

Need for the rule: The amendments remove references to laws that have been repealed or recodified, correct typographical errors, and provide for the elimination of regulatory provisions that had expired.

- Adoption of new Supervisory Policy G1.1 (Schedule of Addresses).

Description of rule: The rule sets forth the addresses of the Department.

Legal basis for the rule: Banking Law Section 12.

Need for the rule: The rule was repealed and a new Supervisory Policy G1 was adopted in 2013.

- Amendments to Supervisory Policy G1 (Schedule of Fees and Headquarters Reference).

Description of rule: The rule sets forth the schedule of fees for the processing of applications.

Legal basis for the rule: Banking Law Section 12.

Need for the rule: The rule was repealed and a new Supervisory Policy G1 was adopted in 2013.

The following Banking rulemakings were adopted in 1998:

- Amendments to Part 6.1 of the General Regulations of the Banking Board (Additional Authority of Banks, Trust Companies, Savings Banks and Savings and Loan Associations pursuant to Banking Law Sections 14-g and 14-h: Statement of Purpose).

Description of rule: The rule sets forth the purpose of Banking Law Section 14-g as being the assurance of parity between state-chartered and national banks, and the preservation and enhancement of the state charter.

Legal basis for the rule: Banking Law Section 14-g (this section has been repealed, but Banking Law Section 12-a provides that regulations promulgated under that Section remain in effect).

Need for the rule: Part 6 was needed to allow state-chartered banks to remain competitive with their federal counterparts and to maintain the appeal of the state charter by providing parity between state banking law and regulations and those of the federal regulatory agencies.

- Amendments to Part 6.2 of the General Regulations of the Banking Board (Additional Authority of Banks, Trust Companies, Savings Banks and Savings and Loan Associations pursuant to Banking Law, Sections 14-g and 14-h: Application Procedure).

Description of rule: The rule pertains to the application procedure for any bank, trust company or other person to make a request to the Banking Board to promulgate a rule or regulation pursuant to Section 14-g.

Legal basis for the rule: Banking Law Section 14-g (although the section has been repealed, Banking Law Section 12-a provides that regulations promulgated under Section 14-g remain in effect).

Need for the rule: The Department has adopted further amendments to this rule.

- Amendments to Part 6.3 of the General Regulations of the Banking Board (Additional Authority of Banks, Trust Companies, Savings Banks and Savings and Loan Associations pursuant to Banking Law, Sections 14-g and 14-h: Additional Insurance Powers of Banks and Trust Companies).

Description of rule: The rule pertains to the additional insurance powers of banks and trust companies.

Legal basis for the rule: Banking Law Section 14-g (although the section has been repealed, Banking Law Section 12-a provides that regulations promulgated under Section 14-g remain in effect).

Need for the rule: The rule implements Part 6 by permitting state-chartered banks and trust companies to sell insurance directly from a place of 5,000 or fewer inhabitants, even though the principal office is not located in such a place.

- Adoption of new Part 6.4 to the General Regulations of the Banking Board (Additional Authority of Banks, Trust Companies, Savings Banks and Savings and Loan Associations pursuant to Banking Law, Sections 14-g and 14-h: Additional Insurance Powers of Savings Banks and Savings and Loan Associations).

Description of rule: The rule pertains to the additional insurance powers of savings banks and savings and loan associations.

Legal basis for the rule: Banking Law Section 14-h (although this section has been repealed, Banking Law Section 12-a provides that regulations promulgated under Section 14-h remain in effect).

Need for the rule: The rule implements Part 6 by permitting state-chartered savings banks and savings and loan associations to engage in the insurance business to the same extent and under the same conditions as State-chartered banks and trust companies and national banks and thus, remain competitive.

- Adoption of new Part 8.3 to the General Regulations of the Banking Board (Banking Development Districts: Criteria for Approval).

Description of rule: The rule pertains to criteria for approval for the establishment of banking development districts.

Legal basis for the rule: Banking Law Section 96-d.

Need for the rule: The rule sets forth criteria for the designation of a banking development district.

- Adoption of new Part 8.5 to the General Regulations of the Banking Board (Banking Development Districts: Optional Information that may be Included in an Application to the Superintendent for Designation of a Proposed Banking Development District).

Description of rule: The rule pertains to optional information that may be included in an application to the Superintendent for designation of a proposed banking development district.

Legal basis for the rule: Banking Law Section 96-d.

Need for the rule: The rule sets forth the optional information that may be included on an application for designation of a proposed banking development district.

- Adoption of new Part 8.6 to the General Regulations of the Banking Board (Banking Development Districts: Other Requirements).

Description of rule: The rule states that the requirements of Part 8 are in addition to the requirements of the Department of Taxation, New York State Comptroller and New York State Board of Real Property with respect to the establishment of a proposed banking development district.

Legal basis for the rule: Banking Law Section 96-d.

Need for the rule: The rule alerts those wishing to establish a banking development district that the requirements of Part 8 are in addition to the requirements established by the Department of Taxation and New York State Comptroller with respect to the deposit of public funds and the New York State Board of Real Property Services with respect to real property tax exemptions that may be available to banks within a banking development district.

- Amendments to Part 38.4 of the General Regulations of the Banking Board (Definition of Terms; Advertising; Application and Commitment Disclosures and Procedures; Improper Conduct under Article 12-D: Commitment Disclosures and Procedures).

Description of rule: The rule pertains to commitment disclosures and procedures for mortgage loans.

Legal basis for the rule: Banking Law Section 590(5-a).

Need for the rule: The rule sets forth the disclosure requirements and procedures for mortgage loans to be used by mortgage bankers and exempt organizations.

- Amendments to Part 38.5 of the General Regulations of the Banking Board (Definition of Terms; Advertising; Application and Commitment Disclosures and Procedures; Improper Conduct under Article 12-D: Prevailing Rate).

Description of rule: The rule pertains to the required disclosure and procedures for the issuance of a prevailing rate commitment by a licensee or exempt organization.

Legal basis for the rule: Banking Law Section 590(5-a).

Need for the rule: The rule sets forth the required disclosure and procedures for the issuance of a prevailing rate commitment by a licensee or exempt organization.

- Amendments to Part 38.6 of the General Regulations of the Banking Board (Definition of Terms; Advertising; Application and Commitment Disclosures and Procedures; Improper Conduct under Article 12-D: Lock-In Agreements).

Description of rule: The rule pertains to lock-in agreements (guarantee rate) used by a mortgage banker or exempt organization.

Legal basis for the rule: Banking Law Section 590(5-a).

Need for the rule: The rule sets forth the required disclosures and notices along with the procedures that a mortgage banker or exempt organization must use when offering a lock-in agreement to its customers.

- Amendments to Part 38.7 of the General Regulations of the Banking Board (Definition of Terms; Advertising; Application and Commitment Disclosures and Procedures; Improper Conduct under Article 12-D: Prohibited Conduct).

Description of rule: The rule pertains to the prohibited conduct of a mortgage broker, mortgage banker, or exempt organization.

Legal basis for the rule: Banking Law Section 590(5-a).

Need for the rule: The Department has adopted further amendments to the regulation.

- Amendments to Part 38.8 of the General Regulations of the Banking Board (Definition of Terms; Advertising; Application and Commitment Disclosures and Procedures; Improper Conduct under Article 12-D).

Description of rule: The rule pertains to administrative actions and penalties for mortgage brokers, mortgage bankers or exempt organizations for violations of Banking Law Article 12-D.

Legal basis for the rule: Banking Law Section 590(5-a).

Need for the rule: The rule sets forth the grounds for disciplinary actions and penalties that may be imposed on a mortgage broker, mortgage banker or exempt organization for violations of Banking Law Article 12-D.

- Amendments to Part 38.9 of the General Regulations of the Banking Board (Definition of Terms; Advertising; Application and Commitment Disclosures and Procedures; Improper Conduct under Article 12-D: Limitations on Excess Insurance and Required Disclosures).

Description of rule: The rule explains the limitation on excess insurance.

Legal basis for the rule: Banking Law Section 590(5-a).

Need for the rule: The rule sets forth the limitation on excess insurance that a mortgage banker or exempt organization may require of a borrower and the required disclosures that must be made to the borrower if hazard insurance is required.

- Amendments to Part 38.10 of the General Regulations of the Banking Board (Definition of Terms; Advertising; Application and Commitment Disclosures and Procedures; Improper Conduct under Article 12-D: Notification Requirements).

Description of rule: The rule pertains to required notifications in writing by every mortgage banker, mortgage broker and exempt organization.

Legal basis for the rule: Banking Law Section 590(5-a).

Need for the rule: The rule makes it a requirement that every mortgage banker, mortgage broker and exempt organization notify the Department in writing of any administrative, civil or criminal proceeding initiated by any domestic governmental department or agency, the Federal Home Loan Mortgage Corporation, or the Federal National Mortgage Agency within 20 days of its commencement, provided such proceeding pertains to residential mortgage lending.

- Amendments to Part 38.12 of the General Regulations of the Banking Board (Definition of Terms; Advertising; Application and Commitment Disclosures and Procedures; Improper Conduct under Article 12-D: Dual Agency Transaction Disclosures).

Description of rule: The rule pertains to dual agency transaction disclosures.

Legal basis for the rule: Banking Law Section 590(5-a).

Need for the rule: The rule sets forth the required disclosure where there is a dual role performed by a mortgage broker, mortgage banker or an exempt entity in those instances when the mortgage broker is also the real estate broker in the same residential real estate transaction.

- Amendments to Part 80.9 of the General Regulations of the Banking Board (Investment in Junior Lien Mortgage Loans by Commercial Banks, Savings Banks, Credit Unions, Mortgage Bankers and Savings and Loan Associations: Prohibited Clauses).

Description of rule: The rule pertains to the prohibited clauses in a contract, note or instrument evidencing or securing a junior mortgage loan.

Legal basis for the rule: Banking Law Sections 14(1), 103(4-a), 235(6-a), 380(4-a), 454(11) and 590-a.

Need for the rule: The rule sets forth the specifics of what is prohibited in contracts, notes or instruments evidencing or securing a junior mortgage loan.

- Amendments to Part 80.10 of the General Regulations of the Banking Board (Investment in Junior Lien Mortgage Loans by Commercial Banks, Savings Banks, Credit Unions, Mortgage Bankers and Savings and Loan Associations: Revolving Credit Accounts).

Description of rule: The rule pertains to revolving credit accounts secured by a junior mortgage.

Legal basis for the rule: Banking Law Sections 14(1), 103(4-a), 235(6-a), 380(4-a), 454(11) and 590-a.

Need for the rule: The rule sets forth the disclosure requirements for revolving credit accounts secured by a junior mortgage.

- Amendments to Part 82.7 of the General Regulations of the Banking Board (Alternative Mortgage Instruments: Prepayment Penalties).

Description of rule: The rule pertains to prepayment penalties on mortgage loans.

Legal basis for the rule: Banking Law Sections 14(1), 103(4-a), 235(6-a), 380(4-a), 454(11) and 590-a.

Need for the rule: The rule sets forth the conditions for the imposition of prepayment penalties on mortgage loans.

- Amendments to Part 86.4 of the General Regulations of the Banking Board (Organization and Operation of Stock-Form Savings Banks and Savings And Loan Associations: General Provisions Relating to the Conversion (Other than a Conversion Effected Pursuant to any Contrary Provisions of Section 86.12 of this Part) of a Thrift from Mutual to Stock-form of Organization).

Description of rule: The rule pertains to the general provisions relating to the conversion (other than a conversion effected pursuant to any contrary provisions of Part 86.12) of a thrift institution from mutual to stock-form of organization.

Legal basis for the rule: Banking Law Section 14-e.

Need for the rule: The rule is needed to facilitate the conversion of mutual institutions to stock-form and to ensure that State-chartered mutual thrift institutions are not forced to convert to Federal charter to exist in stock-form.

- Amendments to Part 86.5 of the General Regulations of the Banking Board (Organization and Operation of Stock-Form Savings Banks and Savings And Loan Associations: Public Offering of Capital Stock in Connection with the Conversion of Mutual Thrift Institutions to Stock-form).

Description of rule: The rule pertains to the public offering of capital stock in connection with the conversion of mutual thrift institutions to stock-form.

Legal basis for the rule: Banking Law Section 14-e.

Need for the rule: The rule sets forth the procedure for a public offering of capital stock in connection with the conversion of mutual thrift institutions to stock-form.

- Amendments to Part 86.14 of the General Regulations of the Banking Board (Organization and Operation of Stock-Form Savings Banks and Savings and Loan Associations; Proxy Statement).

Description of rule: This rule pertains to the required contents of proxy statement when mutual thrift converts to stock-form.

Legal basis for the rule: Banking Law Section 14-e.

Need for the rule: The Department has adopted further amendments to this regulation.

Comments on Banking Rulemakings may be submitted to Christine Tomczak, Assistant Counsel – Christine.Tomczak@dfs.ny.gov; (212) 709-1642; New York State Department of Financial Services, One State Street, New York, NY 10004.

4. FINANCIAL SERVICES RULEMAKINGS

The following Financial Services rulemakings were adopted in 2020:

- Addition of new Part 3 (Public Access to Department Records) to Title 23 NYCRR, effective May 20, 2020 (State Register May 20, 2020).

Statutory Authority: Financial Services Law Sections 202 and 302; Banking Law Section 14; Insurance Law Section 301; and Public Officers Law Article 6.

The addition of Part 3 to 23 NYCRR was part of a consolidated rulemaking that also repealed Supervisory Procedure Part G 106 of 3 NYCRR and Part 241 of 11 NYCRR. The rulemaking repealed outdated Banking and Insurance regulations regarding public access to agency records and added a new

regulation to provide updated information regarding public access to records of the Department, in conformity with FOIL.

Comments on this rulemaking may be submitted to Pascale Jean-Baptiste, Principal Attorney – Pascale.JeanBaptiste@dfs.ny.gov; (212) 480-5289; New York State Department of Financial Services, One State Street, New York, NY 10004.

- Amendment to Part 500 (Certification of Compliance; Due Date) of Title 23 NYCRR, effective April 22, 2020 (State Register April 22, 2020).

Statutory Authority: Financial Services Law Sections 102, 201, 202, 301, 302, and 408.

The amendment changed the date, from February to April, by which certificates of compliance required to be submitted to the Department under Part 500 are to be received.

Comments on this rulemaking may be submitted to Eamon Rock, Deputy Superintendent of Pharmacy Benefits – Eamon.Rock@dfs.ny.gov; (518) 474-4567; New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257.

The Department proposed a second amendment to Part 500 in October 2022 that, when adopted, will help ensure that all entities regulated by DFS continue to have and maintain cybersecurity programs that meet certain minimum cybersecurity standards in order to protect consumers, continue operating in a safe and sound manner, protect the stability of our financial system, and address new and evolving cybersecurity threats with the most effective cybersecurity controls and best practices. Comments on the second amendment to Part 500 may be submitted to Joanne Berman, Counsel to the Cybersecurity Division - Joanne.Berman@dfs.ny.gov; (212) 709-1675; New York State Department of Financial Services, One State Street, New York, NY 10004.

- Addition of new Part 2 (Rules Governing the Procedures for Adjudicatory Proceedings Before the Department of Financial Services) to Title 23, effective March 25, 2020 (State Register March 25, 2020).

Statutory Authority: Financial Services Law Sections 202 and 302 and the State Administrative Procedures Act.

The addition of Part 2 to 23 NYCRR was part of a consolidated rulemaking that also repealed Supervisory Procedure Part G 111 of 3 NYCRR and Part 4 of 11 NYCRR. The rulemaking repealed the separate Banking and Insurance rules governing adjudicatory proceedings that existed before the former individual departments were consolidated into the Department and replaced those rules with a new regulation to unify the procedures for adjudicatory proceedings before the Department.

Part 2 was amended on June 22, 2022 (State Register June 22, 2022) to add section 2.19 for the conduction of hearings by videoconference. The amendment was modified to correct a technical error on July 6, 2022 (State Register July 6, 2022).

Comments on this rulemaking may be submitted to Sally Geisel, Principal Attorney – Sally.Geisel@dfs.ny.gov; (212) 480-7608; New York State Department of Financial Services, One State Street, New York, NY 10004.

- Addition of new Part 101 (Banking Division Assessments) to Title 23, effective February 12, 2020 (State Register February 12, 2020).

Statutory Authority: Banking Law Sections 10, 11, and 14 and Financial Services Law Sections 102, 201, 202, 206, 301, and 302.

All institutions regulated by the Department’s Banking Division are subject to assessment by the Department. The regulation merely formalizes the assessment methodology used by the Department’s Banking Division. The regulation also includes an additional special assessment provision that allows certain costs of examinations to be borne by the entity examined and permits the Superintendent to exempt not-for-profit entities from assessments if the public benefit warrants an exemption.

Comments on this rulemaking may be submitted to Eamon Rock, Deputy Superintendent of Pharmacy Benefits – Eamon.Rock@dfs.ny.gov; (518) 474-4567; New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257.

The following Financial Services rulemakings were adopted in 2018:

- Addition of new Part 201 (Registration Requirements and Prohibited Practices for Credit Reporting Agencies) to Title 23 NYCRR, effective July 3, 2018 (State Register July 3, 2018).

Statutory Authority: Financial Services Law Sections 102, 201, 202, 301, 302, and 408.

The regulation was adopted to ensure that New York consumers and financial markets are adequately protected from consumer credit reporting agencies that operate in an unsound or unsafe manner. The regulation requires all consumer credit reporting agencies reporting on any consumers located in the State to register with the Superintendent, to observe certain prohibited practices, and to comply with 23 NYCRR 500 cybersecurity rules.

Comments on this rulemaking may be submitted to Eamon Rock, Deputy Superintendent of Pharmacy Benefits – Eamon.Rock@dfs.ny.gov; (518) 474-4567; New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257.

There were no new or amended Financial Services rulemakings adopted in 2013.