

- (1) Review the bank's own insurance and obtain the review coverages of the servicers;
- (2) Review service contract;
- (3) Check user's guide to ascertain it is current;
- (4) Review operational controls such as separation of duties, internal controls and level of accessibility;
- (5) Test integrity of records generated;
- (6) Review audit scope utilized by the servicer's internal auditor and/or outside accountant. In addition, third party reports and reports of regulatory agencies, if not precluded from inspection by law, should be reviewed;
- (7) Review servicer's provision for back-up processing time and management awareness of compatible servicers in the event a change in servicers is necessitated.

As amended, R.1978 d.103, eff. March 21, 1978.

See: 10 N.J.R. 54(d), 10 N.J.R. 136(b).

Amended by R.1990 d.497, effective October 15, 1990.

See: 22 N.J.R. 2205(a), 22 N.J.R. 3213(a).

Correction of word "amortization".

Amended by R.1995 d.571, effective November 6, 1995.

See: 27 N.J.R. 3254(a), 27 N.J.R. 4281(a).

Amended by R.2008 d.331, effective November 3, 2008.

See: 40 N.J.R. 3775(a), 40 N.J.R. 6437(a).

In the introductory paragraph of (a), deleted "or savings banks, as applicable," following "banks"; and in (a)26(i)(1), substituted "bank's" for "institution's".

3:7-3.10 Substitute examination

A bank that undergoes a financial statement audit and submits a copy of the report of such audit to the Department may do so in lieu of undergoing a directors' examination and submitting the report as required by N.J.A.C. 3:7-3.3 to 3.9.

New Rule. R.2008 d.331, effective November 3, 2008.

See: 40 N.J.R. 3775(a), 40 N.J.R. 6437(a).

SUBCHAPTER 4. (RESERVED)

SUBCHAPTER 5. STATEMENT OF INTEREST OF DIRECTORS OF BANKS, TRUSTEES OR MANAGERS OF SAVINGS BANKS AND STATE ASSOCIATIONS AND EXECUTIVE OFFICERS OF BANKS, SAVINGS BANKS AND STATE ASSOCIATIONS

3:7-5.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Bank" means a bank or savings bank.

"Bank holding company" is a company which controls a bank.

"Business enterprise" means a corporation, limited liability company (LLC), association, business trust, partnership, joint venture, pool, syndicate, sole proprietorship or any other form of business not specifically listed herein, whether or not such enterprise has engaged in transactions with the designated bank. The term "business enterprise" also includes any personal or family trust and any local governmental unit if, and only if, such enterprise has engaged in any transaction with the designated bank during the last year. The term "business enterprise" excludes:

1. Charitable, social, fraternal, civic or recreational associations;
2. The designated bank;
3. A corporation, partnership, or joint venture which is 50 percent or more owned by the designated bank; and
4. A bank holding company whose control of the designated bank is registered with or approved by the Board of Governors of the Federal Reserve System, pursuant to sections 3 or 5 of the Bank Holding Company Act, 12 U.S.C. 1842 or 1844, or any of such holding company's subsidiaries the control of which has been registered with or approved by the Board of Governors of the Federal Reserve pursuant to sections 3, 4, or 5 of the Bank Holding Company Act, 12 U.S.C. 1842, 1843 or 1844.
5. Any other bank holding company and any company controlled by a bank holding company.

"Business relationship" between the designated bank and the business enterprise shall include:

1. An extension of credit to the business enterprise by the designated bank, including the discounting of notes; or
2. A contract, lease or other agreement, other than a deposit relationship, between the designated bank and the business enterprise; and
3. The acquisition or sale of property, goods or services which aggregated in the past year a dollar value in excess of \$5,000.

"Commissioner" means the Commissioner of the New Jersey Department of Banking and Insurance.

"Control" and "company" have the meanings set forth in N.J.S.A. 17:9A-373(e) and (f).

"Designated bank" means the particular bank or savings bank of which a person required by this subchapter to file a statement of interest is a director or executive officer.

"Director" means a director of a bank or a trustee or manager of a savings bank.

“Executive officer” means a person who participates or has authority to participate, other than in the capacity of a director, in major policy-making functions of the bank, whether or not: the person has an official title; the title contains a designation of assistant; or the person is serving without salary or other compensation. The chairman of the board, the president, every vice president, the cashier, the secretary, the treasurer and the comptroller are considered to be executive officers, unless by resolution of the Board of Directors or by the bylaws of the bank any such executive officer is excluded from participation in major policy-making functions, other than in the capacity of a director, and the executive officer does not actually participate therein.

“Interest,” with regard to a business enterprise, means:

1. Ownership, whether legal, equitable or otherwise, of stock or other forms of legal or equitable participation in the enterprise by the reporting person and/or his or her spouse or minor children which, when aggregated, equals or exceeds either 10 percent of the enterprise’s total outstanding indicia of ownership, or, in the case of stock, 10 percent of the total outstanding shares of any class of stock;

2. Indebtedness between the reporting person and a business enterprise (aggregated among the reporting person and his or her spouse and minor children):

- i. Equal to or exceeding \$50,000 owed to the enterprise, provided said enterprise is not primarily engaged in the business of extending credit; or
- ii. Equal to or exceeding \$50,000 or five percent of the enterprise’s outstanding debt, whichever is larger, owed from the enterprise.

3. The holding by the reporting person or his or her spouse or minor child of a position in the enterprise; or

4. The possession, directly or indirectly, by the reporting person of the power to direct or cause the direction of the management or policies of the enterprise, whether through the ownership of securities, by contract, by inter-company relationships, or otherwise.

“Material change” means:

1. The acquisition or termination of an interest in a business enterprise; or
2. The creation of a business relationship between the designated bank and a business enterprise.

“Position,” with regard to a business enterprise, means an officer, director, trustee or partner. The term also includes an employee, beneficiary, participant or associate with managerial or policy-making responsibilities, or any similar office regardless of title.

“Principal officer” means a president, executive vice president, senior vice president, vice president, treasurer, secre-

tary or comptroller of a bank. Principal officer also includes any person, regardless of title, who is substantially involved in major policy making functions of the bank.

“Reporting person” means a director or executive officer who is required by this regulation to complete and file a statement of interest with the designated bank.

“State association” means a State association as defined in N.J.S.A. 17:12B-5.

“Subsidiary” means a company controlled by a bank holding company.

As amended, R.1982 d.245, eff. August 2, 1982.

Sec: 14 N.J.R. 492(a), 14 N.J.R. 834(d).

Amended definition of principal to executive officer.

Amended by R.1987 d.192 effective April 20, 1987.

Sec: 19 N.J.R. 327(a), 19 N.J.R. 632(a).

Added definitions “Bank holding company”, “Control” and “Subsidiary”.

Amended by R.1995 d.571, effective November 6, 1995.

Sec: 27 N.J.R. 3254(a), 27 N.J.R. 4281(a).

Amended by R.2000 d.481, effective December 4, 2000.

Sec: 32 N.J.R. 3385(a), 32 N.J.R. 4253(a).

Inserted definitions for “Commissioner” and “State association”.

3:7-5.2 Filing a statement of interest

(a) Every director or executive officer of a bank shall, on forms furnished by the Commissioner, complete and file a statement of interest with the designated bank within 30 days after the effective date of this regulation or within 30 days after becoming a director or executive officer of the designated bank. The statement of interest shall include the following information:

1. Name of the designated bank;
2. Name of the reporting person;
3. Title or position of the reporting person with the designated bank;
4. Name and address of the business enterprise in which the reporting person has an interest.

(b) If a business enterprise reported in accordance with (a) above has a business relationship with the designated bank or State association, then the statement of interest shall also include:

1. The position or positions held by the reporting person, his or her spouse or minor children with the business enterprise;
2. The interest in the business enterprise held by the reporting person, his or her spouse or minor children. The approximate percentage or ownership held by the reporting person, his or her spouse or minor children, and the nature of any other forms of interest or influence exercised by each;
3. A summary of the business relationship between the designated bank and the business enterprise.

(c) The reporting person shall update his or her present statement of interest or file a new statement of interest within 30 days after the occurrence of any material change.

(d) If a reporting person has no interest in a business enterprise, he or she shall complete and file a statement of interest to that effect.

As amended, R.1982 d.245, eff. August 2, 1982.
See: 14 N.J.R. 492(a), 14 N.J.R. 834(d).

Amended definition of principal to executive officer.
Amended by R.2000 d.481, effective December 4, 2000.
See: 32 N.J.R. 3385(a), 32 N.J.R. 4253(a).

In (b), inserted a reference to State associations in the introductory paragraph.

3:7-5.3 Annual review of statement of interest

Every reporting person shall review annually, within 30 days after the annual meeting, the statement of interest he or she has on file with the designated bank or State association to determine if this statement reflects his or her current status and, if so, shall indicate same. If the reporting person's current status is not reflected accurately, he or she shall update the present statement of interest or complete and file a new statement of interest.

Amended by R.2000 d.481, effective December 4, 2000.
See: 32 N.J.R. 3385(a), 32 N.J.R. 4253(a).

Inserted a reference to State associations.

3:7-5.4 Location and retention of statements of interest

(a) All statement of interest forms shall be maintained at the principal office or at such other office as may be designated by the board of directors. Statement of interest forms which have been superseded by new or corrected forms shall be retained with the new statement of interest forms for a period of two years.

(b) If any director or executive officer of a designated bank ceases to serve in that capacity, the bank shall retain for a

period of two years the current statement of interest forms on file with the designated bank.

As amended, R.1982 d.245, eff. August 2, 1982.
See: 14 N.J.R. 492(a), 14 N.J.R. 834(d).

Added statements of interest could be maintained at other offices as designated by board of directors. Also amended definition of principal to executive officer.

Amended by R.1990 d.497, effective October 15, 1990.
See: 22 N.J.R. 2205(a), 22 N.J.R. 3213(a).

Correction in (a) of word "officer" to "office".

3:7-5.5 Access to statement of interest forms

(a) Each completed and filed statement of interest form shall be maintained for review by the State and Federal bank examiners and the following persons associated with the designated bank: directors, senior loan officers, the bank's designated auditor and the bank's designated public accounting firm.

(b) Nothing contained in this regulation shall be construed to prevent a bank from adopting reasonable procedures governing the manner in which persons associated with the bank and entitled under this regulation to review statement of interest forms to obtain access to such forms or copies thereof.

(c) Nothing contained in this regulation shall be construed to prevent a bank from permitting persons, other than those required by this regulation, access to statement of interest forms.

As amended, R.1982 d.245, eff. August 2, 1982.
See: 14 N.J.R. 492(a), 14 N.J.R. 834(d).

Subsection (a) added review by State and Federal bank examiners; also added the bank's designated public accounting firm.

3:7-5.6 Confidentiality of statement of interest

Pursuant to N.J.S.A. 17:9A-264, statement of interest forms filed with a designated bank shall be confidential.