

TITLE 3

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF BANKING

CHAPTER 1

GENERAL PROVISIONS

Authority

N.J.S.A. 17:1-8, 17:1-8.1, 17:1-15e, 17:1C-33 et seq., 17:2A-1 et seq., 17:9-41, 17:9A-1 et seq., 17:9A-9, 17:9A-24a, 17:9A-25.2, 17:9A-316, 17:11C-49, 17:12B-1 et seq., 17:16F-11, 17:16L-1 et seq., 17:16L-1 et seq., and 17:16N-1 et seq.

Source and Effective Date

R.2001 d.112, effective March 6, 2001.
See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 1, General Provisions, expires on September 2, 2006. See: 38 N.J.R. 1493(a).

Chapter Historical Note

Subchapter 3, Mortgage Loans in Disaster Areas, was adopted and became effective prior to September 1, 1969.

Subchapter 2, Procedural Rules, was adopted as R.1970 d.97, effective August 13, 1970. See: 2 N.J.R. 70(a).

Subchapter 4, Governmental Unit Deposit Protection, was adopted as R.1971 d.9, effective January 15, 1971. See: 2 N.J.R. 97(d), 3 N.J.R. 19(c).

Subchapter 5, Mortgage Applicant's Birth Control Practices, was adopted by R.1973 d.166, effective June 21, 1973. See: 5 N.J.R. 136(a), 5 N.J.R. 216(b).

Subchapter 6, Fees, was adopted as new rules by R.1974 d.221, effective August 9, 1974. See: 6 N.J.R. 254(c), 6 N.J.R. 342(a).

Subchapter 7, Miscellaneous Fees, was adopted as new rules by R.1975 d.120, effective May 14, 1975. See: 7 N.J.R. 126(c), 7 N.J.R. 247(c).

Subchapter 9, Home Mortgage Disclosure, was adopted as new rules by R.1977 d.308, effective August 22, 1977. See: 9 N.J.R. 303(c), 9 N.J.R. 405(c).

Subchapter 11, Restrictions on Loans Involving Affiliated Persons, was adopted as new rules by R.1977 d.471, effective December 15, 1977. See: 9 N.J.R. 404(b), 10 N.J.R. 3(c).

Subchapter 10, Restrictions on Real Property Transactions, was adopted as new rules by R.1978 d.55, effective February 21, 1978. See: 9 N.J.R. 404(c), 10 N.J.R. 92(c).

Subchapter 12, Multiple Party Deposit Accounts, was adopted as new rules by R.1980 d.480, effective November 1, 1980. See: 12 N.J.R. 378(c), 12 N.J.R. 686(d).

Subchapter 14, Revolving Credit Equity Loans, was adopted as R.1983 d.378, effective September 19, 1983. See: 15 N.J.R. 1147(a), 15 N.J.R. 1575(b).

Pursuant to Executive Order No. 66(1978), Subchapter 9, Home Mortgage Disclosure, was readopted effective August 26, 1983 as R.1983 d.379. See: 15 N.J.R. 1146(a), 15 N.J.R. 1575(a).

Subchapter 13, Insurance Activities, was adopted as R.1983 d.566, effective December 5, 1983. See: 15 N.J.R. 820(a), 15 N.J.R. 2033(a).

Pursuant to Executive Order No. 66(1978), Subchapter 10, Restrictions on Real Property Transactions, was readopted by R.1984 d.63, effective March 19, 1984. See: 16 N.J.R. 2(a), 16 N.J.R. 520(a).

Pursuant to Executive Order No. 66(1978), Subchapter 12, Multiple Party Deposit Accounts, was readopted by R.1985 d.660, effective January 6, 1986. See: 17 N.J.R. 2488(a), 18 N.J.R. 77(b).

Subchapter 15, Availability of Funds, was adopted as R.1986 d.73, effective March 17, 1986. See: 18 N.J.R. 13(a), 18 N.J.R. 553(a).

Subchapter 16 was adopted as R.1989 d.191, effective April 17, 1989, operative July 16, 1989. See: 20 N.J.R. 1021(b), 21 N.J.R. 981(c).

Pursuant to Executive Order No. 66(1978), Chapter 1, General Provisions, was readopted as R.1991 d.48, effective January 4, 1991. See: 22 N.J.R. 3425(a), 23 N.J.R. 294(b).

Subchapter 17, Automated Teller Machines (ATM), was adopted by R.1991 d.244, effective May 6, 1991. See: 23 N.J.R. 642(a), 23 N.J.R. 1408(b).

Subchapter 18, Foreign Banks and Associations; Registration of Service Facilities, was adopted as R.1991 d.347, effective July 1, 1991. See: 23 N.J.R. 1233(a), 23 N.J.R. 2029(a).

Subchapter 19, New Jersey Consumer Checking Accounts, was adopted as R.1992 d.303, effective August 3, 1992. See: 24 N.J.R. 1667(a), 24 N.J.R. 2710(a).

The Executive Order No. 66(1978) expiration date for Chapter 1, General Provisions, was extended by gubernatorial directive from January 4, 1996 to April 4, 1996. See: 28 N.J.R. 815(a).

Pursuant to Executive Order No. 66(1978), Chapter 1, General Provisions, was readopted as R.1996 d.168, effective March 6, 1996. See: 28 N.J.R. 3(a), 28 N.J.R. 1830(a).

Pursuant to Executive Order No. 66(1978), Subchapter 5, Mortgage Applicant's Birth Control Practices, expired on April 4, 1996.

Subchapter 20, Requests for Disclosure of Social Security Numbers, was adopted as new rules by R.1997 d.185, effective May 5, 1997. See: 29 N.J.R. 284(a), 29 N.J.R. 1691(a).

Pursuant to Executive Order No. 66(1978), Chapter 1, General Provisions, was readopted as R.2001 d.112, effective March 6, 2001, and Subchapter 8, Credit or Loan Applications, was repealed by R.2001 d.112, effective April 2, 2001. See: Source and Effective Date. See, also, section annotations.

Subchapter 7, Miscellaneous Fees, was renamed Miscellaneous by R.2006 d.233, effective June 19, 2006. See: 38 N.J.R. 5(a), 38 N.J.R. 2671(a).

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i. The depository meets the criteria set forth in (g) above;

ii. The depository is entitled to request expedited processing and does request such processing;

iii. Information identifying each principal office of a State-chartered bank, savings bank or savings and loan association which has been open for less than three years and is located in the trade area of the applicant's proposed branch office;

iv. The cost of the proposed branch office and whether the investment in the office complies with the limitations set forth in N.J.S.A. 17:9A-24(13) or 17:12B-166; and

v. A statement that the transaction complies with N.J.A.C. 3:1-10.1 et seq. regarding the interests of any executive officers, directors, managers and others in the premises, if any.

(h) The Department may remove an accepted application from expedited review if it presents a significant supervisory or compliance concern, or it raises a significant legal or policy issue requiring additional review.

(i) An accepted application for expedited processing shall be deemed approved on the 30th day after receipt by the Commissioner, unless approved or denied earlier by the Commissioner in writing, who as part of the application shall consider whether the interests of the public will be served to advantage by the establishment of such branch.

Amended by R.1984 d.301, eff. July 16, 1984.

See: 16 N.J.R. 946(a), 16 N.J.R. 1966(a).

Substantial changes in section.

Repeal and New Rule, R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

Section was "Objection and request for oral presentation; time for filing; content".

Amended by R.1993 d.258, effective June 7, 1993.

See: 25 N.J.R. 1033(a), 25 N.J.R. 2248(a).

Deleted (a)10 and redesignated existing (a)11 to (a)10.

Amended by R.1996 d.483, effective October 7, 1996.

See: 28 N.J.R. 2661(a), 28 N.J.R. 4417(b).

Amended by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

In (a), (b), (c) and (d), inserted "items" following "following"; in (b) and (c), deleted former 5 and recodified former 6 as 5; added (g).

Amended by R.2004 d.50, effective February 2, 2004.

See: 35 N.J.R. 4350(a), 36 N.J.R. 647(a).

Rewrote (g)1; added (h); recodified former (g)2 as (i), deleted the first sentence and substituted "An accepted application for expedited processing shall" for "An application shall".

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

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

Deleted former (a)2 and recodified (a)3 through (a)6 as (a)2 through (a)5; deleted former (b)2 and recodified (b)3 through (b)5 as (b)2 through (b)4; deleted former (c)2 and recodified (c)3 through (c)5 as (c)2 through (c)4; and deleted former (d)2 and recodified (d)3 through (d)4 as (d)2 through (d)3.

Case Notes

Appeal of Commissioner's denial of branch banking application held required to be conducted as a "contested case" hearing under the Administrative Procedure Act, where Commissioner had decided to hold

a formal hearing; objector banks held parties to administrative proceeding. In re Orange Savings Bank, 172 N.J.Super. 275, 411 A.2d 1150 (App.Div.1980), appeal dismissed 84 N.J. 433, 420 A.2d 339.

A hearing on a branch banking application is neither required by constitutional right nor by statute. Atty.Gen.F.O.1979, No. 6.

3:1-2.4 Branch application of out-of-State banks and out-of-State associations

(a) An application by an out-of-State bank that has no branch offices in New Jersey to acquire a branch office in this State shall contain the following items:

1. A completed current application form, containing the name of the depository, the name of the depository selling the branch and the location of the applied for branch;
2. The required application filing fee;
3. An opinion of counsel that the out-of-State bank is authorized to acquire a branch in New Jersey;
4. If the out-of-State bank intends to immediately relocate the branch to a new location in this State, the exact location of the proposed relocation; and
5. A copy of the application filed with the home state regulator.

(b) An out-of-State bank or out-of-State association, that has at least one branch office in this State, may establish additional branch offices in this State by filing a notice with the Department, so long as the out-of-State bank or out-of-State association is adequately capitalized, will be adequately capitalized and managed after the branch is established and has achieved sufficient compliance with the Community Reinvestment Act. The Department shall post the notice on the Department's website at www.njdobi.org within a week of receipt. In addition, the out-of-State bank or out-of-State association shall send notice to the New Jersey Bankers Association, the New Jersey League of Community Bankers, and/or their successor organizations, if any, for publication in their weekly bulletins.

(c) An application by an out-of-State bank or out-of-State association to relocate a branch office from a location in this State to another location in this State shall contain the following items:

1. A copy of the application filed with the home state regulator and with the appropriate Federal regulator;
2. The required filing fee; and
3. All other documentation required of a specific applicant by the Commissioner or which the applicant wishes the Department to consider.

New Rule, R.1996 d.483, effective October 7, 1996.

See: 28 N.J.R. 2661(a), 28 N.J.R. 4417(b).

Former N.J.A.C. 3:1-2.4, "Charter applications; notice and publication", recodified to 3:1-2.5.

Amended by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Substituted "that" for "which" throughout; in (a) and (c), inserted "items" following "following"; in (b), inserted "League" preceding "Community and Savings Bankers" and substituted ", and/or their successor organizations, if any," for "and the New Jersey Savings League".

Amended by R.2004 d.50, effective February 2, 2004.

See: 35 N.J.R. 4350(a), 36 N.J.R. 647(a).

In (b), inserted the second sentence.

3:1-2.5 Charter applications; notice and publication

(a) When a charter application is complete, the Department shall send notice to the applicant setting forth a hearing date. The Department shall also post notice of the hearing on the Department's website at www.njdobi.org within a week of sending the notice. In addition, the Department shall send notice to the New Jersey Bankers Association, the New Jersey League of Community Bankers, and/or their successor organizations, if any, for publication in their weekly bulletins.

(b) Within 10 calendar days after notification of the formal hearing date for any charter application, the applicant shall publish notice of the application once a week for four successive weeks in a newspaper designated by the Commissioner, which is published and circulated in the municipality in which said charter is proposed to be established, or if there be no such newspaper, then in a newspaper of general circulation in the municipality.

(c) The notice shall contain the following:

1. The names of the incorporators;
2. The name and mailing address of the applicant;
3. The proposed location of the principal office;
4. The amount of capital stock and surplus, or the amount of capital deposits, whichever is applicable; and
5. The hearing dates.

(d) The incorporators shall cause a copy of the notice in the form prescribed in (b) above to be forwarded to the chief executive officer of every banking institution having an office within five miles of the proposed location, and to such other offices as the Commissioner shall designate, not more than 10 calendar days after formal notification of the formal hearing date and at least three weeks before the scheduled hearing. Regarding applications of savings and loan associations, the incorporators shall also cause a copy of the notice in the form prescribed by (b) above to be forwarded to the chief executive officer of every savings and loan association having an office within the county where the principal office of the State association is to be located, if not within five miles.

Amended by R.1984 d.301, eff. July 16, 1984.

See: 16 N.J.R. 946(a), 16 N.J.R. 1966(a).

Deleted "Or Limited Facility Branch" and inserted "application".

Repeal and New Rule, R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

Section was "Objections to Minibranch applications".

Recodified from 3:1-2.4 and amended by R.1996 d.483, effective October 7, 1996.

See: 28 N.J.R. 2661(a), 28 N.J.R. 4417(b).

Former N.J.A.C. 3:1-2.5, "Branch applications; notice and publication", recodified to 3:1-2.6.

Amended by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

In (a), inserted "League" preceding "Community and Savings Bankers" and substituted ", and/or their successor organizations, if any," for "and the New Jersey Savings League".

Amended by R.2004 d.50, effective February 2, 2004.

See: 35 N.J.R. 4350(a), 36 N.J.R. 647(a).

In (a), inserted the second sentence.

3:1-2.6 Branch applications; notice and publication

(a) When a branch application is accepted, the Department shall send notice to the applicant and shall also post notice of the acceptance on the Department's website at www.njdobi.org. The Department shall also advise, in writing, the New Jersey Bankers Association, the New Jersey League of Community Bankers, and/or their successor organizations, if any, of the acceptance of the application. Each notice shall contain the following:

1. The name and mailing address of the applicant;
2. A brief statement of the nature of the application;
3. The precise location of the site involved in the particular application;
4. The date the Department accepted the application; and
5. The publication of notice shall also include the following statement:

"An individual, bank, savings bank or savings and loan association may object to any full branch or relocation application, and may request that an oral presentation be conducted. All such requests must be in writing and filed within 10 calendar days of the date of the Department's publication of notice of the accepted application on its website at www.njdobi.org. Individuals or financial institutions interested in perfecting an objection or request for oral presentation should immediately consult the Department's procedural rules for guidance."

(b) The notice prescribed by (a) above shall be published on the Department's website.

Amended by R.1984 d.301, eff. July 16, 1984.

See: 16 N.J.R. 946(a), 16 N.J.R. 1966(a).

Deleted "a section 25 association branch".

Repeal and New Rule, R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

Section was "Oral presentation granted or denied".

Amended by R.1993 d.258, effective June 7, 1993.

See: 25 N.J.R. 1033(a), 25 N.J.R. 2248(a).

Revised (c).

5. Population Estimates for New Jersey—Official State Estimates, New Jersey Department of Labor, PO Box 056, Trenton, NJ 08625-0056, www.state.nj.us/labor/lra (published annually);

6. United States Department of Commerce, Bureau of the Census, 4700 Silver Hill Road, Suitland, MD 20746, www.census.gov, Construction Review (published monthly);

7. New Jersey Department of Community Affairs, Division of Local Government Services, PO Box 800, Trenton, NJ, 08625, www.state.nj.us/dca/lgs, Annual Report (published annually);

8. New Jersey Department of Labor, Division of Labor Planning and Analysis, PO Box 056, Trenton, NJ 08625-0056, www.state.nj.us/labor/lra, State of New Jersey—Residential Construction Authorized by Building Permits (published annually and available also on a monthly basis);

9. United States Department of Commerce, Bureau of the Census, 4700 Silver Hill Road, Suitland, MD 20746, www.census.gov, Current Population Reports (published monthly);

10. United States Internal Revenue Service, 31 Hopkins Plaza, Baltimore, MD 21203, www.irs.ustreas.gov, Statistics of Income (published annually);

11. New Jersey Department of Community Affairs, Division of Local Government Services, PO Box 800, Trenton, NJ, 08625, www.nj.us/dca/dcahome.htm, United States Census Data for New Jersey Townships (provides tables of statistical information from the most recent United States Census paralleling those available for non-townships in printed census reports);

12. New Jersey Industrial Directory (published annually);

13. Local zoning ordinances and master plans;

14. Federal Deposit Insurance Corporation, 20 Exchange Place, New York, NY 10005, www.fdic.gov, Operating Banking Offices (published annually);

15. Federal Deposit Insurance Corporation, 20 Exchange Place, New York, NY 10005, www.fdic.gov, Bank Operating Statistics (published annually);

16. Federal Deposit Insurance Corporation, 20 Exchange Place, New York, NY 10005, www.fdic.gov, Changes Among Operating Banks and Branches (published annually);

17. Federal Deposit Insurance Corporation, 20 Exchange Place, New York, NY 10005, www.fdic.gov, Summary of Deposits in All Commercial and Mutual Savings Banks (published annually);

18. Federal Home Loan Bank Board, 7 World Trade Center, 22nd Fl., New York, NY 10048-1185, www.fhlbny.com, Summary Savings Accounts by Geographic Area (published annually);

www.fhlbny.com, Summary Savings Accounts by Geographic Area (published annually);

19. Thomson Financial Publishing, 4709 W. Gulf Road, Skokie, IL 60076, www.tpf.com, Polk's World Bank Directory (published semiannually);

20. Department of Agriculture, PO Box 330, Trenton, NJ 08625-0330, www.state.nj.us/agriculture, Soil Conservation Services Studies and Reports;

21. New Jersey Department of Labor, Division of Employment Security, PO Box 056, Trenton, NJ 08625-0056, www.state.nj.us/labor/lra, Covered Employment Trends (published annually and available on a monthly basis);

22. Various County Planning Board Reports, for example, population studies and projections, employment trends, industrial-commercial development studies, and so forth; and

23. New Jersey Department of Banking and Insurance, PO Box 325, Trenton, NJ 08625-0325, www.njdo-bi.org, Annual Report.

(b) Other officially noticeable data will be considered when applicable and relevant.

(c) Any applicant or objector(s) shall, simultaneously with the filing of an application or objection, indicate which of the foregoing sources they object to and detail in writing their reasons for objecting.

Amended by R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

(a): Stylistic revision; (a)22-23: Stylistic revision; deleted (a)24.

Recodified from 3:1-2.18 by R.1996 d.483, effective October 7, 1996.

See: 28 N.J.R. 2661(a), 28 N.J.R. 4417(b).

Former N.J.A.C. 3:1-2.17, "Closing of branch offices", recodified to 3:1-2.16.

Recodified from N.J.A.C. 3:1-2.17 and amended by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Rewrote (a). Former N.J.A.C. 3:1-2.16, Closing of branch offices, recodified to N.J.A.C. 3:1-2.15.

3:1-2.17 Applications; copies

An original and one copy of all submissions relative to any application shall be filed with the Department.

Recodified from 3:1-2.19 by R.1996 d.483, effective October 7, 1996.

See: 28 N.J.R. 2661(a), 28 N.J.R. 4417(b).

Former N.J.A.C. 3:1-2.18, "Officially recognized data sources", recodified to 3:1-2.17.

Recodified from N.J.A.C. 3:1-2.18 by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Former N.J.A.C. 3:1-2.17, Officially recognized data sources, recodified to N.J.A.C. 3:1-2.16.

3:1-2.18 Charter applications; conditions for approval

(a) The Commissioner shall condition approval of a charter application by a depository on the following factors:

1. If the depository is authorized to take deposits, on the depository becoming a member of the Federal Deposit Insurance Corporation;

2. If the depository is a stock institution, it will issue and sell shares of its authorized capital stock in sufficient amount to raise its capital base before commencement of operations to at least the minimum amount set forth in N.J.A.C. 3:1-2.19, and will obtain prior approval from the Department for any person purchasing more than five percent of the authorized capital stock.

3. The depository shall comply with all requirements with respect to loans and transactions involving the depository and its directors, offices and other persons set forth in subtitles 1 and 2 of Title 17 of the New Jersey Statutes Annotated and Title 3 of the New Jersey Administrative Code, including, but not limited to, N.J.S.A. 17:9A-71, 17:9A-72, and 17:9A-195, and N.J.A.C. 3:1-11, 3:6-3, 3:6-15, and 3:7-5;

4. For the first three years after issuance of the certificate of authority, the depository shall obtain prior approval from the Commissioner before installing any person on the board of directors or employing any person with the depository in an executive officer position as defined in N.J.A.C. 3:6-3.1;

5. For the first three years after issuance of the certificate of authority, the depository shall maintain:

i. A tier I capital-to-assets ratio, as that ratio is defined in 12 C.F.R. § 325.2(k), that is at least eight percent of the bank's total assets unless prior written consent has been received from the Commissioner permitting a lower ratio; and

ii. A fully funded reserve; and

6. Such other conditions for a specific applicant as the Commissioner identifies as appropriate.

Repealed by R.1984 d.301, eff. July 16, 1984.

See: 16 N.J.R. 947(a), 16 N.J.R. 1967(a).

Section was "Sharing limited facility branch offices; notice, fee".

New Rule, R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

Recodified from 3:1-2.20 and amended by R.1996 d.483, effective October 7, 1996.

See: 28 N.J.R. 2661(a), 28 N.J.R. 4417(b).

Former N.J.A.C. 3:1-2.19, "Applications; copies", recodified to 3:1-2.18.

Amended by R.1998 d.336, effective July 6, 1998.

See: 30 N.J.R. 1112(a), 30 N.J.R. 2421(a).

Rewrote (a)3.

Recodified from N.J.A.C. 3:1-2.19 and amended by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

In (a), inserted "factors" at the end of the introductory paragraph, amended the N.J.A.C. reference in 2, substituted "New Jersey Statutes Annotated" for "Revised Statutes" in 3, deleted former 4 and recodified former 5 as 4, inserted a new 5, and substituted "identifies as" for "deems" in 6. Former N.J.A.C. 3:1-2.18, Applications; copies, recodified to N.J.A.C. 3:1-2.17.

Amended by R.2002 d.38, effective February 4, 2002.

See: 33 N.J.R. 3598(a), 34 N.J.R. 731(a).

In (a), substituted "If the" for "The" preceding "depository" and inserted "is a stock institution, it" following "depository" in 2, and rewrote 5.

3:1-2.19 Minimum and maximum stock subscriptions

(a) Each charter application for a depository shall provide for stated capital of at least \$6,000,000. If the depository is a stock institution, capital shall include at least \$3,000,000 in capital stock, or such other amount as required by the Commissioner; except that an application for a charter for a trust company, which does not have authority to take deposits, may provide for a stated capital of \$2,000,000 in capital stock; and except that an application for a charter incident to the purchase of a failed institution or a branch or branches of a failed institution, may provide for stated capital of \$5,000,000, or more, or six percent of deposits acquired, whichever is greater, with at least \$2,500,000 in capital stock for a stock institution, so long as the depository agrees to raise additional capital to reach \$6,000,000 within one year following issuance of the Certificate of Authority while also satisfying the capital requirements set forth in N.J.A.C. 3:4.

(b) The incorporators of a depository shall subscribe to all stock listed as issued on the certificate of incorporation, which shall be at least 25 percent of the total capital required by (a) above.

(c) After a charter application is accepted, the balance of the capital stock, if any, shall be offered to the general public in the area to be served by the depository. The proceeds of such sale shall be placed in escrow and remain in escrow and not released until the bank obtains a Certificate of Authority. The form of the escrow agreement shall be approved by the Department.

(d) No individual shall subscribe for stock in excess of 24.9 percent of the total capital required by (a) above.

(e) No company may subscribe for stock in excess of 24.9 percent of the total capital required by (a) above, except a holding company that has registered in accordance with state and Federal law and regulations if required.

Amended by R.1984 d.119, eff. April 16, 1984.

See: 16 N.J.R. 174(a), 16 N.J.R. 870(a).

Specific minimums deleted, Commissioner granted greater discretion; (d) deleted.

Amended by R.1991 d.48, effective February 4, 1991.

See: 22 N.J.R. 3425(a), 23 N.J.R. 294(b).

Minimum changed from \$2,000,000 to \$7,000,000.

Amended by R.1992 d.483, effective December 7, 1992.

See: 24 N.J.R. 3034(a), 24 N.J.R. 4341(a).

Revised heading and (a)-(c); added (d)-(e).

Amended by R.1993 d.258, effective June 7, 1993.

See: 25 N.J.R. 1033(a), 25 N.J.R. 2248(a).

Revised (a).

Recodified from 3:1-2.21 and amended by R.1996 d.483, effective October 7, 1996.

See: 28 N.J.R. 2661(a), 28 N.J.R. 4417(b).

Former N.J.A.C. 3:1-2.20, "Charter applications; conditions for approval", recodified to 3:1-2.19.

Recodified from N.J.A.C. 3:1-2.20 and amended by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Rewrote (c). Former N.J.A.C. 3:1-2.19, Charter applications; conditions for approval, recodified to N.J.A.C. 3:1-2.18.

Amended by R.2002 d.38, effective February 4, 2002.

See: 33 N.J.R. 3598(a), 34 N.J.R. 731(a).

In (a), inserted references to stock institutions and updated capital amounts.

3:1-2.20 Criteria for branch approval: Public interest

(a) In reaching a determination as to whether an applicant meets the requirement that "the interests of the public will be served to advantage by the establishment of such full

branch" as required by N.J.S.A. 17:9A-20(A)(1)(b), the Commissioner shall consider only the following factors:

1. The availability of the proposed office to the general public or that segment of the public to be served as the case may be;
2. The presence and experience of a newly-chartered institution or an institution subject to supervisory review by the Department within the trade area of the proposed office;
3. The conditions set forth in Departmental regulations regarding insider real estate transactions, if any; and

4. The current financial condition of the applicant, including, but not limited to, capital, asset quality, management, earnings and liquidity. Department files, with respect to the factors contained in this subsection, shall be confidential as required by N.J.S.A. 17:9A-264 and shall not be open or available for review by either the applicant or objectors; and

5. The Commissioner's determination with respect to these factors shall be a final agency decision.

(b) The number of existing institutions and the ability of existing institutions within the trade area of the proposed office to compete with the applicant shall not form the sole basis for denying the full branch approval.

R.1983 d.573, effective December 5, 1983.

See: 15 N.J.R. 1706(a), 15 N.J.R. 2032(b).

Recodified from 3:1-2.22 by R.1996 d.483, effective October 7, 1996.

See: 28 N.J.R. 2661(a), 28 N.J.R. 4417(b).

Former N.J.A.C. 3:1-2.21, "Minimum and maximum stock subscriptions", recodified to 3:1-2.20.

Recodified from N.J.A.C. 3:1-2.21 and amended by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Rewrote (a); in (b), substituted "the sole" for "a" preceding "basis". Former N.J.A.C. 3:1-2.20, Minimum and maximum stock subscriptions, recodified to N.J.A.C. 3:1-2.19.

3:1-2.21 Criteria for branch approval: Compliance with Community Reinvestment Act

In determining whether to approve a branch application, the Commissioner shall consider whether the institution has achieved sufficient compliance with the Community Reinvestment Act of 1977, 12 U.S.C. §§ 2901 et seq.

R.1983 d.573, effective December 5, 1983.

See: 15 N.J.R. 1706(a), 15 N.J.R. 2032(b).

Recodified from 3:1-2.23 and amended by R.1996 d.483, effective October 7, 1996.

See: 28 N.J.R. 2661(a), 28 N.J.R. 4417(b).

Former N.J.A.C. 3:1-2.22, "Criteria for branch approval: Public interest", recodified to 3:1-2.21.

Recodified from N.J.A.C. 3:1-2.22 by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Former N.J.A.C. 3:1-2.21, Criteria for branch approval; Public interest, recodified to N.J.A.C. 3:1-2.20.

3:1-2.22 Modification of order and/or rehearing

(a) When an applicant seeks relief from or modification of an existing Order which restricts stock transfers entered pursuant to authority granted to the Commissioner the applicant shall submit the following:

1. A fee in the amount of \$500.00;

2. An original certification of a copy of a resolution of three-quarters of the duly constituted Board of Directors of the regulated institution approving the request for relief or modification;

3. A memorandum setting forth the grounds for the proposed modification or relief, and outlining the changes

in circumstances or new information creating the need for relief.

(b) The Department shall notify the applicant of receipt of a complete application within 10 days, and shall publish notice of the proposed modification in the weekly associations' bulletins of the New Jersey Bankers Association, the New Jersey League Community and Savings Bankers, and/or their successor organizations, if any. If a hearing is deemed necessary, the notice will also indicate the hearing date, location, time, and the procedures to be followed. Upon receipt of such notice from the Department, the applicant shall then mail notice to all shareholders of the affected institution and provide proof of mailing. Said notice shall include: the applicant's name; a brief statement of the nature of the application; the date, time, and location of the hearing; and the procedure for shareholders to file objections.

(c) The Commissioner reserves the right at any stage in the approval process to order that a hearing shall be conducted. Such order will be transmitted to the applicant and to all objectors and will inform them of the hearing date, time, location, and the procedures to be followed.

(d) The following standards shall be used to determine if relief from the existing Order shall be granted:

1. Would the proposed change contravene the plan which was the subject of existing Order;

2. Would the proposed change have a negative effect on the subject institution, either through disruption of activities, turnover of key personnel, loss of public confidence, or otherwise;

3. Would the proposed change have a chilling effect on other similarly situated institutions;

4. Would the proposed change be fair and equitable to all shareholders;

5. Would the proposed change represent a change in the focus of the regulated institution's activities and create public harm;

6. Would the changes in circumstances render continued compliance with the existing Order burdensome and inequitable; and

7. Such other issues as the parties may deem necessary for a fair and equitable determination by the Commissioner based on all the relevant facts.

New Rule, R.1986 d.293, effective July 21, 1986.

See: 17 N.J.R. 2487(a), 18 N.J.R. 1453(a).

Recodified from 3:1-2.24 by R.1996 d.483, effective October 7, 1996.

See: 28 N.J.R. 2661(a), 28 N.J.R. 4417(b).

Former N.J.A.C. 3:1-2.23, "Criteria for branch approval: Promise of success", recodified to 3:1-2.22.

Recodified from N.J.A.C. 3:1-2.23 and amended by R.2001 d.112, effective April 2, 2001.

See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).

Rewrote (b); deleted (c). Former N.J.A.C. 3:1-2.22, Criteria for branch approval; Compliance with Community Reinvestment Act, recodified to N.J.A.C. 3:1-2.21.

3:1-2.23 Fees; banks and savings banks

(a) A bank or savings bank shall pay to the Commissioner for use of the State the following fees:

- 1. For filing an application for charter..... \$15,000
- 2. For filing plans of acquisition, per company, per bank or savings bank; the fee is charged if the requester is not subject to assessment pursuant to N.J.A.C. 3:5 but no fee shall be charged if the requestor is subject to assessment..... \$3,000
- 3. For the issuance of a certified copy of any certificate of incorporation or merger or plan of reorganization or any other certificate or affidavit filed in the Department, plus \$2.00 per page if the requester is not subject to assessment pursuant to N.J.A.C. 3:5 but no fee shall be charged if the requester is subject to assessment..... \$25.00
- 4. For the issuance of any other approval by the Commissioner, plus per diem charges where applicable; the fee is charged if the requester is not subject to assessment pursuant to N.J.A.C. 3:5 but no fee shall be charged if the requestor is subject to assessment..... \$100.00

(b) An out-of-State bank shall pay to the Commissioner for use of the State the following fees:

- 1. For filing an application to acquire a branch as the first branch in this State \$1,500
- 2. For filing an application for approval of a change of location of a New Jersey branch office as a part of an application to enter the State through acquisition \$100.00
- 3. For the issuance of any other approval by the Commissioner, plus per diem charges where applicable \$100.00

(c) In addition to the fees in (a), a per diem charge may be assessed when a special investigation of a filing is required.

(d) The Department shall, upon written request, furnish verification of a State-chartered bank, savings bank or savings and loan's authority to conduct business in New Jersey. The fee shall be \$25.00 per verification if the requester is not subject to assessment pursuant to N.J.A.C. 3:5 but no fee shall be charged if the requester is subject to assessment.

Emergency New Rule, R.1989 d.406, effective July 3, 1989 (expires September 1, 1989).
 See: 21 N.J.R. 2397(a).
 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.244, effective May 6, 1991.
 See: 23 N.J.R. 642(a), 23 N.J.R. 1408(b).
 Change of term at (a)4., from "communication terminal branch office" to "automated teller machine."
 Amended by R.1991 d.294, effective June 17, 1991.

See: 23 N.J.R. 929(b), 23 N.J.R. 1919(b).
 Added fee for conversion from a savings bank to an association. Amended by R.1994 d.208, effective May 2, 1994.
 See: 26 N.J.R. 286(a), 26 N.J.R. 1827(a).
 Amended by R.1994 d.318, effective July 5, 1994.
 See: 26 N.J.R. 883(b), 26 N.J.R. 2779(a).
 Recodified from 3:1-2.25 and amended by R.1996 d.483, effective October 7, 1996.
 See: 28 N.J.R. 2661(a), 28 N.J.R. 4417(b).
 Former N.J.A.C. 3:1-2.24, "Modification of Order and/or rehearing", recodified to 3:1-2.23.
 Recodified from N.J.A.C. 3:1-2.24 and amended by R.2001 d.112, effective April 2, 2001.
 See: 33 N.J.R. 213(a), 33 N.J.R. 1087(a).
 In (a), added 2ii; added (d). Former N.J.A.C. 3:1-2.23, Modification of Order and/or rehearing, recodified to N.J.A.C. 3:1-2.22.
 Amended by R.2006 d.233, effective June 19, 2006.
 See: 38 N.J.R. 5(a), 38 N.J.R. 2671(a).
 Deleted former (a)2 through (a)7 and recodified (a)8 as (a)2, inserted "; the fee is charged if the requester is not subject to assessment pursuant to N.J.A.C. 3:5 but no fee shall be charged if the requestor is subject to assessment" in (a)2; deleted former (a)9 through (a)16 and recodified (a)17 as (a)3, inserted "if the requester is not subject to assessment pursuant to N.J.A.C. 3:5 but no fee shall be charged if the requester is subject to assessment" in (a)3, deleted former (a)18 and (a)19, recodified (a)20 as (a)4 and inserted "; the fee is charged if the requester is not subject to assessment pursuant to N.J.A.C. 3:5 but no fee shall be charged if the requestor is subject to assessment" following "applicable" in (a)4; and inserted "as a part of an application to enter the State through acquisition" in (b)2.

3:1-2.24 Fees, State associations

(a) Every State association shall pay to the Commissioner the following fees:

- 1. Application to establish a mutual association.....\$7,500
- 2. Application to establish a stock association\$15,000
- 3. Certification by the Commissioner of papers or records on file with the Department, plus \$2.00 per page for each certification if the requester is not subject to assessment pursuant to N.J.A.C. 3:5 but no fee shall be charged if the requester is subject to assessment.....\$25.00

(b) Each out-of-State association shall pay to the Commissioner the following fees:

- 1. For filing an application to acquire a branch, if the branch would be the out-of-State association's first branch in this State.....\$1,500
- 2. For filing an application for approval of a change of location of a New Jersey branch office as part of an application to open, occupy or maintain a branch.....\$100.00
- 3. For the issuance or any other approval by the Commissioner, plus per diem charges where applicable\$100.00

(c) In addition to the fees in (a) above, a per diem charge may be assessed when a special investigation of a filing is required.