RULE REVIEW

Banking Department

Pursuant to Section 207 of the State Administrative Procedure Act, Review of Existing Rules, the Banking Department submits the following rules that were adopted in 2001 and 2006 that the Department has reviewed and determined should be continued without modification. All Section and Part references are to the New York Code of Rules and Regulations.

2001 Rules

- New Part 6.6 of the General Regulations of the Banking Board, 3 NYCRR
  a. Description of rule: The rule permits boards of directors of well-capitalized, well-managed state-chartered banks and trust companies that have been in existence for more than five years to meet a minimum of six times per year, rather than the 10 times per year required by Banking law Section 7010. It also eliminates the requirement for executive committee meetings during periods when the board does not meet.
  b. Legal basis for rule: Banking Law Section 14-g (subsequently repealed, but see Banking Law Section 12-a(9)).
  c. Need for rule: Provides parity with federally chartered banks and trust companies.
  d. Assessment of Public Comment: No comments were received.

2006 Rules

- New Part 6.8 and amendments to Part 32 of the General Regulations of the Banking Board, 3 NYCRR
  a. Description of rule: New Part 6.8 authorizes state-chartered banks and thrift institutions to charge a daily overdraft or bounce protection fee on checks, other payment orders or electronic transactions for which there are insufficient funds. The amendments to Part 32 clarify that different charges may be imposed based on the type of account and the action taken.
  b. Legal basis for rule: Banking Law Sections 14-g and 14-h (subsequently repealed, but see Banking Law Section 12-a(9)).
  c. Need for rule: Provides parity with federally chartered banks and thrift institutions.
  d. Assessment of Public Comment: No comments were received.
- Amendments to Part 6.8 of the General Regulations of the Banking Board
  a. Description of rule: Requires specific actions be taken in complying with the account holder notice requirements contained in the federal guidelines on overdraft protection programs.
  b. Legal basis for rule: Banking Law Sections 14-g and 14-h (subsequently repealed, but see Banking law Section 12-a(9)).
  c. Need for rule: Ensures that consumers whose accounts are covered by the newly permissible bounce protection charges are promptly and clearly notified of that fact.
  d. Assessment of Public Comment: No comments were received.
- New Part 31.13 of the General Regulations of the Banking Board, 3 NYCRR
  a. Description of rule: Permits banks and trust companies to invest in the common stock of Atlantic Central Bankers Bank, subject to certain limits.
  b. Legal basis for rule: Banking Law Sections 14(1)(d) and 97(5).
  c. Need for rule: The rule eliminates the need for separate Banking Board approval of each investment in this banker's bank.
  d. Assessment of Public Comment: No comments were received.
- Amendments to Part 400.12 of the Superintendent's Regulations, 3 NYCRR
  a. Description of rule: The amendments increase the maximum fee for check cashers by an amount greater than the regional urban consumer price index adjustment.
  b. Legal basis for rule: Banking Law Sections 371 and 372.
  c. Need for rule: The annual fee rate adjustment mechanism did not adequately account for cost increases resulting from the imposition of annual general assessment charges on check cashers.
  d. Assessment of Public Comment: No comments were received.
- New Part 6.9 of the General Regulations of the Banking Board, 3 NYCRR
  a. Description of rule: Permits non-bank affiliates to be merged into banks and trust companies under certain conditions.
  b. Legal basis for rule: Banking Law Sections 10, 14 and 14-g (subsequently repealed, but see Banking Law Section 12-a (9)).
  c. Need for rule: The rule provides state chartered banks and trust companies parity with national banks.
  d. Assessment of Public Comment: No comments were received.
- New Part 404 of the Superintendent's Regulations, 3 NYCRR
  a. Description of rule: Requires increase in surety bond or deposited assets when a licensed budget planner utilizes a third party in the process of paying debtor funds to creditors.
  b. Legal basis for rule: Banking Law Article 12-C, Section 587.
  c. Need for rule: Provides protection to debtors when a licensed budget planner utilizes a third party outsourcer.

d. Assessment of Public Comment: No comments were received.

- Amendments to Part 400 of the Superintendent's Regulations, 3 NYCRR
  a. Description of rule: Amends the licensed check casher regulations to cover commercial check cashers.
  b. Legal basis for rule: Banking Law Sections 37(3), 369, 371 and 372.
  c. Need for rule: Conforms the regulation to changes in the Banking Law in relation to the cashing of checks for payees who are other than natural persons.
  d. Assessment of Public Comment: No comments were received.
- Amendments to Part 41 of the General Regulations of the Banking Board, 3 NYCRR
  a. Description of rule: The amendments conform the regulations to Section 6-l of the Banking Law regulating the making of high cost home loans.
  b. Legal basis for rule: Banking Law Sections 6-l, 14(1), 590(3), 590-a and 595-a.
  c. Need for rule: Conforms prior regulation to changes in the law and clarifies certain provisions of the new statute.
  d. Assessment of Public Comment: No comments were received.
- New Part 114 of the General Regulations of the Banking Board, 3 NYCRR
  a. Description of rule: Clarifies the Superintendent's examination, supervision and enforcement authority over financial conglomerates that include an Article XII investment company.
  b. Legal basis for rule: Banking Law Sections 14(1) and 14(1)(k), Article XII.
  c. Need for rule: Clarifies the ability of the Superintendent to carry out equivalent supervision over certain financial conglomerates under the European Union Financial Conglomerates Directive.
  d. Assessment of Public Comment: No comments were received.
- New Part 6.10 of the General Regulations of the Banking Board, 3 NYCRR
  a. Description of rule: Permits state-chartered thrift institutions to invest in public deposit bank subsidiaries to the same extent as federal thrift institutions.
  b. Legal basis for rule: Banking Law Section 14-h (subsequently repealed, but see Banking Law Section 12-a(9)).
  c. Need for rule: The rule provides parity with federally-chartered thrift institutions.
  d. Assessment of Public Comment: No comments were received.

Office of Mental Health

Pursuant to Section 207 of the State Administrative Procedure Act, notice is hereby provided of the continuation without modification of the following rule. This rule was adopted in 2006 and reviewed in 2011 by the Office of Mental Health. All rules promulgated by the Office of Mental Health in 2006 and 2001, other than the one listed below, were consensus rules; therefore, they were not subject to the five-year review. Notice that a review of this regulation would be conducted and that public comment would be accepted until March 1, 2011 was published in the State Register on January 5, 2011.

#OMH-27-05-00003-A Patient Visiting Rights. State Register Publication Date: July 6, 2005; Continued: December 28, 2005; Adopted: July 5, 2006.

Action: Amendment of section 527.2(c) of 14 NYCRR; Addition of section 527.10 to Title 14 NYCRR; Repeal of Part 21 of Title 14 NYCRR.

Justification: The Agency has determined that continuation of this regulation without modification is necessary to maintain the standards governing visiting rights of patients in facilities under the jurisdiction of the Office of Mental Health and to ensure that those standards are fully contained in 14 NYCRR Part 527.

Assessment of Public Comment: None received.