

BANKING

BANKING AND INSURANCE

DIVISION OF BANKING

Bank Holding Companies

Proposed Readoption with Amendments: N.J.A.C. 3:13

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

Authority: N.J.S.A. 17:1-8, 8.1, and 15.e; 17:9A-8.1 et seq., 17:9A-382 et seq.; and 17:12B-292 et seq.

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

Proposal Number: PRN 2014-210.

Submit comments by January 30, 2015, to:

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The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) proposes to readopt its rules governing bank holding companies and mutual savings bank holding companies. Pursuant to N.J.S.A. 52:14B-5.1.c(2), the rules in this chapter are scheduled to expire on May 13, 2015. The Department has reviewed the rules proposed for readoption and has determined that they continue to be necessary, reasonable, and proper for the purpose for which they were originally promulgated.

Subchapter 1 sets forth the procedures for a person to acquire a New Jersey bank or New Jersey bank holding company.

Subchapter 2 sets forth the reporting requirements applicable to all persons controlling New Jersey banks or New Jersey bank holding company systems. N.J.A.C. 3:13-2.3 is proposed to be amended to deem the filing requirements applicable to certain financial reports filed with Federal agencies to be fulfilled if the document is filed with the appropriate Federal agency and is publically available, so as to ensure that the Department has access to those Federal filings. If the reports are not publically available then copies of the financial reports must still be concurrently filed with the Department. As part of the amendments, current subsections (b) through (h) will be eliminated and subsection (a) will be expanded to capture the reports referenced in subsections (b) through (h). In addition, current N.J.A.C. 3:13-2.3(i)1 will be recodified as N.J.A.C. 3:13-2.3(b). Current N.J.A.C. 3:13-2.3(i)2 will be recodified as N.J.A.C. 3:13-2.3(d), and current N.J.A.C. 3:13-2.3(j) will be relocated as N.J.A.C. 3:13-2.3(c). Recodified N.J.A.C. 3:13-2.3(b) and (d) are proposed to be amended to add language referencing filings with the Federal Reserve System. This proposed amendment carries over a concept contained in the subsections proposed to be eliminated. In addition, recodified N.J.A.C. 3:13-2.3(b) and (d) are amended to add "or its equivalent" to describe the 10K form. Further,

recodified N.J.A.C. 3:13-2.3(c) is proposed to be amended to eliminate the term “10K forms,” which are Security and Exchange Commission forms, and substitute the broader requirement Securities and Exchange Commission forms, rather than limiting the filing requirement to a specific form. This is particularly helpful in the event that the form name or number changes in the future.

Lastly, recodified N.J.A.C 3:13-2.3(d)(6) (currently N.J.A.C. 3:13-2.3(i)2vi) will be amended to refer to a company’s “balance sheet” instead of its “statement of assets and liabilities” and to permit an institution to provide the “Statement of Condition” from its Call report in lieu of its balance sheet.

Subchapter 3 provides for the examination by the Commissioner of Banking and Insurance (Commissioner) of any company that controls a New Jersey bank or New Jersey bank holding company and provides that the Commissioner shall charge for any such examination a per diem per examiner charge in an amount set forth in N.J.A.C. 3:1-6.6.

Subchapter 4 remains reserved.

Subchapter 5 sets forth requirements for the formation of mutual savings bank holding companies, including the application procedures, approval procedures, and requirements governing the board of directors and officers of a mutual savings bank holding company, and sets forth requirements governing division of surplus of such an entity.

The rules proposed to be readopted with amendments will continue to provide the regulatory framework to enable the Commissioner to properly monitor bank holding companies, as well as approve acquisitions of New Jersey banks or New Jersey bank holding companies and the formation of mutual savings bank holding companies, pursuant to law.

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 readoption with amendments apply to all persons controlling New Jersey banks or New Jersey bank holding companies. They will continue to require that specified financial reports filed by all persons controlling New Jersey banks or New Jersey bank holding companies be available to the Department. These rules will continue to allow the Commissioner to monitor the activities of these persons, thereby affording the general banking public a significant level of protection through reporting and bank examination. The rules also identify the necessary requirements and application procedures for persons wishing to form or acquire a New Jersey bank or New Jersey bank holding company. Thus, the rules proposed for readoption with amendments will continue to have a beneficial social impact on the general public, consumers of New Jersey banks, and those persons controlling New Jersey banks or New Jersey bank holding companies.

Economic Impact

It is not expected that the rules proposed for readoption with amendments will have a significant negative economic impact on persons controlling New Jersey banks and New Jersey bank holding companies. The requirements that those controlling New Jersey banks or New Jersey bank holding companies apply to, report to, and be subjected to examination by the Department are reasonable and anticipated commercial requirements. The examination fees are not unduly burdensome, are unchanged from the current rules, and are a standard business

expense. The amendments will not have any adverse economic impact because they are technical in nature and will impose no new requirements. The elimination of the duplicative filing requirement to be effectuated by the proposed amendment to N.J.A.C. 3:13-2.3 will favorably impact filers by eliminating the costs attendant upon their directly filing the Federal forms referenced therein with the Department.

Federal Standards Statement

The proposed amendments and rules proposed for re-adoption remain consistent with and do not exceed the requirements of 12 U.S.C. §§ 1841 et seq. and the rules promulgated thereunder, 12 CFR §§ 225.1 et seq. Therefore, no Federal standards analysis is required.

Jobs Impact

The Department does not anticipate that any jobs will be generated or lost as a result of the rules proposed for re-adoption with amendments. Persons controlling New Jersey banks or New Jersey bank holding companies will use existing staff for continued compliance with the existing rules and should not have to employ professional services to meet the application, reporting, and other compliance requirements. The amendments will not require additional staff because they are technical in nature and impose no new requirements.

The Department invites commenters to submit any data or studies concerning the jobs impact of the proposed re-adoption with amendments, 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 amendments.

Regulatory Flexibility Analysis

Some persons controlling New Jersey banks or New Jersey bank holding companies may be small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments will continue to impose compliance requirements on these entities. The rules proposed for readoption with amendments will continue to regulate those persons controlling New Jersey banks or New Jersey bank holding companies and require them to file documentation and submit to examinations. The costs for compliance are set out in the Economic Impact statement. The Department believes that compliance with the rules will be handled by existing staff and no holding company will have to obtain or increase the use of professional services in order to comply with the rules proposed for readoption and amendment.

The Department believes that these requirements are generally mandated pursuant to the applicable statutes. Moreover, the Department does not believe that these requirements are unduly burdensome. The purpose of these rules is to assure the financial integrity of New Jersey banks and New Jersey bank holding companies and in turn to protect the consumers who patronize those establishments. Thus, satisfying the purpose of these requirements is not achievable by varying the requirements based upon business size. Accordingly, no differentiation in compliance requirements based on business size is provided.

Housing Affordability Impact Analysis

The rules proposed for re-adoption with amendments will not have an impact on housing affordability in this State in that the proposed rules relate to operations and reports for bank holding companies.

Smart Growth Development Impact Analysis

The rules proposed for re-adoption with amendments will not have an impact on smart growth in this State and it is extremely unlikely 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 proposed re-adoption relates to operations and reports for bank holding companies.

Full text of the rules proposed for re-adoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:13.

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

3:13-2.3 Reporting for bank holding companies

(a) [Each] **Subject to (c) below, each** bank holding company or person that controls a New Jersey bank or a New Jersey bank holding company which is required to [file with the Federal Reserve System form FR Y-9C entitled “Consolidated Financial Statements for Bank Holding Companies with total consolidated assets of \$150,000,000 or more or with more than one subsidiary bank,” shall concurrently file a copy of its June 30 and December 31 report with the Commissioner] **furnish the Federal Reserve System with a report of financial data and**

other information shall concurrently file a copy with the Commissioner. The form of such report shall be the current form required to be filed under regulations of the Board of Governors of the Federal Reserve System.

(b) Each bank holding company or person that controls a New Jersey bank or a New Jersey bank holding company which is required to file with the Federal Reserve System form FR Y-9LP entitled "Parent Company Only Financial Statements for Bank Holding Companies with total consolidated assets of \$150,000,000 or more or with more than one subsidiary bank," shall concurrently file a copy of its June 30 and December 31 report with the Commissioner.

(c) Each bank holding company or person that controls a New Jersey bank or a New Jersey bank holding company which is required to file with the Federal Reserve System form FR Y-9SP entitled "Parent Company Only Financial Statements for One Bank Holding Companies" with total consolidated assets of \$150,000,000" shall concurrently file a copy of this report with the Commissioner.

(d) Each bank holding company or person that controls a New Jersey bank or a New Jersey bank holding company which is required to file with the Federal Reserve System form FR Y-6 entitled "Annual Report for Bank Holding Companies" shall concurrently file a copy of this report with the Commissioner. The copy of FR Y-6 filed with the Commissioner shall include the required copy of the bank holding company's annual report to shareholders or the required copy of form 10K to the Securities and Exchange Commission.

(e) Each bank holding company or person that controls a New Jersey bank or a New Jersey bank holding company which is required to file with the Federal Reserve System form FR Y-6A entitled "Bank Holding Company Report Changes in Investments or Activities" shall concurrently file a copy of this report with the Commissioner.

(f) Each bank holding company or person that controls a New Jersey bank or a New Jersey bank holding company which is required to file with the Federal Reserve System form FR Y-111 entitled “Annual Report of Selected Financial Data for Non-Bank Subsidiaries of Bank Holding Companies” shall concurrently file a copy of this report with the Commissioner.

(g) Each bank holding company or person that controls a New Jersey bank or a New Jersey bank holding company which is required to file with the Federal Reserve System form FR Y-11Q entitled “Combined Federal Statement of Non-Bank Subsidiaries of Bank Holding Companies” shall concurrently file a copy of its June 30 and December 31 report with the Commissioner.

(h) Each bank holding company or person that controls a New Jersey bank or a New Jersey bank holding company which is required to file with the Federal Reserve System form FR Y-11AS entitled “Annual Supplement to the Combined Financial Statements of Non-Bank Subsidiaries of Bank Holding Companies” shall concurrently file a copy of this report with the Commissioner.

(i) Each bank holding company or person that controls a New Jersey bank or a New Jersey bank holding company which is not required to file with the Federal Reserve System shall:]

[1. If the] **(b) Subject to (c) below, if a** bank holding company or person that controls a New Jersey bank or a New Jersey bank holding company **is not required to make any filing with the Federal Reserve System but** is required to file a form 10K **or its equivalent** with the Securities and Exchange Commission, the bank holding company **or person** shall concurrently file a copy of this report with the Commissioner[; or].

(c) The requirement to concurrently file with the Department copies of the forms filed with the Federal Reserve System or Securities and Exchange Commission as referenced in (a) and (b) above shall be deemed satisfied if the form is filed with the appropriate Federal agency and is publically available.

[2.] (d) If [the] a bank holding company or person that controls a New Jersey bank or a New Jersey bank holding company is not required to **make a filing with the Federal Reserve System or to file a form 10K or its equivalent** with the Securities and Exchange Commission, the bank holding company **or person** shall annually, on or before April 30 of each year, file with the Commissioner the following information:

Recodify existing i.-v. as **1.-5.** (No change in text.)

[vi.] **6.** A [statement of assets and liabilities] **balance sheet** of the company, **which may be the “Statement of Condition” from its Call report as defined in N.J.A.C. 3:5-2.1,** for each of the five preceding fiscal years, together with related statements of income and sources and applications of funds for each of those fiscal years.

[(j) The requirement to concurrently file copies of the Federal Reserve or 10K forms referenced in (a) through (i) above shall be deemed satisfied if the form is filed with the appropriate Federal agency and adequate provision is made for the New Jersey Department of Banking and Insurance to have access to the filing.]