

CHAPTER 7**SAFE AND SOUND METHODS OF BANKING****Authority**

N.J.S.A. 17:1-15(e), 17:9A-256, 17:9A-260, 17:12B-73, 17:12B-171, 17:12B-176, and 17:12B-319.

Source and Effective Date

R.2006 d.164, effective April 5, 2006.
See: 37 N.J.R. 4496(a), 38 N.J.R. 1823(a).

Chapter Expiration Date

Chapter 7, Safe and Sound Methods of Banking, expires on April 5, 2011.

Chapter Historical Note

Chapter 7, Safe and Sound Methods of Banking, was adopted and became effective prior to September 1, 1969.

Subchapter 3, Examination of Banks and Savings Banks Under Direction of Board of Directors, Board of Managers or Board of Trustees, was adopted and Subchapter 4, Examination of Savings Banks Under Direction of Board of Managers, was repealed by R.1975 d.71, effective March 19, 1975. See: 6 N.J.R. 422(b), 7 N.J.R. 128(d).

Subchapter 4, Notice of Maturity on Long-Term Time Deposits, was adopted as new rules by R.1975 d.165, effective August 1, 1975. See: 6 N.J.R. 387(a), 7 N.J.R. 292(b).

Subchapter 5, Statement of Interest of Directors of Banks, Trustees or Managers of Savings Banks and Principal Officers of Banks and Savings Banks, was adopted as R.1975 d.185, effective August 1, 1975. See: 7 N.J.R. 42(b), 7 N.J.R. 293(c).

Pursuant to Executive Order No. 66(1978), Subchapter 4, Notice of Maturity on Long-Term Time Deposits, was readopted as R.1983 d.363, effective August 17, 1983. See: 15 N.J.R. 1053(a), 15 N.J.R. 1467(b).

Pursuant to Executive Order No. 66(1978), Chapter 7, Safe and Sound Methods of Banking, was readopted as R.1990 d.497, effective September 12, 1990. See: 22 N.J.R. 2205(a), 22 N.J.R. 3213(a).

Subchapter 4, Notice of Maturity on Long-Term Time Deposits, was repealed by R.1995 d.244, effective August 7, 1995. See: 27 N.J.R. 793(a), 27 N.J.R. 2883(b).

Pursuant to Executive Order No. 66(1978), Chapter 7, Safe and Sound Methods of Banking, expired on September 12, 1995.

Chapter 7, Safe and Sound Methods of Banking, was adopted as new rules by R.1995 d.571, effective November 6, 1995. See: 27 N.J.R. 3254(a), 27 N.J.R. 4281(a).

Pursuant to Executive Order No. 66(1978), Chapter 7, Safe and Sound Methods of Banking, was readopted as R.2000 d.481, effective November 6, 2000. See: 32 N.J.R. 3358(a), 32 N.J.R. 4253(a).

Chapter 7, Safe and Sound Methods of Banking, was readopted by R.2006 d.164, effective April 5, 2006. See: Source and Effective Date.

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SUBCHAPTER 1. FIDELITY BONDS**3:7-1.1 Required fidelity coverage of counsel**

(a) When a bank, savings bank or State association permits counsel to handle funds, either for distribution at the time of settlement of a mortgage loan or for any other reason, the bank, savings bank or State association shall procure an endorsement rider to its fidelity bond, procured pursuant to N.J.S.A. 17:9A-115 or 17:12B-73, which will cover counsel and all employees of his or her office concerned with such transactions.

(b) In lieu of procuring a rider to its fidelity bond, a bank, savings bank or State association may supply a letter obtained from its insurance company, certifying that attorneys and their employees who perform the services described in (a) above are covered by insurance as employees of the bank, savings bank or State associations.

Amended by R.1990 d.497, effective October 15, 1990.
See: 22 N.J.R. 2205(a), 22 N.J.R. 3213(a).

Editorial changes including gender neutral language.
Amended by R.1995 d.571, effective November 6, 1995.
See: 27 N.J.R. 3254(a), 27 N.J.R. 4281(a).
Amended by R.2000 d.481, effective December 4, 2000.
See: 32 N.J.R. 3358(a), 32 N.J.R. 4253(a).

Inserted references to State associations throughout; and in (a), changed N.J.S.A. reference.

SUBCHAPTER 2. INTERNAL OPERATIONS PROCEDURE

3:7-2.1 Review of fire insurance

Banks, savings banks and State associations shall periodically review all fire insurance policies supporting loans secured by mortgages and real estate owned by the bank, savings bank or State association to ascertain if the amount of insurance is sufficient considering present values, especially where the policy contains a coinsurance clause. The bank, savings bank or State association may use other prudent means instead of periodic review, such as obtaining insurance for inadequate coverage, to protect itself from exposure to loss from insufficient insurance coverage on these properties.

Amended by R.1990 d.497, effective October 15, 1990.
See: 22 N.J.R. 2205(a), 22 N.J.R. 3213(a).

Added language requiring "periodic" reviews and insurance for inadequate coverage.

Amended by R.2000 d.481, effective December 4, 2000.
See: 32 N.J.R. 3358(a), 32 N.J.R. 4253(a).

Inserted references to State associations throughout.

3:7-2.2 Retention of closing statements

All banks, savings banks and State associations shall obtain closing statements (settlement sheets) from counsel or title companies immediately following mortgage loan closings and file such statements with the documents evidencing the loans.

Amended by R.2000 d.481, effective December 4, 2000.
See: 32 N.J.R. 3358(a), 32 N.J.R. 4253(a).

Inserted a reference to State associations.

3:7-2.3 Verification of payment of real estate taxes

All banks, savings banks and State associations shall verify the payment of taxes by mortgage borrowers at least annually on or before January 15 of each year, either by requiring the presentation of receipted tax bills or by examining or having examinations made of the tax records.

As amended, R.1977 d.428, eff. November 18, 1977.
See: 9 N.J.R. 452(a), 9 N.J.R. 556(a).
Amended by R.2000 d.481, effective December 4, 2000.
See: 32 N.J.R. 3358(a), 32 N.J.R. 4253(a).

Inserted a reference to State associations.

SUBCHAPTER 3. EXAMINATION OF BANKS, SAVINGS BANKS AND STATE ASSOCIATIONS UNDER DIRECTION OF BOARD OF DIRECTORS, BOARD OF MANAGERS OR BOARD OF TRUSTEES

3:7-3.1 Definitions

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

"Bank" means a bank or savings bank.

"Board of directors" shall include the board of directors of a bank and the board of managers or trustees of a savings bank.

"Department" means the New Jersey Department of Banking and Insurance.

"Internal auditor" means any full or part-time employee of the bank appointed by the board of directors to perform the internal audit function for the bank, including an employee of the bank's holding company who has been delegated by the board of the bank and the board of the holding company to perform the internal audit function.

"State association" means a State association as defined in N.J.S.A. 17:12B-5.

Amended by R.2000 d.481, effective December 4, 2000.
See: 32 N.J.R. 3358(a), 32 N.J.R. 4253(a).

Inserted definitions for "Department" and "State association".

3:7-3.2 Date of examination

The examination shall be commenced within the time period specified in N.J.S.A. 17:9A-253B or 17:12B-176(l). Prior to commencing the examination, the person scheduled to conduct the examination shall notify the Department so as to avoid conflict with an examination pursuant to N.J.S.A. 17:9A-260 or 17:12B-172. In the transmittal or report to the bank, the person conducting the examination shall specify the date of completion of the examination.

Amended by R.1990 d.497, effective October 15, 1990.
See: 22 N.J.R. 2205(a), 22 N.J.R. 3213(a).

Correction to N.J.S.A. cite; requirement that transmittal include the date of completion of examination.

Amended by R.2000 d.481, effective December 4, 2000.
See: 32 N.J.R. 3358(a), 32 N.J.R. 4253(a).

Changed N.J.S.A. references.

3:7-3.3 Confirmation of deposits and debts

The public accountant or other approved person examining for the board of directors shall confirm with certain depositors and debtors the correctness of the deposits due them and debts owed to the bank on various types of loans and contracts purchased. Such confirmations, except for provided exclusions, shall be either of the positive or negative type or any combination of the two types and shall be mailed during each calendar year to the savings deposit accounts and other time deposits, the demand deposit accounts and any and all types of direct loans, serviced loans or contracts purchased. Collateral pledged to secure a loan shall be included in the confirmation. The person conducting the confirmation program will be responsible for resolving to his or her satisfaction any differences disclosed through the confirmation procedures which are deemed to be of a material nature and all such differences which remain unresolved, shall be reported to the board of directors for its further disposition. A schedule reflecting the confirmation program shall be included as a part of the report or included in a supplement to the report.

Amended by R.1985 d.485, effective September 16, 1985.
 See: 17 N.J.R. 1702(a), 17 N.J.R. 2247(a).
 Deleted text "10 percent of".
 Amended by R.2000 d.481, effective December 4, 2000.
 See: 32 N.J.R. 3358(a), 32 N.J.R. 4253(a).

3:7-3.4 Exclusions from confirmation program

(a) Unless the board of directors or the persons conducting the examination deem it necessary or advisable, the following are not required to be confirmed under this subchapter:

1. School savings and club accounts;
2. Dormant or inactive savings accounts with balances under \$1,000 provided such accounts are contained in a square control unit and held under dual control;
3. Demand accounts, sometimes referred to as "special checking accounts" or some other similar type limited activity accounts;
4. Installment contracts, such as insurance premiums; which by their nature are drawn for periods of one year or less and in amounts of \$1,000 or less;
5. Serviced loans, provided that the servicer's outside accountant included in his or her scope a confirmation program which encompasses the serviced loans and the person responsible for this bank's confirmation program receives a copy of the results of the confirmations and is satisfied that the procedures and methods utilized are acceptable; or if the accountant for the servicer states that his or her examination of the servicer encompassed the requirements of the single audit program for mortgage bankers.

Amended by R.2000 d.481, effective December 4, 2000.
 See: 32 N.J.R. 3385(a), 32 N.J.R. 4253(a).

3:7-3.5 Confirmation by internal auditors

The Commissioner may, in writing, excuse a bank from compliance with the foregoing confirmation program if it furnishes the Department with satisfactory proof that its own internal auditors have the capacity to perform the confirmation program, as part of their internal audit program. If such permission is granted, the internal auditor will be required to file annually, in the Department, a recapitulation of the results of his or her confirmation program.

Amended by R.2000 d.481, effective December 4, 2000.
 See: 32 N.J.R. 3385(a), 32 N.J.R. 4253(a).

3:7-3.6 Provision for sampling

Selection of accounts by random sampling, specific selection or any other form of statistical sampling is permitted to provide the proper latitude in achieving a satisfactory confirmation level.

Amended by R.1985 d.485, effective September 16, 1985.
 See: 17 N.J.R. 1702(a), 17 N.J.R. 2247(a).
 Deleted "the ten percent" and added "a satisfactory".

3:7-3.7 Review of internal controls and audit program

(a) The public accountant or other approved person shall perform the minimum audit program outlined below unless the scope of the internal auditor's program encompasses said minimum audit program and the internal auditor has complied with the program. The public accountant or approved person shall make such documentation tests of the internal audit program as he or she deems necessary to determine that it encompasses the minimum audit program and that the internal auditor has complied with the program.

(b) The public accountant or other approved person shall indicate in his or her report the portions of the minimum audit program wherein deficiencies were noted and action taken to satisfy minimum standards.

(c) In addition, the public accountant or other approved person shall review the scope, frequency of performance and testing done under the internal audit program of the bank or State association to determine if they are considered adequate for the institution under examination. If the internal audit program is deemed inadequate, he or she shall make suggestions for expansion and shall indicate in his or her report any conditions disclosed in the review which are deemed to reflect a material weakness in internal controls and offer any suggestions believed to strengthen them.

(d) The public accountant or other person shall determine the extent of confirmations that in his or her judgment are necessary pursuant to N.J.A.C. 3:7-3.3 to achieve a satisfactory confirmation level. The report shall clearly disclose the number and dollar amount and percent of accounts confirmed. The report shall also disclose the type of confirmation used (that is, positive or negative) and the basis used to select accounts for confirmation. If statistical sampling is used as the basis for selecting accounts, the report must also disclose the method used and the confidence level achieved.

(e) If the internal auditor has been granted permission to perform the confirmation program, the public accountant or other approved person shall annually review the program and results to determine that the requirements in (d) above have been satisfactorily met and shall so note in his or her report. If the confirmation program performed by the internal auditor is deemed to be insufficient, it shall be the responsibility of the public accountant or other approved person to perform additional confirmations to satisfy the provisions of (d) above.

Amended by R.1985 d.485, effective September 16, 1985.
 See: 17 N.J.R. 1702(a), 17 N.J.R. 2247(a).

(d)-(e) added.
 Amended by R.2000 d.481, effective December 4, 2000.
 See: 32 N.J.R. 3385(a), 32 N.J.R. 4253(a).

In (c), inserted a reference to State associations; in (d), inserted a reference to other persons; and in (e), inserted references to other approved persons throughout.

3:7-3.8 Performance frequency of examination scope

The frequency of performance or testing as it relates to the various phases of the minimum audit program hereafter outlined shall be determined by the internal auditor if performed by him or her, the public accountant or other approved person, and scope, performance frequency or testing adopted shall be approved by the board of directors.

Amended by R.2000 d.481, effective December 4, 2000.
See: 32 N.J.R. 3385(a), 32 N.J.R. 4253(a).

Inserted a reference to other approved persons.

3:7-3.9 Audit program

(a) The minimum audit scope to be performed in banks or savings banks, as applicable, includes the following:

1. Cash, cash items and due from banks:

i. Cash shall be counted and reconciled with the general ledger control;

ii. Cash items shall be inspected, checked for propriety, reconciled to general ledger control and clearance of larger items shall be checked;

iii. Clearings and exchanges shall be confirmed. Large items shall be followed to disposition;

iv. Obtain direct confirmation of account balances with other banks; reconcile confirmed balance with general ledger controls, and check authenticity and disposition of reconciling items.

2. Investment securities:

i. Prepare or obtain a listing of investment securities and reconcile with general ledger controls;

ii. Account for securities owned by inspection, if on hand, or by confirmation if held in safekeeping elsewhere;

iii. Verify bank's records of pledged securities with safekeeping custodian;

iv. Ascertain the market value of securities owned, as of the examination date, or as of a recent pricing. Check authenticity of purchases and sales to supporting documentation and investment authority approved by the board of directors;

v. Review procedures with respect to amortization of premiums and accretion of discounts.

3. Loans and discounts:

i. Prepare or obtain a listing of the liability ledger and reconcile with general ledger controls;

ii. Notes shall be reviewed for proper officer of board approval;

iii. Collateral and side collateral shall be examined, evaluated and verified to appropriate records including wholesale obligations if carried in loan department;

iv. Participation and/or service agreements shall be reviewed and amounts shall be confirmed and reconciled to appropriate records;

v. Prepare or obtain a listing of past due accounts. Review to the extent deemed appropriate to ascertain collectibility and that past due listings and reports are regularly submitted to the board and are prepared in accordance with standards established by the board.

4. Mortgage loans:

i. Prepare or obtain a listing of the liability ledger and reconcile with general ledger controls. Escrow balances shall also be listed or obtained and reconciled to the respective controls.

ii. Inspect necessary documentation including approvals;

iii. Participation and/or service agreements shall be reviewed and amounts shall be confirmed and reconciled to appropriate records;

iv. Prepare or obtain a listing of past due accounts including tax or other such delinquencies. Review to the extent deemed appropriate to ascertain collectibility and that past due listings and reports are regularly submitted to the board and are prepared in accordance with standards established by the board.

5. Installment loans:

i. Prepare or obtain a listing of the liability ledger and reconcile with the general ledger controls;

ii. Notes shall be reviewed for proper officer of board approval. Other related documents shall be examined;

iii. Prepare or obtain a listing of past due accounts. Review to the extent deemed appropriate to ascertain collectibility and that past due listings and reports are regularly submitted to the board and are prepared in accordance with standards established by the board;

iv. Collateral shall be examined, evaluated and verified to appropriate records including wholesale obligations if carried in this department;

v. Participation and/or service agreements shall be reviewed and amounts shall be confirmed and reconciled to appropriate records.

6. Banking premises and furniture and fixtures:

i. Documents evidencing ownership or leases covering leaseholds shall be examined on all new properties or leaseholds;

ii. Changes in these accounts shall be checked to determine propriety and/or authorization;

iii. Insurance policies and tax receipts shall be inspected;

- iv. Ascertain that the board has conducted its annual review of insurance coverages so as to insure adequacy of coverage.
7. Other real estate owned: Balances shall be listed, reconciled to the general ledger and related documents shall be inspected to ascertain authorizations, ownership and insurance protection.
8. Accrued interest receivable: Review procedures with respect to accrued interest receivable and test to the extent deemed appropriate.
9. Other assets: Other assets accounts shall be reviewed and tested to the extent deemed appropriate to determine propriety and/or authorization.
10. Demand deposits:
- i. A list of accounts shall be prepared or obtained and reconciled to the general ledger controls. Reconciling items shall be reviewed and investigated to the extent deemed appropriate;
- ii. Review procedures with respect to dormant or inactive accounts;
- iii. Overdrafts shall be reviewed. Ascertain that regular overdraft reports are being made to the board in accordance with standards established by the board. The procedures used in preparing such reports shall be reviewed to determine compliance;
- iv. Due to bank and treasury tax and loan accounts shall be confirmed and reconciled;
- v. Accounts of directors, officers and employees shall be reviewed, including those accounts in which they have an interest.
11. Certified and official checks:
- i. A list of open items shall be made or obtained and reconciled to the general ledger. Checks subsequently presented and paid shall be checked against the listing;
- ii. Review procedures with regard to controls over unissued checks.
12. Time deposits:
- i. A listing of accounts shall be prepared or obtained and reconciled to general ledger controls;
- ii. Review procedure with respect to dormant or inactive accounts;
- iii. Interest and dividend credits to accounts shall be reviewed;
- iv. Accounts of directors, officers and employees shall be reviewed, including those accounts in which they have an interest.
13. Accruals and reserves: Review procedures with respect to accrual and reserve accounts.
14. Other liabilities: All other liability accounts shall be reviewed and tested to determine propriety and/or authorization.
15. Capital stock, surplus, undivided profits, capital notes and capital and valuation reserves:
- i. A listing of outstanding shares reflected on the stockholders ledger shall be prepared or obtained and reconciled to appropriate controls;
- ii. Purchases and sales of certificates shall be tested;
- iii. Review procedures with respect to control of unissued certificates;
- iv. Entries to these accounts shall be tested for propriety and authorization;
- v. Debt outstanding shall be reviewed including check of performance on amortization program and confirmation with lender if deemed necessary.
16. Contingent liabilities:
- i. The probable liability, if any, on claims or lawsuits pending shall be requested from the bank's attorney;
- ii. Letters of credit shall be reviewed and substantial items shall be confirmed.
17. Consignment items: United States Savings Bonds, travelers checks and any other items on consignment shall be confirmed and reconciled with the issuing agent.
18. Income and expense accounts: Tests of subsidiary accounting records, invoices, vouchers and so forth, relating to major sources of income and expense shall be performed.
19. Safekeeping: Review systems, procedures and controls relative to such items and confirmed directly with the customers where deemed necessary.
20. Purchase and sale of customer securities: A test of procedures shall be made to insure that the system of internal controls are adequate, such as, requirements that purchases are made only against available funds; sales are only made upon delivery of securities, and proceeds of sales are promptly credited or remitted.
21. Bankers blanket bonds and other insurance: Policies shall be reviewed and determination made that the board reviews coverage on an annual basis for adequacy in conformance with the State banking laws.
22. Collections: System and procedures used in processing of collection items shall be reviewed and confirmations made as deemed appropriate.
23. Board minutes:
- i. The minutes of the meetings of the board of directors and committees thereof shall be examined and major resolutions reviewed to determine if actions taken were in accord with such resolutions;

ii. Director's and officer's obligations shall be reviewed for approvals.

24. Trust department:

i. Prepare listing of account balances of the various trust and custody accounts (including corporate trust and escrow accounts), and reconcile with respective control accounts. Deposit accounts shall be confirmed and reconciled;

ii. Review overdrafts in trust cash accounts as to authorization and collectibility;

iii. Review selected personal trust accounts and corporate trust accounts to ascertain that the administration of the account is in conformity with the governing instrument. The review should include:

- (1) Verification of assets;
- (2) Ascertainment of asset conformity to the provisions of the fiduciary instrument;
- (3) Transactions were authorized;
- (4) Income is properly collected;
- (5) Commissions are properly computed;
- (6) Disbursements are documented; and
- (7) Uninvested or undistributed funds were not held for an unreasonable length of time.

iv. The assets of other accounts, other than those accounts reviewed for conformity, shall be inspected and checked to proper records;

v. Review the minutes of the trust committee to ascertain that trust accounts are being reviewed and that trust accounts acquired or closed had been approved;

vi. Review final accountings on accounts.

25. On premise electronic data processing department:

i. The review of internal operating procedures and controls as they relate to the data processing department shall encompass at least the following items, or analogous items, but not necessarily be limited to the specific areas outlined:

- (1) Review organizational structure to determine if functional responsibilities and separation of duties have been established and are in effect;
- (2) Review standards manual, operator's run manual and program run books for propriety. Also review user's guide or procedures manual for currency and correctness with respect to appropriate application;

(3) Review control and/or access restrictions with respect to program run books, computer facilities and tape/disk library;

(4) Review operating logs and documentation with respect to reruns, halts, downtime and so forth;

(5) Review retention policy and protections standards established to determine capability to reconstruct operating programs and master files;

(6) Review equipment maintenance documentation for adherence to established schedules and review arrangements to provide the backup processing time;

(7) Review fidelity, liability, fire and other insurance in light of the nature and volume of application and service contract commitments;

(8) Review input, processing and output controls;

(9) Review program changes and/or program maintenance controls and documentation for propriety and/or authorization;

(10) Test the integrity of records generated either by utilization of "audit through the machine" or "audit around the machine" techniques.

26. Electronic data processing services:

i. The review of internal operating procedures and controls as they relate to data processing servicers shall encompass at least the following items, or analogous items, but not necessarily be limited to the specific areas outlined:

- (1) Review the institution's own insurance and obtain the review coverages of the servicers;
- (2) Review service contract;
- (3) Check user's guide to ascertain it is current;
- (4) Review operational controls such as separation of duties, internal controls and level of accessibility;
- (5) Test integrity of records generated;
- (6) Review audit scope utilized by the servicer's internal auditor and/or outside accountant. In addition, third party reports and reports of regulatory agencies, if not precluded from inspection by law, should be reviewed;
- (7) Review servicer's provision for back-up processing time and management awareness of compatible servicers in the event a change in servicers is necessitated.

As amended, R.1978 d.103, eff. March 21, 1978.

See: 10 N.J.R. 54(d), 10 N.J.R. 136(b).

Amended by R.1990 d.497, effective October 15, 1990.

See: 22 N.J.R. 2205(a), 22 N.J.R. 3213(a).

Correction of word "amortization".

Amended by R.1995 d.571, effective November 6, 1995.

See: 27 N.J.R. 3254(a), 27 N.J.R. 4281(a).

SUBCHAPTER 4. (RESERVED)

SUBCHAPTER 5. STATEMENT OF INTEREST OF DIRECTORS OF BANKS, TRUSTEES OR MANAGERS OF SAVINGS BANKS AND STATE ASSOCIATIONS AND EXECUTIVE OFFICERS OF BANKS, SAVINGS BANKS AND STATE ASSOCIATIONS

3:7-5.1 Definitions

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

“Bank” means a bank or savings bank.

“Bank holding company” is a company which controls a bank.

“Business enterprise” means a corporation, limited liability company (LLC), association, business trust, partnership, joint venture, pool, syndicate, sole proprietorship or any other form of business not specifically listed herein, whether or not such enterprise has engaged in transactions with the designated bank. The term “business enterprise” also includes any personal or family trust and any local governmental unit if, and only if, such enterprise has engaged in any transaction with the designated bank during the last year. The term “business enterprise” excludes:

1. Charitable, social, fraternal, civic or recreational associations;
2. The designated bank;
3. A corporation, partnership, or joint venture which is 50 percent or more owned by the designated bank; and
4. A bank holding company whose control of the designated bank is registered with or approved by the Board of Governors of the Federal Reserve System, pursuant to sections 3 or 5 of the Bank Holding Company Act, 12 U.S.C. 1842 or 1844, or any of such holding company’s subsidiaries the control of which has been registered with or approved by the Board of Governors of the Federal Reserve pursuant to sections 3, 4, or 5 of the Bank Holding Company Act, 12 U.S.C. 1842, 1843 or 1844.
5. Any other bank holding company and any company controlled by a bank holding company.

“Business relationship” between the designated bank and the business enterprise shall include:

1. An extension of credit to the business enterprise by the designated bank, including the discounting of notes; or
2. A contract, lease or other agreement, other than a deposit relationship, between the designated bank and the business enterprise; and
3. The acquisition or sale of property, goods or services which aggregated in the past year a dollar value in excess of \$5,000.

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

“Control” and “company” have the meanings set forth in N.J.S.A. 17:9A-373(e) and (f).

“Designated bank” means the particular bank or savings bank of which a person required by this subchapter to file a statement of interest is a director or executive officer.

“Director” means a director of a bank or a trustee or manager of a savings bank.

“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, the president, every vice president, the cashier, the secretary, the treasurer and the comptroller are considered to be executive officers, unless by resolution of the Board of Directors or by 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.

“Interest,” with regard to a business enterprise, means:

1. Ownership, whether legal, equitable or otherwise, of stock or other forms of legal or equitable participation in the enterprise by the reporting person and/or his or her spouse or minor children which, when aggregated, equals or exceeds either 10 percent of the enterprise’s total outstanding indicia of ownership, or, in the case of stock, 10 percent of the total outstanding shares of any class of stock;
2. Indebtedness between the reporting person and a business enterprise (aggregated among the reporting person and his or her spouse and minor children):
 - i. Equal to or exceeding \$50,000 owed to the enterprise, provided said enterprise is not primarily engaged in the business of extending credit; or

ii. Equal to or exceeding \$50,000 or five percent of the enterprise's outstanding debt, whichever is larger, owed from the enterprise.

3. The holding by the reporting person or his or her spouse or minor child of a position in the enterprise; or

4. The possession, directly or indirectly, by the reporting person of the power to direct or cause the direction of the management or policies of the enterprise, whether through the ownership of securities, by contract, by inter-company relationships, or otherwise.

"Material change" means:

1. The acquisition or termination of an interest in a business enterprise; or

2. The creation of a business relationship between the designated bank and a business enterprise.

"Position," with regard to a business enterprise, means an officer, director, trustee or partner. The term also includes an employee, beneficiary, participant or associate with managerial or policy-making responsibilities, or any similar office regardless of title.

"Principal officer" means a president, executive vice president, senior vice president, vice president, treasurer, secretary or comptroller of a bank. Principal officer also includes any person, regardless of title, who is substantially involved in major policy making functions of the bank.

"Reporting person" means a director or executive officer who is required by this regulation to complete and file a statement of interest with the designated bank.

"State association" means a State association as defined in N.J.S.A. 17:12B-5.

"Subsidiary" means a company controlled by a bank holding company.

As amended, R.1982 d.245, eff. August 2, 1982.
See: 14 N.J.R. 492(a), 14 N.J.R. 834(d).

Amended definition of principal to executive officer.
Amended by R.1987 d.192 effective April 20, 1987.
See: 19 N.J.R. 327(a), 19 N.J.R. 632(a).

Added definitions "Bank holding company", "Control" and "Subsidiary".

Amended by R.1995 d.571, effective November 6, 1995.

See: 27 N.J.R. 3254(a), 27 N.J.R. 4281(a).

Amended by R.2000 d.481, effective December 4, 2000.

See: 32 N.J.R. 3385(a), 32 N.J.R. 4253(a).

Inserted definitions for "Commissioner" and "State association".

3:7-5.2 Filing a statement of interest

(a) Every director or executive officer of a bank shall, on forms furnished by the Commissioner, complete and file a statement of interest with the designated bank within 30 days after the effective date of this regulation or within 30 days after becoming a director or executive officer of the designated bank. The statement of interest shall include the following information:

1. Name of the designated bank;
2. Name of the reporting person;
3. Title or position of the reporting person with the designated bank;
4. Name and address of the business enterprise in which the reporting person has an interest.

(b) If a business enterprise reported in accordance with (a) above has a business relationship with the designated bank or State association, then the statement of interest shall also include:

1. The position or positions held by the reporting person, his or her spouse or minor children with the business enterprise;
2. The interest in the business enterprise held by the reporting person, his or her spouse or minor children. The approximate percentage or ownership held by the reporting person, his or her spouse or minor children, and the nature of any other forms of interest or influence exercised by each;
3. A summary of the business relationship between the designated bank and the business enterprise.

(c) The reporting person shall update his or her present statement of interest or file a new statement of interest within 30 days after the occurrence of any material change.

(d) If a reporting person has no interest in a business enterprise, he or she shall complete and file a statement of interest to that effect.

As amended, R.1982 d.245, eff. August 2, 1982.

See: 14 N.J.R. 492(a), 14 N.J.R. 834(d).

Amended definition of principal to executive officer.

Amended by R.2000 d.481, effective December 4, 2000.

See: 32 N.J.R. 3385(a), 32 N.J.R. 4253(a).

In (b), inserted a reference to State associations in the introductory paragraph.

3:7-5.3 Annual review of statement of interest

Every reporting person shall review annually, within 30 days after the annual meeting, the statement of interest he or she has on file with the designated bank or State association to determine if this statement reflects his or her current status and, if so, shall indicate same. If the reporting person's current status is not reflected accurately, he or she shall update the present statement of interest or complete and file a new statement of interest.

Amended by R.2000 d.481, effective December 4, 2000.

See: 32 N.J.R. 3385(a), 32 N.J.R. 4253(a).

Inserted a reference to State associations.

3:7-5.4 Location and retention of statements of interest

(a) All statement of interest forms shall be maintained at the principal office or at such other office as may be designated by the board of directors. Statement of interest forms which have been superseded by new or corrected forms shall be retained with the new statement of interest forms for a period of two years.

(b) If any director or executive officer of a designated bank ceases to serve in that capacity, the bank shall retain for a period of two years the current statement of interest forms on file with the designated bank.

As amended, R.1982 d.245, eff. August 2, 1982.

See: 14 N.J.R. 492(a), 14 N.J.R. 834(d).

Added statements of interest could be maintained at other offices as designated by board of directors. Also amended definition of principal to executive officer.

Amended by R.1990 d.497, effective October 15, 1990.

See: 22 N.J.R. 2205(a), 22 N.J.R. 3213(a).

Correction in (a) of word "officer" to "office".

3:7-5.5 Access to statement of interest forms

(a) Each completed and filed statement of interest form shall be maintained for review by the State and Federal bank examiners and the following persons associated with

the designated bank: directors, senior loan officers, the bank's designated auditor and the bank's designated public accounting firm.

(b) Nothing contained in this regulation shall be construed to prevent a bank from adopting reasonable procedures governing the manner in which persons associated with the bank and entitled under this regulation to review statement of interest forms to obtain access to such forms or copies thereof.

(c) Nothing contained in this regulation shall be construed to prevent a bank from permitting persons, other than those required by this regulation, access to statement of interest forms.

As amended, R.1982 d.245, eff. August 2, 1982.

See: 14 N.J.R. 492(a), 14 N.J.R. 834(d).

Subsection (a) added review by State and Federal bank examiners; also added the bank's designated public accounting firm.

3:7-5.6 Confidentiality of statement of interest

Pursuant to N.J.S.A. 17:9A-264, statement of interest forms filed with a designated bank shall be confidential.