

BANKING

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF BANKING

Credit Unions

Proposed Readoption with Amendment: N.J.A.C 3:21

Authorized By: Kenneth E. Kobylowski, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8.1 and 15.e, 17:1C-33 et seq., and 17:13-79 et seq.

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

Proposal Number: PRN 2014-102.

Submit comments by September 5, 2014, to:

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The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) proposes to readopt its rules governing credit unions. Pursuant to N.J.S.A. 52:14B-5.1, the rules in this chapter are scheduled to expire on February 19, 2015.

N.J.A.C. 3:21-1 authorizes the Commissioner of Banking and Insurance (Commissioner), with the concurrence of the appropriate Regional Director of the National Credit Union Administration, to designate certain credit unions as low income credit unions (LICUs). This designation permits them to apply to participate in certain Federal programs, for example, as “Participating Credit Unions” pursuant to 12 CFR 705. LICUs, which the Federal government selects, may participate in the Community Development Revolving Loan Program for Credit Unions. The rules specify the characteristics of LICUs, and authorize the loss of designation in the event a credit union no longer meets the qualifying criteria. The Department is proposing an amendment to eliminate the application fee of \$50.00 currently imposed by N.J.A.C. 3:21-1.2(a)3 on credit unions seeking to be designated as a LICU.

N.J.A.C. 3:21-2.1 addresses parity of New Jersey credit unions with Federal credit unions.

N.J.A.C. 3:21-3 permits branching by a State-chartered credit union. The rules govern the content of branch applications and the criteria to establish a branch, the conditions to remain in good standing, and the standards and procedures applicable to the revocation or denial of authority to operate a branch.

N.J.A.C. 3:21-4.1 addresses standards for mergers of credit unions.

The Department has reviewed the rules and has determined that they continue to be necessary, reasonable, and proper for the purpose for which they were originally promulgated.

A 60-day comment period is provided and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The rules proposed for reoption with an amendment apply to all New Jersey State-chartered credit unions. N.J.A.C. 3:21-3 also applies to those non-New Jersey state-chartered credit unions that branch or seek to branch into New Jersey. The rules proposed for reoption with an amendment give credit unions flexibility in locating branches, make them competitive with their Federally-chartered counterparts, enable them to offer a wide range of financial products to their members, and establish standards in the event of credit union mergers. By maintaining the range of services credit unions can offer and enhancing competition amongst credit unions, the rules proposed for reoption with an amendment will have a beneficial social impact on credit unions, the general public, and on low-income communities.

Economic Impact

The rules proposed for reoption with an amendment will have a favorable economic impact on credit unions. The parity section enables State-chartered credit unions to operate on a substantially competitive basis with their Federal counterparts.

The rules governing merger standards minimize expenses for those credit unions exploring the possibility of a merger or actually seeking to merge by making explicit the standards under which the application would be reviewed. Some of these credit unions may choose to seek professional assistance in the form of accountants, financial industry consultants, or attorneys. For credit unions that choose to do so, the cost of any such professional so retained will vary based on the professional and the work performed. Credit unions that seek to branch will need to submit the necessary documents. They may choose to seek professional assistance in the form of accountants or attorneys. The cost of a professional so retained will vary based on

the individual and the amount of work requested. Credit unions that establish successful branches will provide a positive economic benefit. The costs to obtain approval to establish a branch are reasonable.

Lastly, some credit unions may seek to be classified as a LICU. A simple application completed by existing staff would be necessary. LICUs that obtain Federal loan funds will provide an economic benefit by making loans offered at reasonable rates more available to their lower income members. The proposed amendment to eliminate the fee set out in N.J.A.C. 3:21-1.2(a)3 to seek designation as a LICU would have a beneficial effect on credit unions that seek that designation.

The benefits realized by facilitating the designation of participating credit unions as LICUs, affording to New Jersey credit union's parity with their Federal counterparts, promoting competition among credit unions, and requiring credit unions to keep adequate records, outweigh any costs credit unions may incur in complying with these rules.

Federal Standards Statement

Credit unions may, in the future, become subject to Federal standards pursuant to a proper exercise of parity in accordance with the rules. While the Federal standards applicable in such cases cannot be identified at this time, no applicable State standards will exceed them because parity with Federal institutions entails application of the pertinent Federal standards. Low income credit unions may participate in Federal programs. If they do participate, they would be subject to the Federal standards. No State standard would exceed the Federal standards in such a case.

The branching provisions of the rules proposed for readoption with an amendment are not subject to any Federal standards or requirements. The rules proposed for readoption that relate to mergers of credit unions do not contain standards or requirements that exceed Federal standards. These rules apply certain Federal standards, set forth at 12 U.S.C. §§ 1715 et seq., to New Jersey credit unions that merge.

Jobs Impact

The Department does not believe that the rules proposed for readoption with an amendment will result in the loss of any jobs in this State. Most credit unions will use existing staff for continued compliance with the existing rules. Some credit unions may choose to employ professional services to meet the recordkeeping, reporting, and other compliance requirements.

If credit unions increase their business through the exercise of parity with their Federal counterparts, they may seek to hire additional staff. The merger standards do not require credit unions to hire additional staff; however, some credit unions seeking to merge may hire professionals to assist in the merger process, including evaluating whether the credit union meets the applicable standards.

Agriculture Industry Impact

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

Regulatory Flexibility Analysis

Most New Jersey State-chartered credit unions and some non-New Jersey state-chartered credit unions are small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with an amendment will continue to impose compliance requirements on these entities. The rules proposed for readoption with an amendment will continue to require the approval of the Commissioner for branching by credit unions and that they provide to the Department current information on their official business email address.

Those credit unions seeking designation as a LICU will follow a simple application process. Those credit unions that seek to merge would have to comply with the established standards. The Department believes that the requirements set forth in the rules concerning branching and merger are generally consistent with good banking practice. Moreover, the Department does not believe that these requirements or those concerning LICUs and parity are unduly burdensome. The need for outside professional services is discussed in the Economic Impact. The purpose of these rules is to assist credit unions in their operations and protect consumers who use credit unions. These purposes do not vary based upon business size. Accordingly, no differentiation based on business size is provided.

Housing Affordability Impact Analysis

The rules proposed for readoption with an amendment will not have an impact on housing affordability in this State in that the rules proposed for readoption with an amendment relate to credit union operations.

Smart Growth Development Impact Analysis

The rules proposed for readoption with an amendment will not have an impact on smart growth in this State 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 in that the rules proposed for readoption with an amendment relates to credit union operations.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:21.

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

3:21-1.2 Application for designation as a low-income credit union

(a) (No change.)

(b) An applicant shall submit the following to the Department:

1. (No change.)

2. Sufficient evidence to allow the Commissioner to determine whether the

applicant meets the criteria set forth in (c) below; **and**

[3. An application fee of \$50.00 if the applicant is an existing credit union seeking designation, but no fee other than an incorporation application fee of \$50.00 shall be charged to a credit union seeking designation as a part of its incorporation application; and]

[4.] **3.** (No change in text.)

(c) (No change.)