

**BANKING**

**DEPARTMENT OF BANKING AND INSURANCE**

**DIVISION OF BANKING**

**Proposed Interstate Acquisition**

**Proposed Readoption: N.J.A.C. 3:33**

Authorized By: Neil N. Jasey, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-15e and 17:12B-278, 279 and 289.

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

Proposal Number: PRN 2010-029

Submit comments by March 20, 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. 3:33, which will expire on July 24, 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.

N.J.A.C. 3:33 requires an out-of-State insured savings association or out-of-State savings and loan holding company that intends to acquire and retain control of a New Jersey insured savings association or New Jersey savings and loan holding company to file an application with the Department. The application must contain information as set forth in N.J.A.C. 3:33-1.2. In accordance with N.J.A.C. 3:33-1.3, the Commissioner of Banking and Insurance (Commissioner) shall determine whether the applicant is an “eligible insured savings association” or “eligible savings and loan holding company” as defined in N.J.A.C. 3:33-1.1 and whether more than 75 percent of the deposits of the applicant’s subsidiaries are in insured subsidiaries located in an “eligible state,” as defined in N.J.A.C. 3:33-1.1. The Commissioner shall also determine whether to place any limitations or restrictions on the acquisition of the New Jersey insured savings association or New Jersey savings and loan holding company. By continuing to require the Commissioner to make the specified determination before issuing a certificate of eligibility, the rules will continue to fulfill the legislative intent that the acquisition of New Jersey entities be done in a considered and orderly manner.

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**

The information which is required to be submitted to the Commissioner by the rules proposed for readoption will continue to enable the Department to make informed decisions regarding transactions to acquire New Jersey insured savings associations and New Jersey savings and loan holding companies and to maintain regulatory control over the acquisition of New Jersey insured savings associations and New Jersey savings and loan holding companies. Depositors and shareholders of acquired savings associations benefit from the regulatory oversight provided by the Department in these transactions.

### **Economic Impact**

The costs to applicants of meeting the requirements of these rules proposed for readoption will continue to consist of the fees required under N.J.A.C. 3:33-1.4, pursuant to N.J.S.A. 17:12B-285, and the administrative costs incurred in producing the application materials. Departmental cost for application review is at least partially offset by these fees. There is no proposed change in fees included in the rules proposed for readoption. The Department does not believe that these costs impose an undue burden on applicants. Moreover, the public benefits achieved offset the costs incurred by applicants.

### **Federal Standards Statement**

The rules proposed for readoption are subject to but do not exceed standards or requirements imposed by Federal law. The rules proposed for readoption contain requirements or standards that are the same as those imposed by Federal law at 12 U.S.C. §§1467a and 1813.

### **Jobs Impact**

The Department does not anticipate that any jobs will be lost or generated as a result of the rules proposed for readoption. The rules proposed for readoption continue to provide the standards and filing requirements for out-of-State insured savings associations or out-of-State savings and loan holding companies to acquire control of a New Jersey insured savings association or New Jersey savings and loan holding company. The Department invites commenters to submit any data or studies concerning the job 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 Statement**

The obligation to comply with the rules proposed for readoption falls only on out-of-State insured savings associations and savings and loan holding companies, entities that are not resident in New Jersey. They are, therefore, outside of the scope of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. and N.J.A.C. 1:30-5.1(c)7ii. Acquisitions by in-State entities are already governed by separate provisions and are subject to the Commissioner's approval. A regulatory flexibility analysis is, therefore, not required.

### **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 acquisitions of banking institutions.

### **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 acquisitions of banking institutions.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:33