

**CHAPTER 6**  
**GENERAL PROVISIONS**

**Authority**

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

**Source and Effective Date**

R.2001 d.203, effective May 20, 2001.  
See: 33 N.J.R. 926(a), 33 N.J.R. 2079(c).

**Executive Order No. 66(1978) Expiration Date**

Chapter 6, General Provisions, expires on May 20, 2006.

**Chapter Historical Note**

Chapter 6, General Provisions, was adopted and became effective prior to September 1, 1969.

Subchapter 6, Short Term Investment of Cash in Fiduciary Accounts, was adopted as R.1971 d.10, effective June 15, 1971. See: 2 N.J.R. 98(a), 3 N.J.R. 19(d).

Subchapter 9, Small Business Loan Interest Rate, was adopted as R.1980 d.204, effective May 9, 1980. See: 12 N.J.R. 302(d).

Subchapter 1, Report of Ten-Year Dormant Accounts, was repealed, and Subchapter 8, Savings Banks; Deposits, was adopted by R.1980 d.435, effective October 7, 1980. See: 12 N.J.R. 502(b), 12 N.J.R. 627(c).

Subchapter 10, Savings Banks; Unsecured Days Funds Transactions, was adopted as R.1980 d.559, effective December 31, 1980. See: 12 N.J.R. 563(b), 13 N.J.R. 62(c).

Subchapter 11, Short Term Investments for Trust Cash, was adopted as R.1980 d.560, effective December 31, 1980. See: 12 N.J.R. 563(c), 13 N.J.R. 62(d).

Subchapter 12, State Bank Parity, was adopted as R.1981 d.351, effective September 10, 1981. See: 13 N.J.R. 383(c), 13 N.J.R. 552(a).

Subchapter 1, Savings Bank Parity, was adopted as R.1981 d.352, effective September 10, 1981. See: 13 N.J.R. 383(b), 13 N.J.R. 551(b).

Subchapter 9, Small Business Loan Interest Rate, was repealed by R.1982 d.126, effective April 19, 1982. See: 14 N.J.R. 182(a), 14 N.J.R. 383(b).

Subchapter 7, Investment Restatement Accounting, was adopted as R.1982 d.307, effective September 7, 1982. See: 14 N.J.R. 676(a), 14 N.J.R. 988(a).

Subchapter 13, Automated Teller Machines, was adopted as R.1983 d.286, effective July 18, 1983. See: 15 N.J.R. 190(a), 15 N.J.R. 1179(a).

Pursuant to Executive Order No. 66(1978), Subchapter 2, Approved Depositories for Investments Comprising Security Funds, was readopted as R.1984 d.14, effective January 13, 1984. See: 15 N.J.R. 1974(a), 16 N.J.R. 238(a).

Pursuant to Executive Order No. 66(1978), Subchapter 3, Executive Officer Participation in Major Policy-Making Functions of a Bank, was readopted as R.1984 d.188, effective April 27, 1984. See: 16 N.J.R. 475(a), 16 N.J.R. 1196(a).

Subchapter 7, Investment Restatement Accounting, was repealed and a new Subchapter 7, Loss Deferral Accounting for Mutual Savings Banks, was adopted as R.1984 d.577, effective December 17, 1984. See: 16 N.J.R. 2712(a), 16 N.J.R. 3427(a).

Pursuant to Executive Order No. 66(1978), Subchapter 8, Savings Banks; Deposits, expired on April 9, 1985.

Subchapter 15, Savings Banks: Officers and Managers Permitted Loans, was adopted as R.1985 d.556, effective November 4, 1985. See: 17 N.J.R. 2073(b), 17 N.J.R. 2606(b).

Pursuant to Executive Order No. 66(1978), Subchapter 10, Savings Banks; Unsecured Days Funds Transactions, expired on December 31, 1985.

Pursuant to Executive Order No. 66(1978), Subchapter 11, Short Term Investments for Trust Cash, expired on December 31, 1985.

Subchapter 10, Savings Banks; Unsecured Days Funds Transactions, was adopted as new rules by R.1986 d.48, effective March 3, 1986. See: 17 N.J.R. 2936(a), 18 N.J.R. 477(a).

Subchapter 11, Short-Term Investments for Trust Cash, was adopted as new rules by R.1986 d.49, effective March 3, 1986. See: 17 N.J.R. 2937(a), 18 N.J.R. 477(b).

Subchapter 16, Qualified Bank Acquisition of Underwritten Securities, was adopted as R.1987 d.271, effective July 6, 1987. See: 19 N.J.R. 677(b), 19 N.J.R. 1184(b).

Subchapter 9, Capital Stock Savings Bank: Change in Control, was adopted as R.1988 d.404, effective August 15, 1988. See: 19 N.J.R. 1762(a), 20 N.J.R. 2052(c).

Pursuant to Executive Order No. 66(1978), Chapter 6, General Provisions, was readopted by R.1991 d.171, effective March 1, 1991, and Subchapter 7, Loss Deferral Accounting for Mutual Savings Banks, was repealed effective April 1, 1991. See: 23 N.J.R. 147(a), 23 N.J.R. 998(a).

Subchapter 13, Automated Teller Machines, was repealed by R.1991 d.244, effective May 6, 1991. See: 23 N.J.R. 642(a), 23 N.J.R. 1408(b).

Subchapter 8, Conversions of Savings Banks, was adopted as R.1991 d.294, effective June 17, 1991. See: 23 N.J.R. 929(b), 23 N.J.R. 1919(b).

Subchapter 17, Conversions of Banks, was adopted as R.1994 d.208, effective May 2, 1994. See: 26 N.J.R. 286(a), 26 N.J.R. 1827(a).

Pursuant to Executive Order No. 66(1978), Chapter 6, General Provisions, expired on March 1, 1996.

Chapter 6, General Provisions, was adopted as new rules by R.1996 d.244, effective May 20, 1996. See: 28 N.J.R. 1331(a), 28 N.J.R. 2544(a).

Pursuant to Executive Order No. 66(1978), Chapter 6, General Provisions, was readopted by R.2001 d.203, effective May 20, 2001; and Subchapter 1, Savings Bank Parity, was recodified as N.J.A.C. 3:6-12.3, Subchapter 1, Definitions, was adopted as new rules, and Subchapter 9, Capital Stock Savings Bank: Change In Control, was repealed by R.2001 d.203, effective June 18, 2001. See: Source and Effective Date. See, also, section annotations.

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## SUBCHAPTER 1. DEFINITIONS

## 3:6-1.1 Definitions

The following words and terms, when used in the 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-1(1).

"Banking institution" means a bank, savings bank, an out-of-State bank having a branch office in this State, an out-of-country bank having a branch office in this State, and a national banking association having its principal or a branch office in this State.

"Capital funds" of a savings bank are deemed to include capital notes of the savings bank for purposes of computing lending limitations.

"Capital stock association" means a capital stock association as defined in N.J.S.A. 17:12B-244(a).

"Capital stock savings bank" means a savings bank organized or converted pursuant to N.J.S.A. 17:9A-8.1 to 8.17.

"De novo branch" means a new branch office of a banking institution or foreign bank established not by means of the acquisition of an existing insured depository institution or branch office of an insured depository institution or by the means of the conversion, merger, or consolidation of any such institution or branch office.

"Executive officer" means a person who participates or has authority to participate, other than in the capacity of a director, in major policy-making functions of the bank, whether or not: the person has an official title; the title contains a designation of assistant; or the person is serving without salary or other compensation. The chairman of the board, president, every vice president, cashier, secretary, treasurer and comptroller are considered to be executive officers, unless pursuant to resolution of the board of directors or the bylaws of the bank any such executive officer is excluded from participation in major policy-making functions, other than in the capacity of a director, and the executive officer does not actually participate therein.

"Foreign bank" means a company, other than a banking institution, organized under the laws of the United States, another state or a foreign government, which is authorized by the laws under which it is organized to exercise some or all of the powers specified in N.J.S.A. 17:9A-24(4), 25(4)(5) and (13), and 28(3) through (9).

(b) Principal is to be valued at cost. The difference between cost and anticipated receipt on maturity is accrued on a straight-line basis.

(c) Assets of the fund must be held to maturity under usual circumstances.

(d) After effecting the entries and withdrawals not less than 40 percent of the value of the remaining assets of the fund must be composed of cash, demand obligations and assets that mature on the fund's next business day.

## SUBCHAPTER 12. STATE BANK AND SAVINGS BANK PARITY

### 3:6-12.1 State bank and savings bank parity with Federal and out-of-State institutions

(a) Banks and savings banks may exercise those powers, rights, benefits or privileges authorized as of January 20, 2004 and thereafter for national banks, Federal savings banks or Federal savings associations, either directly or through a financial subsidiary or other subsidiary, to the same extent and subject to the same limitations as national banks, Federal savings bank or Federal savings associations may exercise those powers, rights, benefits or privileges. Pursuant to P.L. 2000, c.69, § 3 (N.J.S.A. 17:9A-24b.1), banks and savings banks may exercise such powers, rights, benefits or privileges, consistent with (c) below, notwithstanding the provisions of N.J.S.A. 17:9A-1 et seq. or any other law. If, under Federal law, the exercise of a power, right, benefit or privilege is subject to compliance with state law in the state in which the national bank, Federal savings bank or Federal savings association exercises the power, right, benefit or privilege, then the exercise of the power, right, benefit, or privilege in this State shall be subject to New Jersey law.

(b) Banks and savings banks may exercise those powers, rights, benefits or privileges as of January 20, 2004 and thereafter authorized for out-of-State banks, savings banks or savings associations either directly or through a financial subsidiary or other subsidiary, to the same extent and subject to the same limitations as out-of-State banks, savings banks or savings associations may exercise those powers, rights, benefits or privileges, provided that before exercising any such power, right, benefit or privilege, the Commissioner has approved, by rule, the exercise of such a power, right, benefit or privilege by banks and savings banks generally, or the bank or savings bank provides notice of its intent to exercise such a power, right, benefit or privilege to the Commissioner and, on a case by case basis, the Commissioner either approves the activity or does not determine, within 45 days of his or her receipt of such notice, that the power, right, benefit or privilege is not to be exercised by the bank or savings bank on one or more of the grounds specified in

(d) below. Pursuant to P.L. 2000 c.69, § 3 (N.J.S.A. 17:9A-24b.1), banks and savings banks may exercise such powers, rights, benefits or privileges, consistent with (c) and (d) below, notwithstanding the provisions of N.J.S.A. 17:9A-1 et seq. or any other law. If the exercise of a power, right, benefit or privilege is subject to compliance with state licensing law in the state to which the institution looks for the authority to exercise the power, right, benefit or privilege, then the exercise of the power, right, benefit, or privilege in this State shall be subject to applicable New Jersey licensing law regulating the conduct in which the bank or savings bank seeks to engage.

(c) "Power, right, benefit or privilege" shall not mean any activity that would fail to comply with or would violate:

1. The New Jersey Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq., including, but not limited to, the criminal usury limits established at N.J.S.A. 2C:21-19 as applied to loan products;

2. New Jersey statutes and rules providing for the structure and corporate governance of banks and savings banks, including, but not limited to, statutes and rules governing amendments of certificates of incorporation, adoptions of bylaws, rights of shareholders or members, membership of boards of directors, closing of branch offices, establishing of de novo branch offices by foreign banks, applications where there is a supervisory concern, and requests for approvals or no objection opinions where there is a supervisory concern;

3. New Jersey statutes and rules providing the Department with supervisory powers over banks and savings banks with regard to safety and soundness and other matters, including, but not limited to, the power to issue orders and apply for relief from a court of competent jurisdiction established at N.J.S.A. 17:9A-266 et seq., and the power to require reports and examination by the Department pursuant to N.J.S.A. 17:9A-252 et seq. and similar law;

4. The provisions of N.J.S.A. 17:16N-1 et seq. and any rules regarding Consumer Checking Accounts; and

5. The New Jersey Homeownership Security Act of 2002 (P.L. 2003, c.64).

(d) Prior to the exercise of any power, right, benefit, or privilege exercised by an out-of-State bank, savings bank, or savings association, a bank or savings bank shall submit a notice of intent for the Commissioner's approval. Such notice of intent shall include: a description of the intended activity; a copy of the statutory or regulatory authority, including any pertinent regulatory interpretation of such authority, that governs the out-of-State institution that the applicant bank or savings bank proposes as the basis for such exercise of parity; and a business plan and statement of the general or specific experience of the applicant that establishes how such exercise of parity would be conducted in a manner consistent with safe and sound banking prac-

tices. The items submitted as part of the business plan and the statement of experience shall be treated as confidential by the Department and shall not be public records pursuant to N.J.S.A. 47:1A-1 et seq. The Commissioner may disapprove the exercise of any power, right, benefit or privilege on the grounds of: an incomplete notice of intent, safety and soundness, failure to comply with New Jersey licensing requirements, or other grounds as provided in this rule. The Commissioner may condition the exercise of any power, right, benefit or privilege on the grounds of safety and soundness, compliance with New Jersey licensing requirements, or on other grounds as provided in this subchapter.

Amended by R.2001 d.203, effective June 18, 2001. See: 33 N.J.R. 926(a), 33 N.J.R. 2079(c). In the first sentence, substituted "and" for "an", and rewrote the fourth sentence. Repeal and New Rule, R.2004 d.40, effective January 20, 2004. See: 35 N.J.R. 3433(a), 36 N.J.R. 413(a). Section was "State bank parity with national banks".

**3:6-12.2 (Reserved)**

Repealed by R.2004 d.40, effective January 20, 2004. See: 35 N.J.R. 3433(a), 36 N.J.R. 413(a). Section was "State bank parity with out-of-State banks".

**3:6-12.3 (Reserved)**

Repealed by R.2004 d.40, effective January 20, 2004. See: 35 N.J.R. 3433(a), 36 N.J.R. 413(a). Section was "Savings banks parity with Federally chartered savings banks".

SUBCHAPTER 13. (RESERVED)

SUBCHAPTER 14. FOREIGN BANKS

**3:6-14.1 Biennial fee**

The certificate of authority or certificate of renewal of a certificate of authority for a foreign bank shall run from the date of issuance to the end of the biennial period. When the initial certificate is issued in the second year of the biennial certificate period, the certificate fee shall be an amount equal to one half of the fee for the biennial certificate period. The first biennial period shall commence as of April 1, 1983. Certificates issued during the period April 1, 1982 to April 1, 1983 will bear a fee equal to one half of the \$800 biennial fee. For the biennial period commencing April 1, 1991, the biennial fee will be \$1,000. Certificates issued during the period April 1, 1990 to April 1, 1991 will bear a fee equal to one half of the \$1,000 biennial fee.

R.1983 d.42, eff. March 7, 1983. See: 15 N.J.R. 6(a), 15 N.J.R. 330(a).

Emergency amendment, R.1989 d.406, effective July 3, 1989 (expires September 1, 1989). See: 21 N.J.R. 2397(a). Amended by R.1989 d.449, effective August 21, 1989. See: 21 N.J.R. 1601(b), 21 N.J.R. 2473(b). Biennial fee increased to \$1,000.

**3:6-14.2 Miscellaneous fees**

(a) A foreign bank shall pay to the Department of Banking and Insurance the following fees:

- 1. For filing a copy of its certificate of incorporation, or an amendment or change to the certificate ..... \$100.00;
- 2. For filing a statement of its financial condition ..... \$50.00;
- 3. For filing a power of attorney ..... \$25.00.

New Rule, R.1989 d.449, effective August 21, 1989. See: 21 N.J.R. 1601(b), 21 N.J.R. 2473(b). Amended by R.1991 d.195, effective April 15, 1991. See: 23 N.J.R. 254(a), 23 N.J.R. 1125(a). Fees increased from \$50.00 to \$100.00 for filing copy of certificate of incorporation or an amendment or change and for each substitution of securities. Amended by R.2001 d.203, effective June 18, 2001. See: 33 N.J.R. 926(a), 33 N.J.R. 2079(c). In (a), substituted "Department of Banking and Insurance" for "Commissioner" in the introductory paragraph and deleted 4.

SUBCHAPTER 15. SAVINGS BANKS: OFFICERS AND MANAGERS PERMITTED LOANS

**3:6-15.1 Terms and conditions**

(a) A savings bank may permit its officers and managers and their families and affiliates to become liable to the savings bank only under the same terms and conditions and to the same degree of liability as a bank permits its directors, officers or the corporations or partnerships of the officers or directors of a bank to become liable to a bank under N.J.S.A. 17:9A-71 to 74, N.J.S.A. 17:9A-104 and N.J.A.C. 3:1-11 and 3:6-3.

(b) A savings bank may not permit its officers and managers and their families and affiliates to become liable to the savings bank pursuant to the authority of N.J.A.C. 3:6-12.

(c) The authority of a savings bank to permit its officers and managers and their families and affiliates to become liable to the savings bank under the same terms and conditions and to the same degree of liability as a bank is not to be construed as granting to the savings bank the authority to grant any form or type of loan it is not otherwise authorized to make.

(d) "Manager" of a savings bank means a trustee or director of a savings bank and where reference is made to a director of a bank it shall be deemed to refer to the manager of a savings bank.