

BANKING
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF BANKING

Reserves and Reserve Depositaries

Proposed Readoption with Amendments: N.J.A.C. 3:8

Proposed Repeal and New Rule: N.J.A.C. 3:8-2.1

Proposed Repeal: N.J.A.C. 3:8-2.2

Authorized By: Steven M. Goldman, Commissioner, Department of Banking and Insurance

Authority: N.J.S.A. 17:9A-49 and 187.

Calendar reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2006 – 261

Submit comments by October 6, 2006 to:

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The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) proposes to readopt with amendments N.J.A.C. 3:8, which is scheduled to expire on December 28, 2006, pursuant to N.J.S.A. 52:14B-5.1c. The Department of Banking and Insurance has reviewed Chapter 8 and, subject to the amendments noted below, has determined that the rules set

forth therein are necessary, reasonable and proper for the purpose for which they were originally promulgated.

Chapter 8, Reserves and Reserve Depositories, implements N.J.S.A. 17:9A-49, which defines a Reserve Depository, and N.J.S.A. 17:9A-187 which regulates the cash balances of Savings Banks. This Chapter was originally filed and became effective prior to September 1, 1969. Subchapter 1 outlines those reserve depositaries approved for banks that are not members of the Federal Reserve System. The Department seeks to amend N.J.A.C. 3:8-1.1(a)1 to clearly indicate that banks and national banking associations must “maintain offices” in New Jersey, rather than be “located” in New Jersey, and have in excess of \$100 million in total assets in order to qualify as approved reserve depositaries. The Department is also proposing to amend paragraph (a)2 to provide that banks and national banking associations that have “no offices in New Jersey but do have offices” within the second and third Federal Reserve Districts, rather than banks that are “located outside of New Jersey,” and have assets in excess of \$300 million will qualify for approval as reserve depositaries. The Department is also proposing to delete paragraphs (a)3 through 7, which reference banks that have merged over time into other banks that will qualify for approval as reserve depositaries under N.J.A.C. 3:8-1.1(a)2 as proposed to be amended. New N.J.A.C. 3:8-1.1(b), which is proposed to be deleted from N.J.A.C. 3:8-1.1(a)2, is added to clarify that the word “banks” as used within N.J.A.C. 3:8-1.1 does not include savings banks.

Subchapter 2 identifies approved reserve depositaries for savings banks, generally in N.J.A.C. 3:8-2.1 and specifically in N.J.A.C. 3:8-2.2. The Department proposes to repeal N.J.A.C. 3:8-2.1, which contains a description of the term “reserve depository” and

replace it with language that cross-references the statutory definition of that term found in N.J.S.A. 17:9A-49 and N.J.A.C. 3:8-1.1. The Department proposes to repeal N.J.A.C. 3:8-2.2, as the institution specified therein no longer exists.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a).

Social Impact

The rules proposed for readoption with amendments, repeals and new rule continue to provide a reserve depository mechanism for non-member banks of the Federal Reserve System and savings banks within New Jersey to maintain the required reserves with the defined reserve depositories in accordance with N.J.S.A. 17:9A-49 and 187. Consequently, the continuity and financial stability of nonmember banks of the Federal Reserve System and savings banks within the State will be maintained, enabling them to continue to serve their communities. Proposed new N.J.A.C. 3:8-1.1(b) and the proposed deletion of N.J.A.C. 3:8-1.1(a)3 through 7 and Subchapter 2 will have no social impact, as the basis for these rules no longer exists.

Economic Impact

The rules proposed for readoption with amendments, repeals and new rule make no change in the previously established definitions of approved depositories for non-member banks of the Federal Reserve System, nor for savings banks within New Jersey. By continuing to enhance the safety and soundness of these non-member banks and savings institutions, the rules proposed for readoption with amendments will have a favorable economic impact upon such banks and institutions, and their customers, by

allowing them to continue to contribute to the economic vitality of the communities in which they are located and which they serve.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with amendments, repeals and new rule relate to the business of State banking and involve nonmembers of the Federal Reserve System or State Savings banks and are not subject to nor in conflict with any Federal requirements or standards.

Jobs Impact

The Department does not believe that these rules proposed for readoption with amendments, repeals and new rule will cause any jobs to be generated or lost.

The Department invites interested parties to submit any data or studies concerning the jobs impact of the proposed readoption together with their written comments on other aspects of the proposal.

Agriculture Industry Impact

The Department does not expect any impact upon the State agriculture industry by these rules proposed for readoption with amendments, repeals and new rule.

Regulatory Flexibility Analysis

Some non-member banks regulated by the rules in this chapter are “small businesses” as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The compliance requirement that will continue to be imposed by this chapter is the requirement that banks that are non-members of the Federal Reserve System only use as reserve depositaries banks and national banking associations that qualify under N.J.A.C. 3:8-1.1(a)1.

The Department has determined that this compliance requirement continues to be reasonable and necessary. Those institutions to which N.J.A.C. 3:8 applies should incur no initial capital expenses to comply with the rule's requirement. If readopted, these rules will continue to apply to all State banks that are not members of the Federal Reserve System and to savings banks, as the case may be, without regard to size, since they implement statutory provisions intended to assure an adequate level of security with respect to the reserves of all such institutions. Consequently, no variation based upon business size has been included in the compliance standards established by the rules. The Department notes, however, that the rules proposed for readoption with amendments will impose no recordkeeping or reporting requirements and no new compliance requirements, but merely continue the compliance requirement that has been in existence. Institutions that are subject to these rules should need no professional services in order to comply. Such institutions should incur no compliance costs, as the rules proposed for readoption merely prescribe which institutions qualify as approved reserve depositaries.

Smart Growth Impact

The rules proposed for readoption with amendments, repeals and new rules will not have an impact upon the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 8

RESERVES AND RESERVE DEPOSITARIES

SUBCHAPTER 1. APPROVAL OF RESERVE DEPOSITARIES

3:8-1.1 Reserve depositaries approved for nonmember banks of Federal Reserve System

(a) The following are reserve depositaries approved for banks not members of the Federal Reserve System:

1. Banks and national banking associations [located] **with offices** in New Jersey [which] **that** have total assets in excess of \$100 million; and

2. Banks and national banking associations [located outside of New Jersey which are] **with no offices in New Jersey, but with offices** within the second and third Federal Reserve Districts, and [which] **that** have total assets in excess of \$300 million. [; “banks” as used herein and in (a)1 of this section excludes savings banks;

3. Continental Illinois National Bank and Trust Company of Chicago, Chicago Illinois;

4. The First National Bank of Chicago, Chicago, Illinois;

5. National Bank of Detroit; Detroit, Michigan;

6. Mellon National Bank and Trust Company, Pittsburgh, Pennsylvania;

7. The First National Bank of Boston, Boston, Massachusetts.]

(b) **For the purposes of this section, “banks” as used in 1 and 2 above excludes savings banks.**

SUBCHAPTER 2. APPROVED AS RESERVE DEPOSITARIES
FOR SAVINGS BANKS

3:8-2.1 General approval

[Approved as reserve depositaries for savings banks are all banking institutions except savings banks, as defined by paragraph 2 of section 1 of the Banking Act of 1948, as amended, foreign national banking associations and foreign banks and trust companies, which foreign banking institutions are located in the second and third Federal Reserve Districts and are members of the Federal Reserve System; provided, however, that only the institutions falling within the classes defined as above and which were actually being used as depositaries by some savings banks of this State on August 31, 1948, are approved as such reserve depositaries.]

For the purposes of N.J.S.A. 17:9A-187, “reserve depositary” shall have the meaning of that term as set forth in N.J.S.A. 17:9A-49 and in N.J.A.C. 3:8-1.1, the rule implementing that section.

[3:8-2.2 Specific designation

The Savings Banks Trust Company of New York, New York, is approved as a depositary in which savings banks of this State may deposit cash balances required to be maintained by section 187 of the Banking Act of 1948, as amended.]