

BANKING

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF BANKING

Investments

Proposed Readoption: N.J.A.C. 3:11

Authorized By: Thomas B. Considine, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-15e, 17:2-10, 17:9A-24, 24.13, 25(12), 25.3, 26(7), 60, 62, and 182.1 through 182.3 and 17:12B-165 and 168.

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

Proposal Number: PRN 2010-115

Submit comments by September 4, 2010 to:

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The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) proposes to readopt N.J.A.C. 3:11, which will expire on October 26, 2010 pursuant to N.J.S.A. 52:14B-5.1c. The Department has reviewed these rules and has determined that they continue to be necessary, reasonable and proper for the purpose for which they were originally promulgated and is, therefore, proposing to readopt the rules.

The chapter contains rules concerning the following subjects: Loan and Investment Approval; Approved Subsidiaries; Organization and Operation of Small Business Investment Companies; Investment by Bank in Capital Stock of Bank Principally Engaged in International Banking; Investment by Bank in Capital Stock of Domestic Operating Subsidiaries; Approved Stock Investment; Limitation of Liability to a Bank, Savings Bank or State Association; Savings Banks Investment Securities; Standby Letters of Credit; Savings Bank and State Association Credit Cards; Restrictions of Leeway Investments; Savings Banks: Commercial Loans; and Officers and Directors Restrictions.

These rules are promulgated to implement many essential provisions of the Banking Act of 1948 and its subsequent amendments (N.J.S.A. 17:9A-1 et seq.) and the Savings and Loan Act of 1963 and its subsequent amendments (N.J.S.A. 17:12B-1 et seq.). As part of this readoption process, the Department has undertaken a review of N.J.A.C. 3:11 to determine whether the rules need updating. Each rule was examined to determine whether it still provides a useful function within the banking regulation system of the State of New Jersey. The Department has determined that N.J.A.C. 3:11 continues to provide the banking industry with appropriate regulatory standards regarding the investments they may undertake. The Department has concluded that the original purpose of each rule continues to exist and is proposing to readopt the rules without amendment.

The Department's rule proposal provides for a comment period of 60 days, and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

New Jersey banks, savings banks and State associations provide an extremely important range of financial services to their customers. The rules proposed for readoption will continue to provide these institutions the necessary investment flexibility and allow them to remain competitive with Federal and out-of-State institutions. At the same time, the rules proposed for readoption will continue to provide an appropriate level of Department oversight and control over such investments in order to preserve the solvency of these institutions and protect the interests of consumers.

Economic Impact

The rules proposed for readoption continue long-standing regulatory requirements. Banks, savings banks and State associations will continue to be required to bear any costs associated with recordkeeping and reporting requirements involving investments pursuant to the existing rules. Savings banks and State associations that undertake permitted investments will similarly have to comply with the recordkeeping and reporting requirements with respect to these investments. The rules proposed for readoption will not impose an undue burden on banks, savings banks and State associations. The information required to be filed or maintained is already maintained in the regular course of business of financial institutions. Moreover, the information will continue to permit the Department to monitor an entity's financial solvency and

determine its financial condition and compliance with applicable law. Therefore, the Department believes that the costs to regulated entities are outweighed by the public benefit achieved.

The rules proposed for readoption will enable New Jersey banks, savings banks and State associations to remain competitive with Federal and out-of-State institutions branching into New Jersey. New Jersey banks, savings banks and State associations greatly benefit the State's economy and allowing them to remain competitive in financial markets will have a beneficial impact.

Federal Standards Statement

A Federal standards analysis is not required because the requirements of the rules proposed for readoption are consistent with, but do not exceed, Federal standards. Federal standards applicable to, but not exceeded by, the rules proposed for readoption are 12 CFR 563.

Jobs Impact

The Department does not anticipate that any jobs will be generated or lost as a result of the rules proposed for readoption. Personnel will still be required to do compliance work; however, additional staff should not be required. The Department invites commenters to submit any data or studies concerning the jobs impact of the rules proposed for readoption, together with any written comments on other aspects of the proposal.

Agriculture Industry Impact

The Department does not expect any agriculture industry impact from the rules proposed for readoption.

Regulatory Flexibility Analysis

The rules proposed for re-adoption will apply to New Jersey banks, savings banks and State associations. A number of New Jersey banks, savings banks and State associations are small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. No new requirements are being imposed as part of this proposed re-adoption. New Jersey banks, savings banks and State Associations will continue to be required to maintain records of their investments as part of these rules. There are no new reporting requirements imposed by the rules; however, the institutions will have to continue the reporting previously required and will have to continue to make their records available for examination by the Department. Compliance costs are discussed under the Economic Impact above.

The Department does not believe that any additional professional services will be needed to comply with the rules, as any required documentation can be prepared in house in the regular course of business of the institution.

There has been no distinction made in the recordkeeping or reporting or other compliance requirements for small businesses, as the requirements generally reflect statutory requirements relating to the Department's oversight of investments to help ensure the financial stability of these institutions. The Department's interest in the effective oversight of these institutions applies regardless of business size. Accordingly, since no undue burden should be imposed, and no distinction could be made without creating a risk to banking institutions and consumers, no differentiation in compliance requirements is provided based on business size.

Smart Growth Impact

The rules proposed for readoption will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for readoption will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules proposed for readoption concern investments permitted for banks.

Smart Growth Development Impact

The rules proposed for readoption will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey because the rules proposed for readoption concern investments permitted for banks.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:11.