

CHAPTER 6  
GENERAL PROVISIONS

Authority

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

Source and Effective Date

R.2006 d.406, effective October 26, 2006.  
See: 38 N.J.R. 2552(a), 38 N.J.R. 5008(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 6, General Provisions, expires on April 24, 2014. See: 45 N.J.R. 2467(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Subchapter 1, Report of Ten-Year Dormant Accounts, was repealed, and Subchapter 8, Savings Banks; Deposits, was adopted as R.1980 d.435, effective October 7, 1980.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Subchapter 9, Small Business Loan Interest Rate, was repealed by R.1982 d.126, effective April 19, 1982.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 as 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 as 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: 33 N.J.R. 926(a), 33 N.J.R. 2079(c).

Chapter 6, General Provisions, was readopted as R.2006 d.406, effective October 26, 2006. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 6, General Provisions, was scheduled to expire on October 26, 2013. See: 43 N.J.R. 1203(a).

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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).

“Insured depository institution” means any banking institution or state or Federally-chartered savings association, the deposits of which are insured by the Federal Deposit Insurance Corporation.

“Issuer” means a qualified bank that acts either by itself or with others as an underwriter of securities.

“Mutual association” means a mutual association as defined in N.J.S.A. 17:12B-5(31).

“Qualified bank” means a qualified bank as defined in N.J.S.A. 17:9A-1(12).

“Savings bank” means a savings bank as defined in N.J.S.A. 17:9A-1(13).

“State association” means a State association as defined in N.J.S.A. 17:12B-5(1).

“Trust account” means any account, relationship or arrangement administered by a qualified bank acting in any capacity as defined by N.J.S.A. 17:9A-28.

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## SUBCHAPTER 2. APPROVED DEPOSITORIES FOR INVESTMENTS COMPRISING SECURITY FUNDS

### 3:6-2.1 Approved depositories

The following institutions are approved as depositories for investments comprising security funds created pursuant to N.J.S.A. 17:9A-31: banks, savings banks and national banking associations having a principal or a branch office in New Jersey having total capital stock and surplus of at least \$2,000,000 which are authorized to do a fiduciary business.

Amended by R.1979 d.23, effective January 17, 1979.

See: 10 N.J.R. 527(b), 11 N.J.R. 58(b).

Amended by R.2001 d.203, effective June 18, 2001.

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

Rewrote the section.

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## SUBCHAPTER 3. LIMIT ON LOANS TO AN EXECUTIVE OFFICER

### 3:6-3.1 Limitation on loans to an executive officer

The \$10,000 maximum loan limitation prescribed in N.J.S.A. 17:9A-72B(2) on loans to an executive officer is increased to an aggregate amount not to exceed at any one time 2.5 percent of the capital funds of the bank, as defined in N.J.S.A. 17:9A-60, or \$25,000 whichever is greater, but in no event more than \$100,000.

R.1983 d.606, effective January 3, 1984.

See: 15 N.J.R. 1786(a), 16 N.J.R. 45(a).

Recodified from N.J.A.C. 3:6-3.2 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. 3:6-3.1, Definition of executive officer, was repealed.

### 3:6-3.2 Exclusion

In accordance with N.J.S.A. 17:9A-74B(3), loans to finance the education of an executive officer's children are excluded from the limitations set out in N.J.A.C. 3:6-3.1.

Recodified from N.J.A.C. 3:6-3.3 and amended by R.2001 d.203, effective June 18, 2001.

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

Rewrote the section. Former N.J.A.C. 3:6-3.2, Limitation on loans to an executive officer, was recodified to N.J.A.C. 3:6-3.1.

### 3:6-3.3 (Reserved)

R.1983 d.606, effective January 3, 1984.

See: 15 N.J.R. 1786(a), 16 N.J.R. 45(a).

Recodified to N.J.A.C. 3:6-3.2 by R.2001 d.203, effective June 18, 2001.

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

Section was “Exclusion”.

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## SUBCHAPTER 4. (RESERVED)

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## SUBCHAPTER 5. FEDERAL FUNDS TRANSACTIONS

### 3:6-5.1 Exclusion from limitation on liability

(a) In “sales of Federal funds,” the liability of a transferee bank to a transferor bank shall not be subject to any limitation on liability to a transferor bank imposed by N.J.S.A. 17:9A-62.

(b) In sales of Federal funds, the liability of a transferee bank to a transferor savings bank shall not be subject to any limitation on liability to a transferor savings bank.

R.1970 d.51, May 11, 1970.

See: 2 N.J.R. 30(b), 2 N.J.R. 46(a).

Amended by R.1974 d.27, eff. February 1, 1974.

See: 6 N.J.R. 2(b), 6 N.J.R. 97(b).

Amended by R.2001 d.203, effective June 18, 2001.

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

Rewrote the section.

### 3:6-5.2 Sales of Federal funds by State member banks, State nonmember banks and savings banks

(a) As used in this subchapter, in the case of State banks which are members of the Federal Reserve System, “sales of Federal funds” include transactions which involve the temporary transfer and sale of immediately available funds either from one member bank in the Federal Reserve System to another member bank in the Federal Reserve System or to another bank not in the Federal Reserve System.

(b) In the case of a State bank which is not a member of the Federal Reserve System, “sales of Federal funds” include transactions which involve the temporary transfer and sale of immediately available funds from the nonmember bank to another nonmember bank or to a member bank.

(c) In the case of a savings bank, "sales of Federal funds" include transactions which involve the temporary transfer and sale of immediately available funds from the savings bank to a nonmember bank or to a member bank.

Amended by R.1974 d.27, eff. February 1, 1974.  
See: 6 N.J.R. 2(b), 6 N.J.R. 97(b).  
Recodified from N.J.A.C. 3:6-5.3 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. 3:6-5.2, Definition, was repealed.

### 3:6-5.3 (Reserved)

Recodified to N.J.A.C. 3:6-5.2 by R.2001 d.203, effective June 18, 2001.  
See: 33 N.J.R. 926(a), 33 N.J.R. 2079(c).  
Section was "Sales of Federal funds by State member banks, State nonmember banks and savings banks".

## SUBCHAPTER 6. SHORT-TERM INVESTMENT OF CASH IN FIDUCIARY ACCOUNTS

### 3:6-6.1 Type of investment

Cash held for various fiduciary accounts may be invested on a short term basis in a variable account note of a single borrower by a bank defined in N.J.S.A. 17:9A-36(2). Participating accounts will thus be provided with a readily accessible medium for short-term investment of their cash balances.

### 3:6-6.2 Provisions of note

(a) Under this arrangement, the borrower delivers its note to evidence the amount of the loan outstanding from time to time.

(b) The note may be a demand obligation or have a fixed maturity (in which case it is understood that the borrower will renew the note at maturity) and may set forth provisions concerning the rate and payment of interest in the note or in a separate agreement to which reference is made in the note.

(c) The note must be payable to the order of the bank or to a nominee of the bank and may be repayable by the borrower in whole or in part at any time, and should contain columns for entering changes in the amount of the loan outstanding, the dates of such changes, and the initial of an employee of the bank authorized by the borrower to make such entries.

(d) While it is preferable that all entries affecting the balance of the note shall be recorded thereon, it is satisfactory for such entries to be recorded separately, provided adequate documentation is maintained in regard to all such entries.

(e) All notes must be kept in the custody of duly authorized employees of the bank.

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), neutralized gender reference.

### 3:6-6.3 Fluctuations in participations

The amount of the loan may be subject to daily fluctuations as the participants increase or decrease their participations. The net amount of any such increase or decrease depends initially upon the particular requirements of the participants. If it is desired to participate an account in the loan or to increase its existing participation therein, a "buy" order is prepared for the dollar amount of the planned participation. If it is desired to reduce or withdraw an account's participation, a "sell" order is prepared. All buy and sell orders must be combined at the end of each day's business when the net amount of any proposed increase or decrease in the loan is determined.

### 3:6-6.4 Confirmation of changes in loan; provision for interest rate

On the following business day, the net figure referred to in N.J.A.C. 3:6-6.3, Fluctuations in participations, must be communicated to the borrower by telephone. If the figure indicates a proposed increase in the loan, this communication is an offer to lend the amount of the increase which the borrower may either accept or reject in whole or in part. If the figure indicates a proposed reduction in the loan, communication constitutes a demand for payment of the amount of the reduction. The resulting increase or decrease in the loan and the new balance due must be then recorded by making appropriate entries on the note. The balance so entered, when confirmed by the borrower in writing, should be understood to constitute conclusive evidence of the balance owing on the loan. The net amount of any increase (or decrease) in the loan must be promptly credited to (or charged against) the borrower's account with the bank. Interest must be paid monthly on the daily amount of the loan outstanding during the preceding month at a rate which is mutually agreed upon by the bank and the borrower and specified in the note or related agreement. In the event the borrower issues its own commercial paper, the interest rate shall not be less than that which will yield the simple interest equivalent to the discount rate currently being paid by the borrower on its 180-day commercial paper. If any change in the 180-day rate is established by the borrower, the rate of interest paid on the variable amount loan must be changed simultaneously, unless a rate higher than the 180-day rate has been agreed upon and is being paid.