

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Commissioner of Banking TITLE NUMBER: 106
RULE TYPE: Interpretive; CITE AUTHORITY WV Code §31A-2-4(c)(11),
§29A-3-1 et seq., and
AMENDMENT TO AN EXISTING RULE: YES NO §31A-8C-2 & 4

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 13

TITLE OF RULE BEING PROPOSED: Interpretive Rule Defining Certain Terms
Found in Chapter 31A-8C-1, et seq, and Regulations Promulgated Thereunder.

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON December 29th AT 5:00 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

David S. Mudie
Deputy Commissioner of Banking
West Virginia Department of Banking
Suite 311A, Building #3
Capitol Complex
Charleston, WV 25305
348-2294

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

David S. Mudie

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

APPENDIX D

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Interpretive Rule Defining Certain Terms Found in Chapter 31A-8C-1 et seq. and Regulations Promulgated Thereunder.

Type of Rule: Legislative X Interpretive Procedural

Agency Commissioner of Banking Address Room 311A, Building #3
West Virginia Department of Banking Capitol Complex

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services					
Current Expense					
Repairs and Alterations	None				
Equipment					
Other					

2. Explanation of above estimates:
 No impact upon public expenditures.

3. Objectives of these rules:

To clarify and define statutory terms found in Chapter 31A-8C-1 et seq. and regulations promulgated thereunder.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government. None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

Applicant banks and bank holding companies will be charged application fees set forth in Section 2 above, to cover agency examination and investigation costs.

C. Economic Impact on Citizens/Public at Large.

None

Date: November 29, 1988

Signature of Agency Head or Authorized Representative

David S. Mudie

David S. Mudie, Deputy Commissioner of Banking

DATE: November 29, 1988

TO: Secretary of State

FROM: David S. Mudie, Deputy Commissioner of Banking
West Virginia Department of Banking

~~REGULATORY~~ RULE TITLE: Interpretive Rule Defining Certain Terms Found in
INTERPRETIVE Chapter 31A-8C-1, et seq. and Regulations Promulgated Thereunder.

1. Authorizing statute(s) citation WV Code §31A-8C-2 & 4, §31A-2-4(c)(11),
and §29A-3-1 et seq.

2. a. Date filed in State Register with Notice of ~~HEARING~~:
November 29, 1988 Comment Period:

b. What other notice, including advertising, did you
give of the hearing?

None

c. Date of hearing (s): N/A

d. Attach list of persons who appeared at hearing, comments
received, amendments, reasons for amendments.

Attached NA

No comments received

e. Date you filed in State Register the agency approved
proposed Legislative Rule following public hearing:
(be exact)

 NA

f. Name and phone number of agency person to contact
for additional information:

David S. Mudie, Deputy Commissioner of Banking

West Virginia Department of Banking

348-2294

WEST VIRGINIA PROCEDURAL RULES
COMMISSIONER OF BANKING
CHAPTER 31A-8C

Title: Procedural Rules Implementing the Act Governing the
Provision of Financially-Related Services By Banks and
Bank Holding Companies

Section:

Page

1. General
2. Application
3. Filing Procedures
4. Limitation on Activities
5. Fees

WEST VIRGINIA INTERPRETIVE RULES
COMMISSIONER OF BANKING
CHAPTER 31A-8C

Title: Interpretive Rules Defining Certain Terms Found in
Chapter 31A-8C-1, et seq. and Regulations Promulgated
Thereunder.

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Title: Interpretive Rules Defining Certain Terms Found in Chapter 31A-8C-1, et seq. and Regulations Promulgated Thereunder. 2:47

SECRETARY OF STATE

For purposes of the Procedural Rules Implementing the Act Governing the Provision of Financially-Related Services by Banks and Bank Holding Companies and the Financially-Related Services Act, Chapter 31A-8C-1 et seq., the terms set forth below shall be defined as follows:

1. "Financially-Related" means:

(a) All products, services and activities offered or engaged in by national banks or by any West Virginia state or federally chartered thrift institution or credit union; except those excluded by subsection (f) of this section;

(b) Equity investments in real estate development activities, products and services;

(c) Securities underwriting and brokerage activities, products and services; except those excluded by subsection (f) of this section;

(d) Financial consulting activities, products and services;

(e) Any and all other activities, products and services engaged in or offered by other providers of financial products or services which may be deemed by the Commissioner of Banking to be financially-related; except those excluded by subsections (f) and (g) of this section;

(f) The term "financially-related" excludes products, services or activities offered or engaged in by any insurer or by any underwriter, agent, solicitor or broker of insurance, which products, services or activities are regulated by the department of insurance pursuant to chapter thirty-three of the West Virginia code except for such activities, products and services permitted, engaged in, or offered by any bank or bank holding company prior to the effective date of this article.

(g) The term "financially-related" also excludes products, services or activities offered or engaged in by any real estate agent, agency or broker, which products, services or activities are regulated by the

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state real estate commission pursuant to chapter forty-seven of the West Virginia code except for such activities, products and services permitted, engaged in or offered by any bank or bank holding company prior to the effective date of this article or permitted pursuant to subdivision (b) of this section.

(h) To the extent the term "financially-related" includes products, services, or activities permitted to banks and bank holding companies under other provisions of state or federal law or regulations, such activities otherwise permitted are not subject to the requirements of the Financially-Related Services Act or this regulation.

2. "Engaging in Financially-Related Activities" means the conduct of financially-related activities, as permitted by the Financially-Related Services Act or this regulation, by a bank or bank holding company (i) through equity investment in other entities; (ii) through a wholly-owned subsidiary; or (iii) through contract or agreement with others; provided, however, it does not include engaging in activities or offering products and services pursuant to other provisions of law, nor does it include activities conducted by those who are not an agent of the bank or bank holding company.

3. "Equity investment" means the acquisition by a bank or bank holding company of common stock, preferred stock, other capital stock, limited partnership interests, or any other non-debt ownership interest in an entity engaging in financially-related services, when after any such equity investment, the purchasing bank or bank holding company will own 5% or greater of the issued and outstanding voting equity of the entity.

4. "Wholly-owned subsidiary" means a subsidiary in which a bank or bank holding company owns 100% of the issued and outstanding voting equity.

5. "Bank" means a West Virginia state-chartered bank.

6. "Bank Holding Company" means a bank holding company conducting business in West Virginia directly or through one or more subsidiaries with its principal place of business in West Virginia.

7. "Commissioner" means the Commissioner of Banking or his designee.

8. "Board of Banking" means the West Virginia Board of Banking and Financial Institutions.

9. "Capital and Surplus" means the amount of common stock outstanding plus the amount of any surplus. "Surplus" as used herein means capital surplus, earned surplus, undivided profits,

allowance for possible loan losses, nonconvertible subordinated notes and nonconvertible subordinated debentures. Bank holding companies may also include outstanding perpetual preferred stock and capital instruments with covenants mandating conversion into common or perpetual preferred stock. For purposes of this definition, intangible assets must be deducted from the calculation of capital and surplus unless inclusion is specifically permitted by the Commissioner. Applicants should contact the Commissioner regarding inclusion of intangible assets.



STATE OF WEST VIRGINIA
DEPARTMENT OF BANKING
CHARLESTON 25305

November 20, 1989

The Honorable Ken Hechler
Secretary of State
Building 1, Suite 157K
Charleston, WV 25305

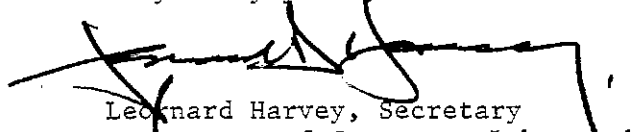
RE: Department of Banking - Emergency Rules
filed October 12, 1989

Dear Mr. Hechler:

I have reviewed the above-referenced Emergency Rules and do hereby authorize their promulgation, pursuant to Chapter 5F, Article 2, Section 2(a)(11) of the West Virginia Code of 1931, as amended.

Thank you for your attention to this matter.

Very truly yours,



Leonard Harvey, Secretary
Department of Commerce, Labor and
Environmental Resources

LH/b1