

CHAPTER 6
GENERAL PROVISIONS

Authority

N.J.S.A. 17:1-8 and 8.1; 17:9A-24, 24a, 24b, 24b.1, 28.2, 31, 43, 62H, 71, 182.1, 195, 256A, 333, 334, 377 and 379.

Source and Effective Date

R.1996 d.244, effective May 20, 1996.
See: 28 N.J.R. 1331(a), 28 N.J.R. 2544(a).

Executive Order No. 66(1978) Expiration Date

Chapter 6, General Provisions, expires on May 20, 2001.

Chapter Historical Note

Subchapter 1, containing rules concerning the report of 10-year dormant accounts was repealed, effective October 7, 1980 by R.1980 d.435. See: 12 N.J.R. 502(b), 12 N.J.R. 627(c). 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 2, Approved Depositories for Investments Comprising Security Funds, was readopted pursuant to Executive Order No. 66(1978) as R.1984 d.14, effective January 13, 1984. See: 15 N.J.R. 1974(a), 16 N.J.R. 238(a).

Subchapter 3, Executive Officer Participation in Major Policy-Making Functions of a Bank, was readopted pursuant to Executive Order No. 66(1978) as R.1984 d.188, effective April 27, 1984. See: 16 N.J.R. 475(a), 16 N.J.R. 1196(a).

Subchapter 4, Action Upon Detection or Discovery of Crime, was completely amended pursuant to authority of N.J.S.A. 17:1-8.1 and became effective January 19, 1988 as R.1988 d.28. See: 19 N.J.R. 1595(a), 20 N.J.R. 183(a).

Subchapter 6, Short Term Investment of Cash in Fiduciary Accounts, was adopted pursuant to authority delegated at N.J.S.A. 17:9A-43, and was filed and became effective June 15, 1971 as R.1971 d.10. See: 2 N.J.R. 98(a), 3 N.J.R. 19(d).

Subchapter 7, Investment Restatement Accounting, was filed and became effective September 7, 1982 as R.1982 d.307. See: 14 N.J.R. 676(a), 14 N.J.R. 988(a). Amendments were filed and became effective June 18, 1984 as R.1984 d.224. See: 16 N.J.R. 783(a), 16 N.J.R. 1479(a). Subchapter 7, Investment Restatement Accounting, was repealed and a new Subchapter 7 was adopted, effective December 17, 1984 as R.1984 d.577. See: 16 N.J.R. 2712(a), 16 N.J.R. 3427(a). Subchapter 7 was repealed by R. 1991 d.171, effective April 1, 1991. See: 23 N.J.R. 147(a), 23 N.J.R. 998(a).

Subchapter 8, Savings Banks; Deposits, became effective October 7, 1980 as R.1980 d.435 pursuant to authority of N.J.S.A. 17:9A-184C(e). See 12 N.J.R. 502(b), 12 N.J.R. 627(c). Pursuant to Executive Order No. 66(1978), Subchapter 8, Savings Banks; Deposits, expired on April 9, 1985. Subchapter 8, Conversions of Savings Banks, became effective June 17, 1991 as R.1991 d.294. See: 23 N.J.R. 929(b), 23 N.J.R. 1919(b).

Subchapter 9, containing rules concerning small business loan interest rates was filed as R.1980 d.204, effective May 9, 1980. See: 12 N.J.R. 302(d). Subchapter 9 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 9, Capital Stock Savings Bank: Change in Control, was adopted by R.1988 d.404, effective August 15, 1988. See: 19 N.J.R. 1762(a), 20 N.J.R. 2052(c).

Subchapter 10 became effective December 31, 1980 as R.1980 d.559. See: 12 N.J.R. 563(b), 13 N.J.R. 62(c). Pursuant to Executive Order No. 66(1978), Subchapter 10 expired on December 31, 1985 and a new Subchapter 10, Savings Banks; Unsecured Days Funds Transactions,

was adopted as R.1986 d.48, effective March 3, 1986. See: 17 N.J.R. 2936(a), 18 N.J.R. 477(a).

Subchapter 11 became effective December 31, 1980 as R.1980 d.560. See: 12 N.J.R. 563(c), 13 N.J.R. 62(d). Pursuant to Executive Order No. 66(1978), Subchapter 11 expired on December 31, 1980 and a new Subchapter 11, Short-Term Investments for Trust Cash, was adopted as R.1986 d.49, effective March 3, 1986. See: 17 N.J.R. 2937(a), 18 N.J.R. 477(b).

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 13, Automated Teller Machines, was adopted by R.1983 d.286, effective July 18, 1983. See: 15 N.J.R. 190(a), 15 N.J.R. 1179(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 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).

Subchapter 16, Qualified Bank Acquisition of Underwritten Securities, was adopted by R.1987 d.271, effective July 6, 1987. See: 19 N.J.R. 677(b), 19 N.J.R. 1184(b).

Subchapter 17, Conversions of Banks, was adopted by R.1994 d.208, effective May 2, 1994. See: 26 N.J.R. 286 (a), 26 N.J.R. 1827(a).

Chapter 6, General Provisions, was readopted pursuant to Executive Order No. 66(1978) as R.1991 d.171, effective March 1, 1991. See: 23 N.J.R. 147(a), 23 N.J.R. 998(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: Source and Effective Date. Subchapter 4, Action Upon Detection or Discovery of Crime, as proposed at 28 N.J.R. 1331(a), was not adopted by R.1996 d.244. See, also, section annotations.

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SUBCHAPTER 1. SAVINGS BANK PARITY

3:6-1.1 Savings banks parity with Federally chartered savings banks

In addition to other authority granted by law, a savings bank may exercise any power which is now or hereafter authorized for Federally chartered savings banks pursuant to Federal law or rules or regulations of the Office of Thrift Supervision or any other appropriate Federal Regulator. Any such power shall be exercised upon the same terms and subject to the same conditions as are authorized for Federally chartered savings banks. Powers shall be automatically exercisable upon the expiration of 30 days from the date of adoption by the Federal regulatory agency, except if the Commissioner of Banking within that 30 day period provides notice that the power shall not be granted to New Jersey savings banks. Such notice shall be provided to each savings bank, and to the trade publications of the New Jersey's Community and Savings Bankers, the New Jersey Bankers Association and the New Jersey Savings League for publication. The Commissioner of Banking may permit savings banks to begin exercise of a power prior to the expiration of the 30 day period by providing notice of permission to each savings bank and to the above mentioned trade publications.

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

Changed name of Federal Home Loan Bank Board to Office of Thrift Supervision.

Amended by R.1996 d.244, effective May 20, 1996.
See: 28 N.J.R. 1331(a), 28 N.J.R. 2544(a).

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SUBCHAPTER 2. APPROVED DEPOSITARIES FOR INVESTMENTS COMPRISING SECURITY FUNDS

3:6-2.1 Approved depositaries

The following institutions are approved as depositaries for investments comprising security funds created pursuant to Section 31 of the Banking Act of 1948, as amended: Banks, savings banks and national banking associations domiciled in New Jersey having total capital stock and surplus of at least \$2,000,000 which are authorized to do a fiduciary business.

(h) Both applicant and objector may only raise issues and present information at the hearing if the same issues and information have been affirmatively raised in the application, the objection, or the comprehensive objection. All other matters will be excluded unless the Commissioner rules otherwise.

(i) In any instance where the Commissioner shall determine that the foregoing requirements or procedures of this subchapter shall be unwarranted, inapplicable, unreasonable, unnecessary or not required, the Commissioner may relax or dispense with the requirements or procedures established herein.

3:6-9.6 Hearing procedures

(a) The Commissioner may, within his or her discretion, hold a hearing on a change of control application when such a hearing would be helpful or necessary. If the Commissioner decides to hold a hearing on the application, the Commissioner shall notify the applicant as to the date of the hearing within five business days of the date the Commissioner receives the completed application. Only the applicant and any persons who have filed comprehensive objections shall be permitted to participate in the hearing.

(b) Both applicant and objector(s) may raise issues and present information only if same have been affirmatively raised in the application, objection or comprehensive objection. All other matters will be excluded unless the Commissioner rules otherwise, and then only for good cause shown.

(c) All studies, reports or the like may be offered only if previously submitted to the Department and other interested persons pursuant to the Commissioner's direction.

(d) The applicant and the objector(s) shall each be permitted to make an opening statement, and may then present witnesses, materials and data. Witnesses shall be sworn and may be cross-examined. Questions may be addressed to the applicant, objector(s) and witnesses by the Commissioner. The applicant and objector(s) may then concisely summarize their positions.

(e) In any instance where the Commissioner shall determine that any of the requirements or procedures of (b), (c) and (d) above are unwarranted, inapplicable, unreasonable, unnecessary or not required, the Commissioner may relax or dispense with such requirements or procedures.

Amended by R.1996 d.244, effective May 20, 1996.
See: 28 N.J.R. 1331(a), 28 N.J.R. 2544(a).

3:6-9.7 Fees

(a) The following fees shall be paid to the Commissioner relative to the application called for in N.J.A.C. 3:6-9.2:

1. Filing of application: \$2,500;
2. Filing fee with every comprehensive objection: \$750.00;

3. The applicant and objectors shall bear a pro rata share of the transcript costs relative to the hearing. In the event there are no comprehensive objections filed, the applicant shall bear the costs of the hearing transcript.

SUBCHAPTER 10. SAVINGS BANKS; UNSECURED DAYS FUNDS TRANSACTIONS

3:6-10.1 Description; unsecured days funds

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

3:6-10.2 Limitation on such investments

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

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

Changed from 10 percent to 15 percent.

SUBCHAPTER 11. SHORT-TERM INVESTMENTS FOR TRUST CASH

3:6-11.1 Type of investment

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

3:6-11.2 Provisions for cost valuation

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

(b) Principal is to be valued at cost. The difference between cost and anticipated receipt on maturity is accrued on a straight-line basis.

(c) Assets of the fund must be held to maturity under usual circumstances.

(d) After effecting the entries and withdrawals not less than 40 percent of the value of the remaining assets of the fund must be composed of cash, demand obligations and assets that mature on the fund's next business day.

R.1983 d.42, eff. March 7, 1983.
See: 15 N.J.R. 6(a), 15 N.J.R. 330(a).
Emergency amendment, R.1989 d.406, effective July 3, 1989 (expires September 1, 1989).
See: 21 N.J.R. 2397(a).
Amended by R.1989 d.449, effective August 21, 1989.
See: 21 N.J.R. 1601(b), 21 N.J.R. 2473(b).
Biennial fee increased to \$1,000.

SUBCHAPTER 12. STATE BANK PARITY

3:6-12.1 State bank parity with national banks

In addition to other authority granted by law, an unless contrary to State law, a bank may exercise any power, right, benefit or privilege which is now or hereafter authorized for national banks pursuant to Federal law or rules or regulations of the Comptroller of the Currency, the Federal Reserve Board and the Federal Deposit Insurance Corporation. Any such power shall be exercised upon the same terms and subject to the same conditions as are authorized for national banks. The powers, rights, benefits or privileges shall be automatically exercisable upon the expiration of 30 days from the date of adoption by the Federal regulatory agency, except if the Commissioner of Banking within that 30 day period provides notice that the power shall not be granted to State banks. Such notice shall be provided to each bank, and to the trade publications of the Savings Banks' Association of New Jersey, the New Jersey Bankers Association and the New Jersey Savings League for publication. The Commissioner of Banking may permit banks to begin exercise of a power prior to the expiration of the 30 day period by providing notice of permission to each bank and to the above mentioned trade publications.

3:6-14.2 Miscellaneous fees

(a) A foreign bank shall pay to the Commissioner the following fees:

1. For filing a copy of its certificate of incorporation, or an amendment or change to the certificate\$100.00;
2. For filing a statement of its financial condition \$50.00;
3. For filing a power of attorney \$25.00;
4. For each substitution of securities, pursuant to N.J.S.A. 17:9A-320B\$100.00.

New Rule, R.1989 d.449, effective August 21, 1989.
See: 21 N.J.R. 1601(b), 21 N.J.R. 2473(b).
Amended by R.1991 d.195, effective April 15, 1991.
See: 23 N.J.R. 254(a), 23 N.J.R. 1125(a).
Fees increased from \$50.00 to \$100.00 for filing copy of certificate of incorporation or an amendment or change and for each substitution of securities.

SUBCHAPTER 13. (RESERVED)

SUBCHAPTER 14. FOREIGN BANKS

3:6-14.1 Biennial fee

The certificate of authority or certificate of renewal of a certificate of authority for a foreign bank shall run from the date of issuance to the end of the biennial period. When the initial certificate is issued in the second year of the biennial certificate period, the certificate fee shall be an amount equal to one half of the fee for the biennial certificate period. The first biennial period shall commence as of April 1, 1983. Certificates issued during the period April 1, 1982 to April 1, 1983 will bear a fee equal to one half of the \$800 biennial fee. For the biennial period commencing April 1, 1991, the biennial fee will be \$1,000. Certificates issued during the period April 1, 1990 to April 1, 1991 will bear a fee equal to one half of the \$1,000 biennial fee.

SUBCHAPTER 15. SAVINGS BANKS: OFFICERS AND MANAGERS PERMITTED LOANS

3:6-15.1 Definitions

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

"Board of Managers" of a savings bank includes the board of trustees or board of directors of a savings bank and where reference is made to the board of directors of a bank it shall be deemed to the board of managers of a savings bank.

"Capital funds" of a savings bank are deemed to include capital notes of the savings banks for purposes of computing lending limitations.

"Manager" of a savings bank includes a trustee or director of a savings bank and where reference is made to a director of a bank it shall be deemed to refer to the manager of a savings bank.

3:6-15.2 Terms and conditions

(a) A savings bank may permit its officers and managers and their families and affiliates to become liable to the savings bank only under the same terms and conditions and to the same degree of liability as a bank permits its directors, officers or the corporations or partnerships of the officers or directors of a bank to become liable to a bank under the provision of Article 15 of The Banking Act of 1948 (N.J.S.A. 17:9A-71 et seq.) and under N.J.S.A. 17:9A-104, and the regulations issued pursuant to both.