

GENERAL PROVISIONS

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Subchapter 1, Report of Ten-Year Dormant Accounts, was repealed, and Subchapter 8, Savings Banks; Deposits, was adopted by R.1980 d.435, effective October 7, 1980.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Subchapter 9, Small Business Loan Interest Rate, was repealed by R.1982 d.126, effective April 19, 1982.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).

Amended by R.2001 d.203, effective June 18, 2001.
See: 33 N.J.R. 926(a), 33 N.J.R. 2097(c).
Rewrote the section.

3:6-6.5 Maintenance of loan records in bank's trust department

(a) Participations of each account in the loan must be reflected in the securities record of each account in the bank's trust department.

(b) A participation record for each account must be also maintained and a check must be made each time a change in the amount of the loan occurs to assure that these participation records are in balance with the outstanding amount of the note.

(c) The bank may not participate in the loan for its own account, nor may it acquire such a participation.

3:6-6.6 Authorization to invest in this type of collective investment

(a) Where collective investments of the type described in this subchapter are not specifically authorized by the governing instruments of the various participating accounts, such investments may be made pursuant to N.J.S.A. 17:9A-37 and in such case:

1. Participation in such investment shall be restricted to accounts in which the bank is acting in a fiduciary capacity specified in paragraphs (5),(6)(9) and (10) of N.J.S.A. 17:9A-28;

2. The written variable note duly executed by the parties and a written outline of the procedure, as above set forth, controlling participation in such investment or a written incorporation by reference of the above-mentioned procedure shall constitute the written plan in accordance with the provisions of N.J.S.A. 17:9A-37(E);

3. The note is of a borrower whose commercial paper is rated at least A-1 by the financial periodicals rating commercial paper (for example, Standard and Poor) and such note is either payable on demand or at the call of the bank; and

4. The determination of whether such collective investment shall constitute a legal common trust fund or a discretionary common trust fund shall be determined in accordance with the provisions of N.J.S.A. 17:9A-38D and the Prudent Investor Act, N.J.S.A. 3B:20-11.1 et seq.

Amended by R.2001 d.203, effective June 18, 2001.
See: 33 N.J.R. 926(a), 33 N.J.R. 2097(c).

In (a)3, deleted N.J.S.A. reference and in (a)4, amended existing N.J.S.A. reference and inserted the second N.J.S.A. reference.

3:6-6.7 Parity provision

This regulation is issued to enable banks to establish and maintain common trust funds on an equal basis with common trust funds established and maintained by national banking associations.

SUBCHAPTER 7. (RESERVED)

SUBCHAPTER 8. CONVERSIONS OF SAVINGS BANK CHARTERS

3:6-8.1 Authorization for conversion

(a) Any mutual savings bank may apply to the Commissioner to convert itself to a mutual association by organizing and transferring its assets and liabilities to a newly-chartered mutual association, and any capital stock savings bank may apply to the Commissioner to convert itself to a bank by organizing and transferring its assets and liabilities to a newly-chartered bank.

(b) Before applying to the Commissioner for a conversion pursuant to (a) above, the savings bank shall obtain a resolution of the savings bank's board of directors indicating that the conversion is advisable and in the best interests of the members or shareholders.

(c) After the board of directors has adopted a resolution, a meeting of the members or stockholders shall be held upon not less than 10 days' written notice. The notice shall contain a statement of the time, place and purpose for which such meeting is called. At this meeting, the members or shareholders shall vote on whether the savings bank shall convert to an association or bank, as the case may be. An affirmative vote of at least two-thirds of the members present, or shares eligible to be voted which are represented at the meeting, either in person or by proxy, may approve the conversion.

Amended by R.1994 d.208, effective May 2, 1994.

See: 26 N.J.R. 286(a), 26 N.J.R. 1827(a).

Recodified from N.J.A.C. 3:6-8.2 and amended by R.2001 d.203, effective June 18, 2001.

See: 33 N.J.R. 926(a), 33 N.J.R. 2097(c).

In (a), substituted "newly-charted mutual association" for "newly-chartered capital stock association". Former N.J.A.C. 3:6-8.1, Definitions, was repealed.

3:6-8.2 Application for conversion

(a) An application for a conversion from a savings bank to an association or bank shall contain the following:

1. A certified copy of the resolution of the board of directors authorizing the conversion;

2. A certified copy of the resolution adopted by the stockholders or members relating to the plan of conversion, containing the following information:

i. The total number of votes eligible to be cast;

ii. The total number of votes represented in person or by proxy at the special meeting;

iii. The total number of votes cast in favor and against each matter; and

iv. The percentage of votes cast in favor and against each matter.

3. A certificate of incorporation for the new association or bank;

4. Biographical information for each of the incorporators and/or directors on forms approved by the Commissioner;

5. A completed form from the New Jersey State Police requesting criminal history record information for each director and/or incorporator, along with a cashier's check, certified check or money order for the applicable amount, payable to the State Police, stapled to the front of each form;

6. A copy of the savings bank's most recent quarterly financial report;

7. Financial projections for the converted association or bank for the next three years. Projections shall include a consolidated average balance sheet and a profit and loss statement at the end of each year. This financial information shall include projections of all relevant regulatory capital requirements as well as appropriate income ratios;

8. A business plan for three years;

9. Copies of all applications for Federal regulatory approval and all approvals required in connection with the conversion, or, if no application or approval is required, a statement or opinion of counsel to that effect; and

10. The application fee for the conversion.

(b) The Commissioner may, in his or her discretion, waive any of the application requirements of (a) above based on any of the following:

1. The financial condition of the institution;
2. Whether the institution was recently chartered;
3. Whether the public would be served by considering the application in an expeditious manner;
4. Whether the conversion is one step in an integrated application; or
5. Any other factor which may affect the need for a review of any of the materials specified in (a) above.

Amended by R.1994 d.208, effective May 2, 1994.
See: 26 N.J.R. 286(a), 26 N.J.R. 1827(a).
Recodified from N.J.A.C. 3:6-8.3 and amended by R.2001 d.203, effective June 18, 2001.
See: 33 N.J.R. 926(a), 33 N.J.R. 2097(c).

In (b), rewrote the introductory paragraph, in 4 substituted "or" for "and", and rewrote 5. Former N.J.A.C. 3:6-8.2, Authorization for conversion, was recodified to N.J.A.C. 3:6-8.1.

3:6-8.3 (Reserved)

Recodified to N.J.A.C. 3:6-8.2 by R.2001 d.203, effective June 18, 2001.

See: 33 N.J.R. 926(a), 33 N.J.R. 2097(c).
Section was "Application for conversion".

SUBCHAPTER 9. (RESERVED)

SUBCHAPTER 10. UNSECURED DAYS FUNDS TRANSACTIONS

3:6-10.1 Description; unsecured days funds

Unsecured days funds transactions represents the sale of excess funds, usually on an unsecured basis, for a period longer than overnight or a weekend. Such transactions are commonly referred to as "term federal funds". Sales are restricted to an insured bank which is defined as being a commercial bank whose deposits are insured by the Federal Deposit Insurance Corporation.

3:6-10.2 Limitation on such investments

A bank or savings bank may sell unsecured days funds (term Federal funds) to any insured bank, as defined in N.J.A.C. 3:6-10.1, provided the total amount sold to any one insured bank does not exceed 15 percent of the capital funds of the bank or savings bank as reported in the latest consolidated report of condition on file with the Department of Banking and Insurance.

Amended by R.1991 d.171, effective April 1, 1991.
See: 23 N.J.R. 147(a), 23 N.J.R. 998(a).

Changed from 10 percent to 15 percent.
Amended by R.2001 d.203, effective June 18, 2001.
See: 33 N.J.R. 926(a), 33 N.J.R. 2079(c).

Inserted "bank or" preceding "savings bank" throughout and substituted "capital funds" for "surplus" following "15 percent of the".

SUBCHAPTER 11. SHORT-TERM INVESTMENTS FOR TRUST CASH

3:6-11.1 Type of investment

Cash held for various fiduciary accounts may be invested on a short term basis utilizing the cost method in determining the value of property and investments of the common trust fund.

3:6-11.2 Provisions for cost valuation

(a) Investments must be limited largely to bonds, notes or other evidences of indebtedness which are payable on demand (including variable amount notes) or which have a maturity date not exceeding 91 days from the date of purchases. However, 20 percent of the value of the fund may be invested in longer term obligations.

Amended by R.1994 d.397, effective August 1, 1994.
 See: 25 N.J.R. 3586(b), 26 N.J.R. 3163(a).
 Recodified from N.J.A.C. 3:6-15.2 and 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), amended N.J.S.A. and N.J.A.C. references; in (b), amended
 N.J.A.C. reference; and added (d). Former N.J.A.C. 3:6-15.1, Defini-
 tions, was repealed.

3:6-15.2 (Reserved)

Recodified to N.J.A.C. 3:6-15.1 by R.2001 d.203, effective June 18,
 2001.
 See: 33 N.J.R. 926(a), 33 N.J.R. 2079(c).
 Section was "Terms and conditions".

SUBCHAPTER 16. QUALIFIED BANK ACQUISITION OF UNDERWRITTEN SECURITIES

3:6-16.1 Definitions

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

"Affiliate bank" means a bank at least 90 percent of
 whose issued and outstanding stock is owned by the same
 corporation.

"Securities" means:

1. Bonds, notes or other obligations of or guaranteed
 by, this State or any agency, authority or instrumentality
 of this State; and
2. Bonds, notes or other obligations of any county,
 municipality, or other governmental unit or subdivision of
 this State, or any agency, authority, instrumentality of any
 county, municipality or other governmental unit or subdi-
 vision of this State.

Amended by R.2001 d.203, effective June 18, 2001.
 See: 33 N.J.R. 926(a), 33 N.J.R. 2079(c).
 Deleted "Issuer", "Qualified bank" and "Trust account".

3:6-16.2 Conditions placed on a qualified bank acquiring certain underwritten securities

(a) A qualified bank may acquire securities, for one or
 more of its trust accounts, from itself, another member of
 the underwriting syndicate of the security, or from an
 affiliate bank, when the qualified bank or affiliate holds the
 security or securities as a result of its being the underwriter
 or a member of the underwriting syndicate of the security,
 provided the following conditions are met with respect to
 each acquisition:

1. The acquisition is a prudent and appropriate invest-
 ment for each of the trust accounts for which it is
 acquired;

2. The price paid is fair as established by market
 quotation of the security or of securities of similar quality,
 yield and maturity or as established by independent ap-
 praisal; and

3. A notification of such acquisition shall be given by
 the qualified bank to the person or persons who receive
 the periodic account statements issued by the qualified
 bank with respect to the trust account for which the
 acquisition is made. The notification shall be in writing
 and may be sent as an individual notice by regular mail or
 it may be included as part of the next periodic statement.
 In the case of a common trust fund, notification shall be
 disclosed in the annual financial report of such fund.

3:6-16.3 Limitations

A qualified bank shall not retain or purchase for its trust
 accounts or retain or sell to any of its affiliate banks for
 their trust accounts, securities which in the aggregate will
 exceed a total of more than 50 percent of an issue of
 securities regarding which it or any affiliate bank is an
 issuer.

3:6-16.4 Required records

(a) To support compliance with the provisions of
 N.J.A.C. 3:6-16.2, a qualified bank shall retain its records
 relative to the transaction for two years from the date of the
 acquisition, which records shall include at a minimum:

1. The quality rating of the issue of the security;
2. The price, yield and term of the security;
3. Any and all fees and/or commissions paid;
4. The portion of the total issue of the security ac-
 quired by the qualified bank for its trust accounts and the
 trust accounts of any affiliated bank; and
5. The date or dates of purchase.

3:6-16.5 Exemption provision

Nothing contained within the provisions of this subchap-
 ter shall be deemed to prohibit a qualified bank from
 acquiring any securities as permitted by other applicable law
 or regulation.

SUBCHAPTER 17. CONVERSIONS OF BANK CHARTERS

3:6-17.1 Authorization for conversion

(a) Any bank may apply to the Commissioner to convert
 itself to a capital stock savings bank by organizing and
 transferring its assets and liabilities to a newly-chartered
 capital stock savings bank.

(b) Before applying to the Commissioner for a conversion pursuant to (a) above, the bank shall obtain a resolution of the bank's board of directors indicating that the conversion is advisable and in the best interests of the shareholders.

(c) After the board of directors has adopted a resolution, a meeting of the members or stockholders shall be held upon not less than 10 days' written notice. The notice shall contain a statement of the time, place and purpose for which such meeting is called. At this meeting, the members or shareholders shall vote on whether the bank shall convert to a capital stock savings bank. An affirmative vote of at least two-thirds of the members present, or shares eligible to be voted which are represented at the meeting, either in person or by proxy, may approve the conversion.

Recodified from N.J.A.C. 3:6-17.2 by R.2001 d.203, effective June 18, 2001.

See: 33 N.J.R. 926(a), 33 N.J.R. 2079(c).

Former N.J.A.C. 3:6-17.1, Definitions, was repealed.

3:6-17.2 Application for conversion

(a) An application for a conversion from a bank to a capital stock savings bank shall contain the following:

1. A certified copy of the resolution of the board of directors authorizing the conversion;
2. A certified copy of the resolution adopted by the stockholders or members relating to the plan of conversion, containing the following information:
 - i. The total number of votes eligible to be cast;
 - ii. The total number of votes represented in person or by proxy at the special meeting;
 - iii. The total number of votes cast in favor and against each matter;
 - iv. The percentage of votes cast in favor and against each matter.
3. A certificate of incorporation for the new capital stock savings bank;
4. Biographical information for each of the incorporators and/or directors on forms approved by the Commissioner;

5. A completed form from the New Jersey State Police requesting criminal history record information for each director and/or incorporator, along with a cashier's check, certified check or money order for the applicable amount, payable to the State Police, stapled to the front of each form;

6. A copy of the bank's most recent quarterly financial report;

7. Financial projections for the converted capital stock savings bank for the next three years. Projections shall include a consolidated average balance sheet and a profit and loss statement at the end of each year. This financial information should include projections of all relevant regulatory capital requirements as well as appropriate income ratios;

8. A business plan for the capital stock savings bank for three years;

9. Copies of all applications for Federal regulatory approval and all approvals required in connection with the conversion, or, if no application or approval is required, a statement or opinion of counsel to that effect; and

10. The application fee for the conversion.

(b) The Commissioner may, in his or her discretion, waive any of the application requirements of (a) above based on any of the following:

1. The financial condition of the institution;
2. Whether the institution was recently chartered;
3. Whether the public would be served by considering the application in an expeditious manner;
4. Whether the conversion is one step in an integrated application; or
5. Any other factor which may affect the need for a review of any of the materials specified in (a) above.

Recodified from N.J.A.C. 3:6-17.3 and amended by R.2001 d.203, effective June 18, 2001.

See: 33 N.J.R. 926(a), 33 N.J.R. 2079(c).

In (b), substituted "Commissioner" for "Department", neutralized gender reference and inserted "any of" preceding "the following" in the introductory paragraph, substituted "or" for "and" in 4, and rewrote 5. Former N.J.A.C. 3:6-17.2, Authorization for conversion, was recodified to N.J.A.C. 3:6-17.1.

3:6-17.3 (Reserved)

Recodified to N.J.A.C. 3:6-17.2 by R.2001 d.203, effective June 18, 2001.

See: 33 N.J.R. 926(a), 33 N.J.R. 2079(c).

Section was "Application for conversion".