

CHAPTER 6 GENERAL PROVISIONS

Authority

N.J.S.A. 17:1-8, 8.1, 15 and 15e, 17:1C-33 et. seq., 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).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 6, General Provisions, expires on November 16, 2006. See: 38 N.J.R. 2552(a).

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Subchapter 1, Report of Ten-Year Dormant Accounts, was repealed, and Subchapter 8, Savings Banks; Deposits, was adopted by R.1980 d.435, effective October 7, 1980.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Subchapter 9, Small Business Loan Interest Rate, was repealed by R.1982 d.126, effective April 19, 1982.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

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.

(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.

Amended by R.2006 d.233, effective June 19, 2006.

See: 38 N.J.R. 5(a), 38 N.J.R. 2671(a).

Inserted "and" in (a)8, substituted a period for "and" in (a)9 and deleted (a)10.

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.

(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 biennial period shall commence as of April 1 of each odd numbered year. The biennial fee shall be \$1,000.

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.

Amended by R.2005 d.242, effective July 18, 2005.

See: 37 N.J.R. 1108(a), 37 N.J.R. 2673(a).

Rewrote the section.

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.

3:6-14.3 Certificate of authority to transact trust business

(a) A foreign bank seeking to obtain or to renew a certificate of authority to transact trust business in this State pursuant to N.J.S.A. 17:9A-316 and 318 shall submit the following:

1. A Consolidated Report of Condition, as required by the Federal or State regulator of the bank, indicating the bank's financial condition as of the close of business on the December 31st immediately prior to the application. This condition shall be deemed satisfied if the report is filed by the bank with its Federal or State regulator and adequate provision is made for the New Jersey Department of Banking and Insurance to have access to that filing;
2. The fee required by N.J.A.C. 3:6-14.2(a)2 for filing a statement of financial condition. This fee may be waived if the Department obtains the financial statement from another regulator via the internet;
3. The biennial fee required by N.J.A.C. 3:6-14.1; and
4. Proof of current insurance coverage consisting of a copy of the insurance policy covering the trust activities conducted or to be conducted by the foreign bank in New Jersey;

(b) A foreign bank seeking its initial certificate of authority shall also submit the following:

1. A copy of its certificate of incorporation, and all amendments thereto, certified by its president or a vice president and attested under its corporate seal by its secretary, an assistant secretary, its cashier or an assistant cashier;

2. A certificate executed by its president or a vice president and attested under its corporate seal by its secretary, an assistant secretary, its cashier or an assistant cashier, affirming that, so long as it shall have a New Jersey certificate of authority it will:

i. Comply with all the requirements of the laws of this State applicable to the transaction of its trust business in this State; and

ii. Promptly following adoption, submit to the Commissioner a copy of each amendment or other change in its certificate of incorporation, certified and attested as provided in (b)1 above;

3. A power of attorney, executed by its president or vice president and attested under its corporate seal by its secretary, an assistant secretary, its cashier or an assistant cashier, authorizing the Commissioner and his or her successors in office to accept service of process upon the foreign bank in any action or proceeding against it affecting or relating to any estate or trust administered under the laws of this State. Such power of attorney shall provide that any such service of process upon the Commissioner shall have the same force and validity as if served directly upon the foreign bank, and that the authority therein granted shall be irrevocable and shall continue in force indefinitely, notwithstanding the expiration, revocation or surrender of the certificate of authority or the non-renewal thereof; and

4. A letter written by its home state regulator or an attorney opinion letter, confirming that a qualified bank, as defined in N.J.S.A. 17:9A-1(12), is permitted to transact trust business in the jurisdiction in which the foreign bank has its principal office without conditions or restrictions that are significantly more burdensome than those imposed upon foreign banks seeking to transact trust business in New Jersey.

(c) The holder of a certificate of authority shall notify the Department within 30 days of a change of name of the institution or of the decision of the institution to cease trust operations in New Jersey.

(d) A foreign bank that holds a valid certificate of authority from the Department shall be authorized to have a certificate of standing issued by the Department when such a document is requested by a third party. A qualified bank, as defined in N.J.S.A. 17:9A-1(12), shall obtain its certificate of standing or other authorization to conduct trust business in another jurisdiction from the home state regulator of the qualified bank.

New Rule, R.2005 d.242, effective July 18, 2005.
See: 37 N.J.R. 1108(a), 37 N.J.R. 2673(a).

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.

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, Definitions, 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 subdivision 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 investment 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 appraisal; 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 acquired 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 subchapter 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; and

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.

(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.

Amended by R.2006 d.233, effective June 19, 2006.

See: 38 N.J.R. 5(a), 38 N.J.R. 2671(a).

Inserted "; and" in (a)8, substituted a period for "; and" in (a)9 and deleted (a)10.

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".