

"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.

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.

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Former N.J.A.C. 3:6-3.1, Definition of executive officer, was repealed.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".

SUBCHAPTER 4. (RESERVED)

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. 2097(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. 2097(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. 2097(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.

Amended by R.2001 d.203, effective June 18, 2001.
See: 33 N.J.R. 926(a), 33 N.J.R. 2097(c).
Rewrote the section.

3:6-6.5 Maintenance of loan records in bank's trust department

(a) Participations of each account in the loan must be reflected in the securities record of each account in the bank's trust department.

(b) A participation record for each account must be also maintained and a check must be made each time a change in the amount of the loan occurs to assure that these participation records are in balance with the outstanding amount of the note.

(c) The bank may not participate in the loan for its own account, nor may it acquire such a participation.

3:6-6.6 Authorization to invest in this type of collective investment

(a) Where collective investments of the type described in this subchapter are not specifically authorized by the governing instruments of the various participating accounts, such investments may be made pursuant to N.J.S.A. 17:9A-37 and in such case:

1. Participation in such investment shall be restricted to accounts in which the bank is acting in a fiduciary capacity specified in paragraphs (5), (6), (9) and (10) of N.J.S.A. 17:9A-28;

2. The written variable note duly executed by the parties and a written outline of the procedure, as above set forth, controlling participation in such investment or a written incorporation by reference of the above-mentioned procedure shall constitute the written plan in accordance with the provisions of N.J.S.A. 17:9A-37(E);

3. The note is of a borrower whose commercial paper is rated at least A-1 by the financial periodicals rating commercial paper (for example, Standard and Poor) and such note is either payable on demand or at the call of the bank; and

4. The determination of whether such collective investment shall constitute a legal common trust fund or a discretionary common trust fund shall be determined in accordance with the provisions of N.J.S.A. 17:9A-38D and the Prudent Investor Act, N.J.S.A. 3B:20-11.1 et seq.

Amended by R.2001 d.203, effective June 18, 2001.
See: 33 N.J.R. 926(a), 33 N.J.R. 2097(c).

In (a)3, deleted N.J.S.A. reference and in (a)4, amended existing N.J.S.A. reference and inserted the second N.J.S.A. reference.

3:6-6.7 Parity provision

This regulation is issued to enable banks to establish and maintain common trust funds on an equal basis with common trust funds established and maintained by national banking associations.

SUBCHAPTER 7. (RESERVED)

SUBCHAPTER 8. CONVERSIONS OF SAVINGS BANK CHARTERS

3:6-8.1 Authorization for conversion

(a) Any mutual savings bank may apply to the Commissioner to convert itself to a mutual association by organizing and transferring its assets and liabilities to a newly-chartered mutual association, and any capital stock savings bank may apply to the Commissioner to convert itself to a bank by organizing and transferring its assets and liabilities to a newly-chartered bank.

(b) Before applying to the Commissioner for a conversion pursuant to (a) above, the savings bank shall obtain a resolution of the savings bank's board of directors indicating that the conversion is advisable and in the best interests of the members or shareholders.

(c) After the board of directors has adopted a resolution, a meeting of the members or stockholders shall be held upon not less than 10 days' written notice. The notice shall contain a statement of the time, place and purpose for which such meeting is called. At this meeting, the members or shareholders shall vote on whether the savings bank shall convert to an association or bank, as the case may be. An affirmative vote of at least two-thirds of the members present, or shares eligible to be voted, which are represented at the meeting, either in person or by proxy, may approve the conversion.

Amended by R.1994 d.208, effective May 2, 1994.
See: 26 N.J.R. 286(a), 26 N.J.R. 1827(a).
Recodified from N.J.A.C. 3:6-8.2 and amended by R.2001 d.203, effective June 18, 2001.
See: 33 N.J.R. 926(a), 33 N.J.R. 2097(c).

In (a), substituted "newly-charted mutual association" for "newly-chartered capital stock association". Former N.J.A.C. 3:6-8.1, Definitions, was repealed.

3:6-8.2 Application for conversion

(a) An application for a conversion from a savings bank to an association or bank shall contain the following:

1. A certified copy of the resolution of the board of directors authorizing the conversion;

2. A certified copy of the resolution adopted by the stockholders or members relating to the plan of conversion, containing the following information:

- i. The total number of votes eligible to be cast;
- ii. The total number of votes represented in person or by proxy at the special meeting;
- iii. The total number of votes cast in favor and against each matter; and

iv. The percentage of votes cast in favor and against each matter.

3. A certificate of incorporation for the new association or bank;

4. Biographical information for each of the incorporators and/or directors on forms approved by the Commissioner;

5. A completed form from the New Jersey State Police requesting criminal history record information for each director and/or incorporator, along with a cashier's check, certified check or money order for the applicable amount, payable to the State Police, stapled to the front of each form;

6. A copy of the savings bank's most recent quarterly Consolidated Report of Condition indicating the savings bank's financial condition. This requirement shall be deemed satisfied if this information is accessible to the Department via the internet;

7. Financial projections for the converted association or bank for the next three years. Projections shall include a consolidated average balance sheet and a profit and loss statement at the end of each year. This financial information shall include projections of all relevant regulatory capital requirements and capital ratios as well as appropriate income ratios;

8. A business plan for three years; and

9. Copies of all applications for Federal regulatory approval and all approvals required in connection with the conversion, or, if no application or approval is required, a statement or opinion of counsel to that effect.

(b) The Commissioner may, in his or her discretion, waive any of the application requirements of (a) above based on any of the following:

1. The financial condition of the institution;
2. Whether the institution was recently chartered;
3. Whether the public would be served by considering the application in an expeditious manner;
4. Whether the conversion is one step in an integrated application; or
5. Any other factor which may affect the need for a review of any of the materials specified in (a) above.

Amended by R.1994 d.208, effective May 2, 1994.
See: 26 N.J.R. 286(a), 26 N.J.R. 1827(a).
Recodified from N.J.A.C. 3:6-8.3 and amended by R.2001 d.203, effective June 18, 2001.
See: 33 N.J.R. 926(a), 33 N.J.R. 2097(c).

In (b), rewrote the introductory paragraph, in 4 substituted "or" for "and", and rewrote 5. Former N.J.A.C. 3:6-8.2, Authorization for conversion, was recodified to N.J.A.C. 3:6-8.1.
Amended by R.2006 d.233, effective June 19, 2006.
See: 38 N.J.R. 5(a), 38 N.J.R. 2671(a).

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

Amended by R.2006 d.406, effective December 4, 2006.
See: 38 N.J.R. 2552(a), 38 N.J.R. 5008(a).

Rewrote (a)6; and in (a)7, inserted "and capital ratios".

3:6-8.3 (Reserved)

Recodified to N.J.A.C. 3:6-8.2 by R.2001 d.203, effective June 18, 2001.

See: 33 N.J.R. 926(a), 33 N.J.R. 2097(c).

Section was "Application for conversion".

SUBCHAPTER 9. (RESERVED)

SUBCHAPTER 10. UNSECURED DAYS FUNDS TRANSACTIONS

3:6-10.1 Description; unsecured days funds

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

3:6-10.2 Limitation on such investments

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

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

Changed from 10 percent to 15 percent.

Amended by R.2001 d.203, effective June 18, 2001.
See: 33 N.J.R. 926(a), 33 N.J.R. 2079(c).

Inserted "bank or" preceding "savings bank" throughout and substituted "capital funds" for "surplus" following "15 percent of the".

SUBCHAPTER 11. SHORT-TERM INVESTMENTS FOR TRUST CASH

3:6-11.1 Type of investment

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