

BANKING  
DEPARTMENT OF BANKING AND INSURANCE  
DIVISION OF BANKING

Credit Unions

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

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

Authority: N.J.S.A. 17:1-8.1 and 15e, 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 2007-129

Submit comments by July 6, 2007 to:

Robert J. Melillo, Chief  
Legislative and Regulatory Affairs  
New Jersey Department of Banking and Insurance  
P.O. Box 325  
Trenton, NJ 08625-0325  
Fax: (609) 292-0896  
Email: [legsregs@dobi.state.nj.us](mailto:legsregs@dobi.state.nj.us)

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-5.1c the rules in this chapter are scheduled to expire on December 17, 2007.

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. Low income credit unions, 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.

N.J.A.C. 3:21-2.1 addresses parity of New Jersey credit unions with Federal credit unions. The Department proposes an amendment to correct a misspelling in the title of a statute referenced in N.J.A.C. 3:21-2.1(b)5.

N.J.A.C. 3:21-3 permits branching by a State-chartered credit union. The rules govern the content of applications to establish a branch, the conditions to remain in good standing and the procedures to discontinue 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 re adoption 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 re adoption 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. 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**

It is not expected that the rules proposed for reoption with an amendment will have a negative 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 proposed for reoption 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. The cost of the professional will vary based on the individual professional and the amount of 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 the professional 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 low income credit unions. A simple application completed by existing staff would be necessary. Low income credit unions that obtain Federal loan funds will provide an economic benefit by making loans offered at reasonable rates more available to their lower income members.

### **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 proposed rules for readoption relating 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 anticipate any jobs will be lost as a result of the rules proposed for readoption with an amendment. 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. The costs of such services are discussed in the Economic Impact above.

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

### **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 maintain records concerning their business.

Those credit unions seeking low income designation will follow a simple application process. The costs for compliance are set out in the Economic Impact above. Those credit unions that seek to merge would have to comply with the established standards. The costs for compliance are set out in the Economic Impact above.

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. Thus, the purpose of these requirements does not vary based upon business size. Accordingly, no differentiation based on business size is provided.

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 (addition indicated in boldface **thus**; deletion indicated in brackets [thus]):

3:21-2.1 Credit union parity with Federally-chartered credit unions

(a) (No change.)

(b) “Power, right, benefit or privilege” shall not mean any activity that would fail to comply with or would violate:

1. - 4. (No change.)

5. The New Jersey [Homeownership] **Home Ownership** Security Act of 2002, N.J.S.A. 46:10B-22 et seq.