

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

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1988 NOV 29 PM 2:46

SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

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

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 14

TITLE OF RULE BEING PROPOSED: Procedural Rules Implementing the Act
Governing the Provision of Financially-Related Services by Banks and
Bank Holding Companies.

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

DATE: November 29, 1988

TO: Secretary of State

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

~~XXXXXXXXXX~~ RULE TITLE: Procedural Rules Implementing the Act Governing the
PROCEDURAL Provision of Financially-Related Services by Banks and
Bank Holding Companies

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

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

b. What other notice, including advertising, did you give of the hearing?
None

c. Date of hearing (or) 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
348-2294

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing: N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

FISCAL NOTE FOR PROPOSED RULES

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

Type of Rule: Legislative Interpretive Procedural

Agency Commissioner of Banking West Virginia Department of Banking Address Room 311A, Building #3 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					
Equipment					
Other - Examination and Investigation Fees to be charged to applicants.					

2. Explanation of above estimates:

No impact upon public expenditures.

- (a) \$1,000 to be charged to applicants seeking to engage in activities not on the Commissioner's pre-approved list.
- (b) \$1,500 to be charged to applicants seeking to engage in activities on the Commissioner's pre-approved list.

3. Objectives of these rules:

Implementation of WV Code §31A-8C-1 et seq.

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.

None

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

WEST VIRGINIA PROCEDURAL RULES
COMMISSIONER OF BANKING
WEST VIRGINIA CODE § 31A-8C-1 et seq.

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SECRETARY OF STATE

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

Section 1. General

1.1. Scope and Purpose - This regulation establishes general rules implementing Section 31A, Article 8C of the West Virginia Code, the Act governing the Provision of Financially-Related Services by Banks and Bank Holding Companies (the "Financially-Related Services Act"). This regulation applies to all bank holding companies, all state-chartered banking institutions, all domestic subsidiaries of bank holding companies, and all domestic subsidiaries of state-chartered banks operating or with application to operate in West Virginia.

The Financially-Related Services Act and this regulation permit and set the guidelines for the expansion of services and products offered through banks and bank holding companies. The purpose of the Financially-Related Services Act and this regulation is to permit banks and bank holding companies to engage in new and expanded product and service areas which are in addition to the powers permitted to banks and bank holding companies under other provisions of state and federal law. Neither the Financially-Related Services Act nor this regulation are intended to restrict or to require approval for activities permitted to banks and bank holding companies by other provisions of West Virginia or federal law.

Additionally, this regulation will outline the application procedures for banks and bank holding companies desiring to engage in new financially-related activities.

1.2. Authority - This regulation is promulgated under the authority of West Virginia Code § 31A-8C-4.

1.3. Filing Date -

1.4. Effective Date -

Section 2. Application Procedures.

2.1. Establishment of Permissible Financially-Related List of Products, Services, or Activities. From time to time, the Commissioner will designate an activity or activities as "permissible financially-related activities." Such a designation may be based upon specific statutory approval of an activity, upon repeated Board of Banking approval of applications for a particular activity or activities, or upon other bases, in the

discretion of the Commissioner. When designating a permissible financially-related activity, the Commissioner shall specifically define the activity and prepare a summary of the basis for including it upon the list of permissible financially-related activities. The summary shall be included on the docket, noticed pursuant to Section 2.6 of this regulation and presented to the Board of Banking for approval. Once approved by the Board of Banking, an activity will be added to the list of permissible financially-related activities. Once an activity is placed upon the list of permissible financially-related activities, the Board of Banking will have delegated the authority to approve such activities to the Commissioner. An applicant seeking to engage in an activity on the approved list need only address safety and soundness concerns. If engaging in an activity on the approved list is consistent with the safety and soundness of the applicant, and all legal criteria are met, the Commissioner will approve the proposal.

2.2. Application. Any bank or bank holding company desiring to engage in financially-related activities, as defined in this regulation (and which are not otherwise permitted by other law or regulation), must submit an application to the Commissioner on a form prescribed by the Commissioner ("Application"). Upon the filing of a complete Application, the Commissioner shall notify the applicant in writing, within 10 days of the receipt of the Application that the Application has been accepted for filing. If an application is incomplete, the Commissioner shall so advise the applicant in writing within 10 days after receipt of the Application. The applicant will have 15 days from the date of the correspondence stating that an Application is incomplete to supply the required items, unless additional time is provided by the Commissioner. In the event an applicant fails to render an Application complete within the time allotted, the Commissioner will return the Application to applicant and it will be deemed to have been withdrawn.

2.3. Review of Application. The application shall be reviewed by the Commissioner for compliance with the Financially-Related Services Act and this regulation and to assure that entry into the financially-related activity is consistent with the safety and soundness of the applicant and its affiliated entities. The Commissioner shall prepare a summary of the proposed activity and present it with a recommendation to the Board of Banking at a regular or special meeting of the Board of Banking. The Board of Banking must approve the application before applicant may engage in any financially-related activity; provided however, that the failure of the Board of Banking to approve or deny any application within 120 days of the date of acceptance of an application shall be deemed to constitute approval of the application.

2.4. Expedited Review. In the event an activity proposed by an applicant is contained on the list of permissible financially-related activities, the applicant may so indicate in

the application filed. When the proposed activity is on the permissible financially-related activities list, the Applicant need only satisfy safety and soundness concerns. Upon the filing of an Expedited Application, the Commissioner shall review the application and notify the applicant as to its acceptance in accord with the procedure set forth in section 2.2 of this regulation.

2.5. Review of Expedited Application. The Expedited Application shall be reviewed by the Commissioner for compliance with the Financially-Related Services Act, this regulation, and the permissible financially-related product, services and activities list, and to assure that the proposed activity is consistent with the safety and soundness of the applicant and its affiliated entities. The Commissioner shall complete this review within 90 days from the date the Expedited Application is accepted as complete. Unless the Commissioner objects on or before the 90th day after the date the Expedited Application is accepted as complete, the applicant may commence the proposed activity.

2.6. Public Notice Procedures. The Commissioner shall send notification of each application filed, along with any designation of an activity as a "permissible financially-related activity", to all banks and others on the "official" list published by the Commissioner. Parties desiring to intervene have 10 days from the date of receipt to file a petition to intervene. Any hearing on such a petition shall be held at a time and place set by the Board of Banking. Notification of a hearing shall be provided to all parties by the Commissioner no less than 10 and no more than 30 days prior to the hearing.

2.7. Request for Declaratory Ruling. The Commissioner may, in his sole discretion, issue a declaratory ruling under West Virginia Code § 29A-4-1, et seq., upon any matter relating to application of the Financially-Related Services Act or this regulation. Any such declaratory ruling will become part of the publicly available information on file at the Department of Banking. Upon the receipt of a request for a declaratory ruling, the Commissioner shall notify the inquiring entity within 15 days as to whether a declaratory ruling will be issued. If a declaratory ruling will be issued, the Commissioner will do so within 30 days from the date it notifies the inquiring entity that an interpretation will be issued. No notice to other parties is required with regard to a request for a declaratory ruling.

Section 3. Filing Requirements.

3.1. State Application. Applicant shall submit to the Commissioner two (2) originally signed copies of the Application on a form to be generated by the Commissioner. In the event a federal application or notice containing the same information is

to be submitted, applicant may reference the appropriate provisions of the federal application or notice on the state form.

3.2. Federal Application. If the proposed activity requires the submission of an application or notice to any federal regulator, applicant shall submit two (2) copies of such application or notice to the Commissioner.

3.3. Additional Information. Applicants are strongly encouraged to arrange a pre-filing conference with the Commissioner as, depending on the proposed activity, the Commissioner may require additional information prior to the acceptance of an Application for processing.

Section 4. Limitation on Activities.

4.1. Investment Limitation - No West Virginia state-chartered banking institution or bank holding company may invest or otherwise expend in excess of ten percent (10%) in the aggregate of the amount of its capital and surplus, on a consolidated basis, in the conduct of financially-related activities.

4.2. Calculation. The aggregate calculation of the 10% limitation shall be made among all affiliated entities. By way of example, if financially-related activities are engaged in by a bank holding company and one or more of its subsidiary banks, the total investment of all entities shall not exceed 10% of their consolidated capital and surplus. For purposes of this limitation, "investment" includes resources allocated to any financially-related activity conducted through: (i) contract or agreement with others, (ii) the purchase and holding of equity interests, and (iii) the creation and operation of a subsidiary or subsidiaries.

Section 5. Fees.

5.1. Application Fee. Applicant shall submit a non-refundable application fee of \$1,000 with any Application submitted under Section 3 of this regulation. If an Application is deemed to be withdrawn under Section 2.2 because of failure to complete the Application within the time allotted and the completed Application is resubmitted within 30 days from the date of withdrawal, then the Commissioner may waive the second Application fee.

5.2. Expedited Application Fee. Applicant shall submit a non-refundable Expedited Application fee of \$500 with any Expedited Application submitted under Section 3 of this regulation. If a Expedited Application is deemed to be withdrawn under Section 2.2 because of failure to complete the Expedited Application within the time allotted and the completed Expedited

Application is resubmitted within 30 days from the date of withdrawal, then the Commissioner may waive the second Expedited Application Fee.