

Adoptions Section

**BANKING**

**DEPARTMENT OF BANKING AND INSURANCE**

**DIVISION OF BANKING**

**Notice of Readoption**

**Conversions of Associations**

Readoption with Technical Amendments: N.J.A.C. 3:32

Authority: N.J.S.A. 17:1-8, 8.1, and 15.e; 17:12B-1 et seq.; and 17:12B-319.

Authorized By: Richard J. Badolato, Acting Commissioner, Department of Banking and Insurance.

Effective Date: May 16, 2016.

New Expiration Date: May 16, 2023.

**Take notice** that pursuant to the provisions of Executive Order 66 (1978) and N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 3:32 will expire on June 19, 2016. The rules implement the Savings and Loan Act (1963), N.J.S.A. 17:12B-1 et seq., which regulates New Jersey-chartered savings and loan associations.

Subchapter 1 requires a mutual association that seeks to convert to a capital stock association to comply with certain specified conditions and procedures. A mutual association applying for conversion must adopt a resolution to that effect, approved by a two-thirds vote of its board of directors. In addition, the conversion plan must be fair and equitable to all members and include sufficient provisions to protect the interests of the depositors of the prospective capital stock association. If the Commissioner of Banking and Insurance (Commissioner) deems

the preliminary application acceptable, he or she is required to issue a notice of “intent to approve,” subject to the affirmative vote of a majority of eligible members and compliance with applicable law.

Subchapter 1 also sets forth parameters for members’ entitlement to vote, times when special meetings may be called, the manner in which voting may take place concerning the conversion, and adoption of bylaws and the election of officers, in person or by proxy. In addition, this subchapter defines persons eligible to purchase shares of stock, the price of stock, and designates qualifications for independent persons who will establish the prices of the stock.

Subchapter 2 provides that any mutual association may apply to the Commissioner to convert to a mutual savings bank, and any capital stock association may apply to the Commissioner to convert to a capital stock savings bank. Further, it sets forth the information that must be included in such applications. This consists of the following: a certified copy of the resolution of the board of directors authorizing the conversion; a certified copy of the resolution adopted by the stockholders or members; a certificate of incorporation for the converted institution; and copies of all applications for Federal regulatory approval and all approvals required in connection with the conversion, or a statement or opinion of counsel for the association that no Federal regulatory approvals are required.

Subchapter 3 sets forth the rules pertaining to mutual State association holding companies. Such an entity is defined at N.J.A.C. 3:32-3.1 as being formed by a mutual State association pursuant to N.J.S.A. 17:12B-298 through 17:12B-318 and having its principal place of business in New Jersey. The methods that may be followed by the board of directors of an organizing mutual State association in applying to the Commissioner to form a mutual State association holding company are set forth at N.J.A.C. 3:32-3.2.

Application requirements are detailed at N.J.A.C. 3:32-3.3. Information that must be included in the application consists of the following: a description of the proposed formation of the mutual State association holding company; a certified copy of the resolution of the board of directors of the organizing mutual State association authorizing the application by a two-thirds vote of the board; a certificate of incorporation for the mutual State association holding company containing specified information; proposed by-laws of the surviving subsidiary capital stock State association and mutual State association holding company; and copies of any applications for establishment of a mutual State association holding company filed with any Federal regulator.

Criteria for approval of the application by the Commissioner are stated at N.J.A.C. 3:32-3.4. N.J.A.C. 3:32-3.5 governs the filing of certificates of incorporation for any subsidiary capital stock State association. Provisions relating to the board of directors and officers of mutual State association holding companies are set forth at N.J.A.C. 3:32-3.6 and 3.7, respectively. N.J.A.C. 3:32-3.8 provides for the division and distribution of any surplus that is deemed by the board of directors of the mutual State association holding company or the Commissioner to be in excess of the amount required for the safe and sound operation of the holding company.

The Department of Banking and Insurance has reviewed these rules and has determined that the rules require technical amendments as a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 11-203 (Dodd-Frank). Specifically, references to the Office of Thrift Supervision, which was merged into the Office of the Comptroller of the Currency (OCC), are replaced by the OCC reference.

The rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1) and N.J.A.C. 1:30-6.4(h), N.J.A.C. 3:32 is readopted and shall continue in effect for a seven-year period.

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

## SUBCHAPTER 1. CONVERSION OF A MUTUAL ASSOCIATION TO A CAPITAL STOCK ASSOCIATION

### 3:32-1.1 Authorization for conversion

An insured mutual association may convert to a capital stock association subject to the limitations and provisions of N.J.S.A. 17:12B-1 et seq., and this chapter. The association shall also be subject to the requirements [promulgated by the Office of Thrift Supervision] at 12 CFR 563b relating to conversions from mutual to stock form.

### 3:32-1.2 Application

Applications and other forms provided by the Office of [Thrift Supervision] **the Comptroller of the Currency** shall be considered as acceptable material by the Commissioner for compliance with the provisions of this chapter and N.J.S.A. 17:12B-1 et seq. Copies of all forms required to be filed with the Office of [Thrift Supervision] **the Comptroller of the Currency** should be forwarded to the Commissioner as part of the application for preliminary approval.

3:32-1.4 Meeting of members

(a) – (b) (No change.)

(c) A special meeting of the members shall be called by the board of directors, not later than 180 days following preliminary approval of the plan of conversion by both the Commissioner and the Office of [Thrift Supervision] **the Comptroller of the Currency**. The members shall consider and vote upon, either in person or by proxy, the following business:

1. – 3. (No change.)

(d) (No change.)