuation date. Any withdrawal of pledged collateral without replacement as mentioned aforesaid requires the prior approval of the Commissioner. A letter to the Commissioner requesting such withdrawal of collateral shall indicate the collateral to be withdrawn and the reason or reasons for such withdrawal. The Commissioner shall transmit to the public depository in writing his or her approval or disapproval of such withdrawal.

Amended by R.1974 d.119, effective May 16, 1974.

See: 6 N.J.R. 130(b), 6 N.J.R. 218(b).

Amended by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Rewrote the last sentence.

3:1-4.9 Agreement or resolution; custodial depository and Commissioner

(a) The depositories specified in N.J.S.A. 17:9-44(c) and the Federal Reserve Bank of the Federal Reserve district where the depository institution's principal office is located shall be known as custodial depositories. A public depository shall not deposit collateral in a custodial depository which is a parent or subsidiary of the public depository, or is otherwise related to the public depository.

(b) A custodial depository shall be required to have a written agreement with the Commissioner authorizing such depository to hold securities as collateral for public funds under the terms and conditions enumerated therein.

(c) A public depository who pledges mortgage loans, student loans or Small Business Administration loans insured or guaranteed by the United States of America or an instrumentality thereof or by the State of New Jersey or an instrumentality thereof as to the payment of principal and interest shall file with the Commissioner at the time each certification statement is filed a report of the current status of each mortgage, student loan or Small Business Administration loan pledged as collateral on forms subject to the approval of the Commissioner:

1. The bond or note and mortgage collateral instruments shall be deposited with a custodial depository.

2. The underlying mortgage collateral security shall be homes containing not more than four dwelling units.

3. The market value of the mortgage loan, student loan or Small Business Administration loan shall be 80 per cent of the book value of the loan at the date of filing, until the next semiannual valuation date.

4. Mortgage loans, student loans or Small Business Administration loans contractually delinquent more than three months shall not be considered eligible collateral.

5. Individual ledger cards or comparable records shall be marked to indicate items pledged.

(d) If a public depository fails to meet its minimum regulatory capital requirements as established by the appropriate supervising Federal agency or meets the criteria set forth in N.J.S.A. 17:16J-2(a), the Commissioner may:

1. Require that the public depository pledge readily marketable investment grade securities only, and pledge such securities to the extent of 120 percent of the amount of public funds on deposit not insured by the appropriate Federal insurance fund; and/or

2. Issue a limited certificate which prohibits the public depository from accepting public deposits not insured by the appropriate Federal insurance fund.

As amended, R.1974 d.119, eff. May 16, 1974.

See: 6 N.J.R. 130(b), 6 N.J.R. 218(b).

Amended by R.1991 d.186, effective April 1, 1991 (operative June 1, 1991).

See: 22 N.J.R. 1809(a), 23 N.J.R. 997(a).

New (d) established those provisions which the Commissioner could enforce if a public depository fails to meet its minimum capital requirement.

Amended by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Rewrote (a).

3:1-4.10 Agreement or resolution; public depository and custodial depository

(a) Each public depository which is a State bank, national bank or savings bank shall be required to have a written agreement with a custodial depository. Said agreement shall indicate that the collateral pledged is to be held subject to the order of the Commissioner or his or her authorized deputy and is held as security for public funds as required under the Act.

(b) Each public depository that pledges insured or guaranteed mortgages, student loans or Small Business Administration loans as security for public funds shall file with the Commissioner a resolution of the board of the depository at the time of the initial pledge. The resolution must authorize the pledging of such mortgages, student loans or Small Business Administration loans in a custodial depository, together with other documentation which may be required by the Commissioner.

(c) The aforesaid written agreement or resolution shall indicate that collateral pledged is to be held in a custodial depository subject to the order of the Commissioner or his or her authorized deputy and is held as security for public funds as required by the Act.

As amended, R.1974 d.119, eff. May 16, 1974.

See: 6 N.J.R. 130(b), 6 N.J.R. 218(b).

Amended by R.1991 d.186, effective April 1, 1991 (operative June 1, 1991).

See: 22 N.J.R. 1809(a), 23 N.J.R. 997(a).

(b) deleted referencing requirements for "associations".

3:1-4.11 Security; State and other public deposits

The securing of public deposits as required under the Act shall not preclude any public depository from securing State or other public deposits which are otherwise required to be secured by law. The deposits which are otherwise required to be secured shall be excluded from the computation of the average balance of public funds as required in this Subchapter.

As amended, R.1974 d.119, eff. May 16, 1974.

See: 6 N.J.R. 130(b), 6 N.J.R. 218(b).

3:1-4.12 Records maintained by Commissioner; eligibility

The Commissioner shall maintain such records as he or she shall deem necessary in order to determine which public depositories have complied with the provision of the Act. After receipt of the periodic certified statement, the Commissioner shall give written notification to each reporting public depository of its eligibility to act as a depository for public funds.

Amended by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Neutralized gender reference.

3:1-4.13 Eligible collateral

In addition to obligations otherwise authorized in N.J.S.A. 17:9-41, eligible collateral shall also include irrevocable stand-by letters of credit issued by the Federal Home Loan Bank of New York. The Commissioner shall review and approve the form of all such letters of credit proposed by a public depository as eligible collateral under this section. Further, the original letter of credit shall be held by the Commissioner.

New Rule, R.2002 d.382, effective November 18, 2002.

See: 34 N.J.R. 2363(a), 34 N.J.R. 3957(a).

SUBCHAPTER 5. (RESERVED)

SUBCHAPTER 6. FEES

3:1-6.1 Definitions

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

"Discretionary trust assets" means the discretionary trust assets reported to the Department in the report of trust assets.

"Holding company" means a bank holding company or a savings and loan holding company under the supervision of the Department.

"Licensee" means a person other than a bank, savings bank, savings and loan association or credit union that is regulated or supervised by the Division of Banking.

"Non-discretionary trust assets" means the non-discretionary trust assets reported to the Department in the report of trust assets.

"Trust assets" means assets held in trust, as reported to the Department in the report of trust assets.

"Trust company" means a New Jersey bank whose powers are limited by its certificate of incorporation to fiduciary and trust activities, or which has represented to the Department that it will restrict its powers to fiduciary and trust activities.

New Rule, R.1991 d.195, effective April 15, 1991.

See: 23 N.J.R. 245(a), 23 N.J.R. 1125(a).

Section 6.1 was recodified to 6.2.

Amended by R.1991 d.350, effective July 1, 1991.

See: 23 N.J.R. 1073(b), 23 N.J.R. 2028(a).

Added definitions for "discretionary trust assets" and "non-discretionary trust assets".

Amended by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

In "Licensee", substituted "that" for "which" and "Division of Banking" for "Department".

3:1-6.2 Assessments

(a) Every bank as defined in N.J.S.A. 17:9A-1(1), every savings bank as defined in N.J.S.A. 17:9A-1(13) and every State association as defined in N.J.S.A. 17:12B-5(1) shall be assessed a yearly fee of 0.44 of one cent per \$100.00 of total assets, except that trust assets shall be assessed a yearly fee in accordance with the following schedule: