

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #5

Do Not Mark In this Box

FILED

1988 DEC 30 AM 9:49

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: Commissioner of Banking TITLE NUMBER: 106

CITE AUTHORITY: 31A-8C-4; 31A-2-4(c)(11)

RULE TYPE: PROCEDURAL XXX INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE _____

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES _____, NO XX

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: Series 14

TITLE OF RULE BEING ADOPTED: Implementing the Act Governing the
Provision of Financially Related Services by Banks and
Bank Holding Companies

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS January 29, 1989

David J. [Signature]
Counsel, Com. of Banking

TITLE 106
PROCEDURAL RULE
COMMISSIONER OF BANKING

SERIES 14
IMPLEMENTING THE ACT GOVERNING THE PROVISION
OF FINANCIALLY RELATED SERVICES BY BANKS AND
BANK HOLDING COMPANIES

§106-14-1. General.

1.1. Scope. -- 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. -- WV Code §31A-8C-4.
- 1.3. Filing Date. -- December 30, 1988
- 1.4. Effective Date. -- January 29, 1989

§106-14-2. 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

ten (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 ten (10) days after receipt of the Application. The applicant will have fifteen (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 one hundred twenty (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 ninety (90) days from the date the Expedited Application is accepted as complete. Unless the Commissioner objects on or before the ninetieth (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 ten (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 ten (10) and no more than thirty (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 fifteen (15) days as to whether a declaratory ruling will be issued. If a declaratory ruling will be issued, the Commissioner will do so within thirty (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.

§106-14-3. 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.

§106-14-4. 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 ten percent (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 ten percent (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 agree-

ment with others, (ii) the purchase and holding of equity interests, and (iii) the creation and operation of a subsidiary or subsidiaries.

§106-14-5. Fees.

5.1. Application fee. Applicant shall submit a non-refundable application fee of one thousand dollars (\$1,000.00) 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 thirty (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 five hundred dollars (\$500.00) 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 thirty (30) days from the date of withdrawal, then the Commissioner may waive the second Expedited Application fee.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

BARBARA STARCHER
Deputy Secretary of State

RICHARD S. STEPHENSON
Deputy Secretary of State

Telephone: (304) 345-4000
Corporations: 342-8000



STATE OF WEST VIRGINIA
SECRETARY OF STATE
Charleston 25305

WILLIAM H. HARRINGTON
Chief of Staff

RICH O. HARTMAN
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

VIRGINIA SKEEN
Special Assistant

(Plus all the volunteer
help we can get)

TO: SHARON BIAS: DEPARTMENT OF BANKING

FROM: RICH O. HARTMAN, DIR. ADMIN. LAW DIV.

DATE: JUNE 6, 1989

THE ATTACHED RULE(S) RECENTLY FILED BY YOUR AGENCY HAVE BEEN ENTERED INTO THE COMPUTER. PLEASE REVIEW AND PROOF AND RETURN WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS PLEASE SIGN THIS MEMO AND RETURN TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF YOUR RULE(S) FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES 6; 13 & 14

THE ATTACHED RULE(S) HAVE BEEN REVIEWED AND ARE CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

THE ATTACHED RULE(S) HAVE BEEN REVIEWED AND NEEDS CORRECTED. THESE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Sharon D. Bias

TITLE OF PERSON SIGNING: Director, Charters and Investigations

DATE: 6-7-89