Agency
Department of Banking

Subject
Administrative Procedures

Inclusive Sections
§§ 36a-1-1—36a-1-92

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Administrative Procedures

ARTICLE 1

GENERAL

Sec. 36a-1-1. Definitions

(a) As used in sections 36a-1-1 to 36a-1-89, inclusive, of the Regulations of Connecticut State Agencies, "agency", "contested case", "final decision", "hearing officer", "intervenor", "license", "party", "person", "proposed final decision", "proposed regulation", "regulation" and "regulation-making" shall have the same meanings as set forth in section 4-166 of the Connecticut General Statutes.

(b) As used in sections 36a-1-1 to 36a-1-89, inclusive, of the Regulations of Connecticut State Agencies, unless the context otherwise requires:

(1) "Applicant" means any person who applies for any license, registration or approval pursuant to any provision of title 36a or 36b of the Connecticut General Statutes;

(2) "Commissioner" means the Banking Commissioner;

(3) "Counsel" means an attorney that has filed an appearance in accordance with section 36a-1-32 of the Regulations of Connecticut State Agencies;

(4) "Department" means the Department of Banking;

(5) "In camera inspection" means a review by the commissioner or presiding officer of records received as evidence, or a proceeding during which such records are reviewed in which unauthorized persons are not permitted to inspect, copy or otherwise learn of the contents of such records;

(6) "Petition" means a request to the commissioner to take formal action pursuant to chapter 54 of the Connecticut General Statutes, including a request for the commissioner to issue a declaratory ruling or adopt, amend or repeal a regulation, or a request to be admitted as a party or intervenor pursuant to section 4-177a of the Connecticut General Statutes;

(7) "Petitioner" means a person who has filed a petition;

(8) "Presiding officer" means the commissioner when the commissioner presides at a hearing or the hearing officer designated by the commissioner to preside at a hearing;

(9) "Representative" means a party's agent or authorized representative that has filed an appearance in accordance with section 36a-1-32 of the Regulations of Connecticut State Agencies; and

((10))

(Adopted effective August 31, 2004)

Sec. 36a-1-2. Duties and authority of the department

The commissioner is charged with administering title 36a of the Connecticut General Statutes, the "Banking Law of Connecticut", and title 36b of the Connecticut General Statutes, the "Securities and Business Investments Law of Connecticut". Pursuant to such

authority, the department is responsible for the regulation and examination of individuals and entities in the financial services industry as provided in sections 36a-1 and 36b-1 of the Connecticut General Statutes. The commissioner also has the authority to administer the laws of this state concerning rental security deposits and has responsibilities under various other laws including determining the deposit index for calculating the minimum interest rate required to be paid on certain funds.

(Adopted effective August 31, 2004)

Sec. 36a-1-3. Basic organization

The commissioner, assisted by a deputy commissioner, heads the department, which consists of the following operating divisions:

(1) The Financial Institutions Division examines and supervises Connecticut banks and state branches and state agencies established and maintained by foreign banks in Connecticut. The division analyzes and processes various applications including applications for the establishment of new banks, bank branches, mergers and consolidations, acquisitions, conversions and holding company formations. The division licenses and regulates business and industrial development corporations and certain nonbanking corporations that exercise fiduciary powers. The division also examines and supervises Connecticut credit unions and analyzes and processes applications for the organization of new credit unions, credit union branches, mergers, acquisitions, conversions and field of membership changes or expansions.

(2) The Consumer Credit Division licenses and regulates consumer collection agencies, debt adjusters, nondepository first and secondary mortgage lenders and brokers, sales finance companies, small loan companies, issuers and sellers of money orders, travelers checks and electronic payment instruments, money transmitters and check cashing services, and registers loan originators. The division also enforces the Truth-in-Lending Act and other consumer credit laws.

(3) The Securities and Business Investments Division registers securities and business opportunities that are offered for sale in Connecticut, broker-dealers, agents, investment advisers, investment adviser agents and broker-dealer and investment adviser branch offices; examines broker-dealer, investment adviser and branch office registrants; and enforces the securities, business opportunity and tender offer laws of this state.

(4) The Business Office is responsible for the department's accounting, budgeting, fiscal, payroll, purchasing, mail and financial reporting functions.

(5) The Government Relations and Consumer Affairs Division coordinates the department's legislative programs, manages media relations, helps to educate the public about financial services, receives and reviews consumer complaints concerning issues relating to banks, credit unions, consumer credit, securities and business opportunities, and serves as the department's liaison in labor relations.

(6) The Legal Division provides legal advice and related services to the commissioner and to the divisions of the department on issues that arise in regulating the banking, credit

union and securities industries as well as the consumer credit and landlord tenant areas. The division drafts, monitors and analyzes legislation; drafts regulations; analyzes legal issues pertaining to the interpretation and enforcement of statutes within the commissioner's jurisdiction and the legal sufficiency of documents filed by regulated entities; and drafts notices of hearing in contested cases and participates in administrative hearings.

(7) The Personnel Division is responsible for the department's human resources function.

(Adopted effective August 31, 2004)

Sec. 36a-1-4. Location of office, contact information and business hours

The department is located at 260 Constitution Plaza, Hartford, Connecticut 06103-1800. The department shall provide notice in the Connecticut Law Journal if the location of its office is changed. The general information number for the department is 860-240-8299 and the toll free number is 1-800-831-7225. The department's web site is located at http://www.state.ct.us/dob/. The business hours of the department are 8:00 a.m. to 5:00 p.m. each day except Saturdays, Sundays and holidays.

(Adopted effective August 31, 2004)

Sec. 36a-1-5. Public information

(a) The department shall make available for public inspection all public records or files maintained or kept on file by the department in accordance with the Freedom of Information Act, and shall provide copies, including certified copies, of such records and files that are not protected by law.

(b) Requests to inspect or copy public records or files of the department shall be directed to the division that administers the matter to which the request pertains. There is no prescribed form for requests to inspect or copy information. Requests shall be sufficiently specific to permit easy identification of the information requested.

(c) Upon receipt of a request for inspection or a written request for a copy of public records or files of the department, the department shall respond in accordance with law, provided the department may initially request clarification, as appropriate, or indicate that a search for responsive documents is underway. The department shall complete a search for responsive documents and shall respond as promptly as practicable, in accordance with law, taking into consideration the need to review the documents to determine whether they contain information protected by law.

(d) The department may require prepayment of the fee for copying documents in accordance with subsection (c) of section 1-212 of the Connecticut General Statutes.

(e) The fee for using a hand-held scanner to copy public records at the department pursuant to subsection (g) of section 1-212 of the Connecticut General Statutes shall be ten dollars.

(Adopted effective August 31, 2004)

Sec. 36a-1-6. Submissions and filings

(a) Applications, motions, petitions, requests for advisory opinions or interpretations and other materials submitted to the department shall be filed with the commissioner at the office of the department or with any person authorized or designated by the commissioner to receive a filing.

(b) Materials submitted to the department may be subject to disclosure to the public under the Freedom of Information Act. Persons submitting materials may request that some or all of the materials submitted be held confidential. Such materials shall be marked "confidential" and the reasons or legal authority supporting the request for confidential treatment shall be provided in a cover letter. The commissioner, in accordance with sections 1-210 and 36a-21 of the Connecticut General Statutes, shall determine whether such material will be held confidential.

(c) A filing may be made by personal delivery, first-class, registered or certified mail or any express delivery service. Where permitted by the commissioner or presiding officer, a filing may be made by facsimile or any other electronic means provided the department can print such filing. The commissioner or presiding officer may require that a signed original of any document filed by electronic means be filed with the department.

(d) All applications, petitions, correspondence, motions or other documents shall be deemed filed when received by the commissioner or any person authorized or designated by the commissioner to receive a filing.

(e) Upon the filing of any application or petition, the commissioner shall require publication or notice of such filing as may be required by law or as the commissioner may deem appropriate.

(Adopted effective August 31, 2004)

Sec. 36a-1-7. Fees, fines, civil penalties or other payments

(a) Any fee, fine, civil penalty or other payment required or authorized by law to be paid to the commissioner shall be paid by check or money order, payable to "Treasurer, State of Connecticut".

(b) Any fee for an application, license, registration, notice or other request for approval shall be paid at the time the application or request for approval is filed, unless otherwise required by law.

(Adopted effective August 31, 2004)

Sec. 36a-1-8. Advisory opinions or other legal interpretations

The commissioner or any authorized employee of the department may issue advisory opinions or other legal interpretations regarding any laws or regulations that the commissioner is charged with administering. Such opinions or interpretations may take the form of a no-action letter or confirmation of the applicability of an exclusion or exemption. Requests for written opinions or interpretations of the laws or regulations that the commissioner is charged with administering shall be in writing and shall state the facts and

questions of law that are the subject of the request. The commissioner may, in accordance with section 3-125 of the Connecticut General Statutes, submit questions of law to the Attorney General.

(Adopted effective August 31, 2004)

Sec. 36a-1-9. Construction and waiver of rules

The rules of practice shall be construed by the commissioner and the presiding officer to secure a just, speedy and efficient determination of the issues presented. Where good cause exists, the commissioner or presiding officer may permit deviation from the rules of practice, except where precluded by statute.

(Adopted effective August 31, 2004)

Sec. 36a-1-10. Computation of time

Except as otherwise provided by law, computation of any period of time referenced in the rules of practice begins with the first day following the day on which the act that triggers such period of time occurs, and ends on the last day of the period so computed. If the last day falls on a day the department is closed, the period shall run to the end of the next business day.

(Adopted effective August 31, 2004)

Sec. 36a-1-11. Extensions of time

Except as otherwise provided by law, the commissioner or presiding officer may, for good cause shown, extend any time limit prescribed or allowed by the rules of practice or by any notice or order issued in a contested case or other proceeding. The commissioner or presiding officer may grant extensions upon motion of a party or the department, after notice and opportunity to respond is afforded to all non-moving parties and the department, if the department is not the movant, or on the commissioner's or presiding officer's own motion. All motions for extensions shall be made before the expiration of the period prescribed.

(Adopted effective August 31, 2004)

Sec. 36a-1-12. Effect of filing

The filing with the commissioner or presiding officer of any application, petition, request for declaratory ruling or any other document shall not relieve any person of the obligation to comply with any statute, regulation or order of the commissioner. Acceptance of such filing by the commissioner or presiding officer shall not constitute a waiver of any failure to comply with the rules of practice. Where appropriate, the commissioner or presiding officer may require the amendment of any filing.

(Adopted effective August 31, 2004)

Sec. 36a-1-13. Service

(a) Service of all documents by the commissioner or presiding officer pursuant to the

rules of practice shall be by personal service, first-class, registered or certified mail, any express delivery service, facsimile or by any other electronic means, except as otherwise provided by law. The commissioner or presiding officer may make service to the address last known to the commissioner.

(b) A copy of any document served by the commissioner or presiding officer showing the addresses to which the document or other paper was served shall be placed in the department's files and shall be prima facie evidence of such service and the date of such service.

(c) A party, intervenor or the department filing documents with the commissioner or presiding officer in a contested case shall serve a copy of such documents upon the counsel or representative of record for all parties or intervenors that are represented by counsel or representative, upon any party or intervenor not represented and upon counsel for the department. Certification of such service shall be endorsed on all documents when filed with the commissioner or presiding officer.

(Adopted effective August 31, 2004)

Sec. 36a-1-14. Activities of former commissioners and employees

Former commissioners, deputy commissioners and employees of the department shall comply with section 1-84b of the Connecticut General Statutes regarding restrictions on activities of former public officials and employees.

(Adopted effective August 31, 2004)

Sec. 36a-1-15. Witnesses and subpoenas

The commissioner or any authorized employee of the department may at any time summon and examine under oath such witnesses and may direct the production and examination of such books, records, financial statements, vouchers, memoranda, documents, correspondence, agreements, diaries, logs, notes, ledgers, journals, visual, audio, magnetic or electronic recordings, computer printouts and software, contracts or other papers relative to the affairs of any person subject to the general supervision of the commissioner, as the commissioner finds advisable.

(Adopted effective August 31, 2004)

Sec. 36a-1-16. Rights of witnesses

(a) Any person who appears and testifies in a deposition or a contested case may be accompanied, represented and advised by counsel. The right to be accompanied, represented and advised by counsel means the right of a person testifying to have counsel present at all times while testifying and to have counsel:

(1) Advise the person before and after the conclusion of testimony;

(2) Question the person briefly at the conclusion of testimony to clarify any of the answers given; and

(3) Make summary notes during the testimony solely for the use of the person.

(b) Any person who has given or will give testimony and counsel representing the person may be excluded from a deposition during the taking of testimony of any other witness.

(c) The commissioner may take such action as the circumstances warrant against a person who engages in dilatory or obstructionist conduct during the course of a deposition, including exclusion of the offending person from participation in the deposition or contested case.

(Adopted effective August 31, 2004)

Sec. 36a-1-17to36a-1-18. Reserved

ARTICLE 2

RULES OF PRACTICE IN CONTESTED CASES

Sec. 36a-1-19. Scope

Except as otherwise required by law, the rules of practice govern practice and procedure applicable to contested cases under titles 36a and 36b and all other laws within the jurisdiction of the commissioner including:

(1) Proceedings under section 36a-24 of the Connecticut General Statutes;

(2) Civil penalty proceedings under section 36a-50 of the Connecticut General Statutes;

(3) Suspension, revocation or refusal to renew license proceedings under section 36a-51 of the Connecticut General Statutes;

(4) Cease and desist proceedings under section 36a-52 of the Connecticut General Statutes;

(5) Removal proceedings under section 36a-53 of the Connecticut General Statutes;

(6) Proceedings to organize a Connecticut bank under section 36a-70 of the Connecticut General Statutes;

(7) Hearings concerning an application by a Connecticut bank for a name change under section 36a-82 of the Connecticut General Statutes;

(8) Proceedings under subdivision (4) of subsection (d) of section 36a-684 of the Connecticut General Statutes;

(9) Denial, suspension, revocation or cancellation of registration proceedings under section 36b-15 of the Connecticut General Statutes;

(10) Stop order proceedings under section 36b-20 of the Connecticut General Statutes;

(11) Denial or revocation of exemption proceedings under section 36b-21 of the Connecticut General Statutes;

(12) Cease and desist, restitution, disgorgement and fine proceedings under section 36b-27 of the Connecticut General Statutes;

(13) Hearings concerning tender offers under section 36b-44 of the Connecticut General Statutes;

(14) Stop order proceedings under section 36b-68 of the Connecticut General Statutes; and

(15) Cease and desist and fine proceedings under section 36b-72 of the Connecticut General Statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-20. Commencement of contested case

A matter that is a contested case by operation of law commences when the agency so designates, but in no event not later than the date when the commissioner issues a notice of hearing in accordance with section 4-177 of the Connecticut General Statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-21. Notice of hearings

(a) All notices of hearing in all contested cases shall comply with the provisions of subsection (b) of section 4-177 of the Connecticut General Statutes.

(b) Unless otherwise provided by statute, notice of a hearing shall be given at least fourteen days prior to the hearing.

(c) The commissioner may issue a notification of hearing and designation of hearing officer that acknowledges receipt of a request for a hearing, designates a presiding officer and sets the date of the hearing.

(Adopted effective August 31, 2004)

Sec. 36a-1-22. Amendment of notice of hearing

The commissioner may amend the notice of hearing at any stage of the contested case prior to the close of evidence. The presiding officer shall provide parties and intervenors with notice of the amendment and shall provide them with sufficient time to prepare their case in light of the amendment. A party that has requested a hearing on the original notice need not request a hearing on the amended notice and any such hearing shall proceed on the amended notice as if it were the original notice.

(Adopted effective August 31, 2004)

Sec. 36a-1-23. Hearing location

Unless by direction of the commissioner a different place is designated, all hearings of the department shall be held at the office of the department.

(Adopted effective August 31, 2004)

Sec. 36a-1-24. Bill of particulars

Not later than seven days after a party requests a hearing in a contested case, the party may apply to the presiding officer for a bill of particulars containing a more definite and detailed statement of any facts alleged. If the presiding officer determines that a more definite and detailed statement of any facts alleged is necessary or appropriate, a bill of particulars shall be prepared as directed by the presiding officer and served on all parties

and intervenors.

(Adopted effective August 31, 2004)

Sec. 36a-1-25. Hearings

(a) A hearing shall be held in all contested cases whenever required by statute, when requested by any party that files a notice of appearance and a request for a hearing, and otherwise as the commissioner may authorize pursuant to section 36a-24 of the Connecticut General Statutes.

(b) Hearings shall be conducted in accordance with the contested case provisions of the Uniform Administrative Procedure Act, chapter 54, sections 4-177 to 4-182, inclusive, of the Connecticut General Statutes.

(c) All hearings shall be open to the public, except that the presiding officer may hold an executive session as provided in subsection (f) of section 1-225 of the Connecticut General Statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-26. Recording, broadcasting or photographing hearings

Any person may record, photograph, broadcast or record for broadcast any part of a hearing that is open to the public, in accordance with the provisions of subsection

(a) of section 1-226 of the Connecticut General Statutes, provided such person notifies the commissioner at least five days prior to the commencement of the hearing and the recording or broadcasting would not so disturb the hearing as to impair any person's ability to hear or be heard or to present evidence or argument. In order to minimize disruption of the hearing, the presiding officer may impose reasonable limits on any person engaged in recording, photographing, broadcasting or recording for broadcast. Any such recordings shall not be deemed to be an official record of the hearing.

(Adopted effective August 31, 2004)

Sec. 36a-1-27. Powers of the presiding officer

The presiding officer shall have all the powers necessary to conduct the proceeding in a fair and impartial manner and to avoid unnecessary delay. The powers of the presiding officer include, but are not limited to, the following:

(1) Administering oaths and affirmations;

(2) Issuing subpoenas as authorized by section 4-177b of the Connecticut General Statutes and section 36a-1-42 of the Regulations of Connecticut State Agencies and quashing or modifying any such subpoenas;

(3) Regulating the course of the hearing and the conduct of the parties and their counsel or representative, including the power to receive relevant, material and nonrepetitious evidence, rule upon the admissibility of evidence and offers of proof, and exclude or suspend a party's counsel or representative from the proceedings for dilatory, obstructionist, egregious, contemptuous or contumacious conduct;

(4) Scheduling and holding prehearing conferences and conferences prior to and during the course of a hearing as set forth in section 36a-1-41 of the Regulations of Connecticut State Agencies;

(5) Considering and ruling upon all procedural and other motions appropriate in a proceeding, including petitions to add a party or intervenor pursuant to section 4-177a of the Connecticut General Statutes, provided only the commissioner shall have the power to grant any motion to dismiss the matter or to decide any other motion that requires a final determination on the merits of the proceeding;

(6) Recusing for bias or conflict of interest himself or herself on a motion made by the presiding officer, a party or the department;

(7) Establishing time, place and manner limitations on the attendance of the public and the media for any public hearing;

(8) Preparing and presenting to the commissioner a proposed decision pursuant to section 4-179 of the Connecticut General Statutes; and

(9) Performing all other functions necessary and appropriate to discharge the duties of a presiding officer.

(Adopted effective August 31, 2004)

Sec. 36a-1-28. Consolidation and severance

(a) The presiding officer may, for good cause, upon the presiding officer's own motion or upon motion by a party or the department, consolidate proceedings involving related questions of law or fact.

(b) The presiding officer may, for good cause, upon the presiding officer's own motion or upon motion by a party or the department, sever the proceeding for separate resolution of the matter as to any party or issue. In determining whether to sever the proceeding, the presiding officer shall consider whether any undue prejudice or injustice that would result from not severing the proceeding outweighs the interests of judicial economy and expeditiousness in the complete and final resolution of the proceeding.

(Adopted effective August 31, 2004)

Sec. 36a-1-29. Motions

(a) (1) A motion may be made in writing or orally, unless the presiding officer directs that such motion be reduced to writing.

(2) All written motions shall state with particularity the relief sought and may be accompanied by a proposed order.

(3) No oral arguments may be held on written motions except as otherwise directed by the presiding officer. Written memoranda, briefs, affidavits or other relevant materials or documents may be filed in support of or in opposition to a motion.

(b) Motions shall be filed with the presiding officer, except that following the filing of the proposed final decision, motions shall be filed with the commissioner.

(c) (1) Not more than seven days after service of any motion, or such longer period of

time as may be permitted by the presiding officer or the commissioner for good cause, any party or the department may file a written response to a written motion.

(2) The presiding officer shall not rule on any oral or written motion before each party and the department have had an opportunity to respond.

(3) The failure of a party or the department to oppose a motion is deemed consent by that party or the department to the entry of an order granting the relief sought.

(Adopted effective August 31, 2004)

Sec. 36a-1-30. Continuances

The presiding officer may continue the hearing on the motion of the presiding officer, any party or the department on such terms as the presiding officer may require. A hearing may be continued three times prior to the commencement of a hearing. The presiding officer may grant any additional requests for a continuance for settlement purposes or in the event that the denial of a continuance request would substantially prejudice a party's or the department's case.

(Adopted effective August 31, 2004)

Sec. 36a-1-31. Failure to request or appear at a hearing

(a) When a party fails to request a hearing within the time specified in the notice, the allegations against the party may be deemed admitted. Without further proceedings or notice to the party, the commissioner shall issue a final decision in accordance with section 4-180 of the Connecticut General Statutes and section 36a-1-52 of the Regulations of Connecticut State Agencies, provided the commissioner may, if deemed necessary, receive evidence from the department, as part of the record, concerning the appropriateness of the amount of any civil penalty, fine, restitution or disgorgement sought in the notice.

(b) When a party fails to appear at a scheduled hearing, the allegations against the party may be deemed admitted. Without further proceedings or notice to the party, the presiding officer shall submit to the commissioner a proposed final decision containing the relief sought in the notice, provided the presiding officer may, if deemed necessary, receive evidence from the department, as part of the record, concerning the appropriateness of the amount of any civil penalty, fine or restitution sought in the notice. The commissioner shall issue a final decision in accordance with section 4-180 of the Connecticut General Statutes and section 36a-1-52 of the Regulations of Connecticut State Agencies.

(c) A party that failed to request or appear at a hearing may file a petition for reconsideration of a final decision pursuant to section 4-181a of the Connecticut General Statutes and section 36a-1-53 of the Regulations of Connecticut State Agencies.

(Adopted effective August 31, 2004)

Sec. 36a-1-32. Appearances and withdrawals

(a) Attorneys duly admitted to practice law in the state of Connecticut and in good standing may represent others before the department.

(b) Attorneys in good standing from other jurisdictions may request and, for good cause shown, be allowed to appear in a contested case, provided an attorney admitted to practice in Connecticut is present during the entire proceeding, signs all pleadings and other papers filed in the proceeding and agrees to take full responsibility for supervising the conduct of the attorney.

(c) An individual may appear on his or her own behalf in a contested case; a partner, member or manager of a partnership or limited liability company may appear and represent the partnership or limited liability company; and a duly authorized officer, director or employee of any agency, institution, corporation or authority may appear and represent the agency, institution, corporation or authority.

(d) Each person making an appearance before the commissioner as counsel or representative in connection with any contested case shall promptly notify the commissioner or presiding officer in writing by filing a notice of appearance at or before the time such person submits papers or otherwise appears on behalf of a party in the contested case. The notice of appearance shall include a declaration that the individual is currently qualified as provided in this section and is authorized to represent and accept service on behalf of the represented party.

(e) Any party acting pro se shall so notify the commissioner or presiding officer in writing by filing a notice of appearance with the commissioner.

(f) After a notice of appearance is filed by a party, counsel or representative, copies of all subsequent pleadings, notices, rulings or decisions shall be provided to the person named in the notice of appearance and designated to represent the department.

(g) A person that has filed a notice of appearance may withdraw the notice of appearance by filing a written notice of withdrawal with the presiding officer and by providing a copy to all parties, intervenors and the department.

(Adopted effective August 31, 2004)

Sec. 36a-1-33. Ex parte communications

(a) For purposes of this section, an "ex parte communication" means a communication prohibited by section 4-181 of the Connecticut General Statutes. "Ex parte communication" does not include inquiries about the status of a proceeding or administrative functions or procedures.

(b) If an ex parte communication occurs between the time the commissioner issues a notice of hearing and the time the final decision is issued by the commissioner, the presiding officer shall cause such written communication, or if the communication is oral, a memorandum stating the substance of the communication, to be placed on the record of the proceeding and served on all parties and the department who shall have an opportunity to promptly file a response to the written communication or memorandum with the presiding officer, and to recommend any sanctions in accordance with subsection (c) of this section that such parties or the department believe to be appropriate under the circumstances.

(c) Any party or any party's counsel or representative who makes an ex parte

communication, or who encourages or solicits another to make any such communication, may be subject to any appropriate sanction imposed by the commissioner or the presiding officer, including, but not limited to, exclusion from the proceedings and an adverse ruling on the issue which is the subject of the prohibited communication.

(Adopted effective August 31, 2004)

Sec. 36a-1-34. Record in a contested case

In a contested case, the agency shall create a record of the proceeding in accordance with subsection (d) of section 4-177 of the Connecticut General Statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-35. Requests for inspection and copying

(a) In a contested case, a party, the department or an intervenor who pursuant to section 4-177a of the Connecticut General Statutes has been granted the right to inspect and copy records by the presiding officer, may, in accordance with section 4-177c of the Connecticut General Statutes and the provisions of this section, inspect and copy records, papers and documents relevant and material to the subject matter of the proceeding, except as otherwise provided by federal law or any other provision of the Connecticut General Statutes. A request to inspect or copy records made upon or by an intervenor shall be limited as defined by the presiding officer pursuant to section 4-177a of the Connecticut General Statutes.

(b) At the earliest possible time in a contested case, a party, the department or an intervenor granted the right to inspect and copy records may serve upon any other party, intervenor or the department a request to inspect or copy designated records, papers and documents in the possession, custody or control of the requestee. A person who files a petition for intervenor or party status not more than ten calendar days prior to the commencement of a hearing and who wishes to serve a request to inspect or copy records, papers or documents shall serve the request at the same time the petition is filed.

(c) The request shall clearly designate the items to be inspected either individually or by category and shall specify a reasonable time, place and manner of making the inspection or copies.

(d) The requester shall file a notice with the presiding officer which states that the requester has served a request for inspection or copying, the name of the requestee that has been served and the date service was made.

(Adopted effective August 31, 2004)

Sec. 36a-1-36. Responses to requests for inspection and copying; objections

(a) The requestee to whom the request for inspection or copying is directed pursuant to section 36a-1-35 of the Regulations of Connecticut State Agencies shall serve a written response upon the requester not more than thirty calendar days after the filing of the notice required by subsection (d) of section 36a-1-35 of the Regulations of Connecticut State Agencies, or not more than thirty calendar days after the mailing by the presiding officer of

a notice that the requestee has been made a party or intervenor with inspection and copying rights, whichever is later, unless the requester or, upon motion, the presiding officer allows a longer time.

(b) The response shall state, with respect to each item or category, that inspection and copying will be permitted as requested, unless the request or any part of the request is objected to, in which event the reasons for objection shall be stated in the response. Objection by a requestee to certain parts of the request shall not relieve that requestee from the obligation to respond to those portions to which no objection was made within the thirty-day period.

(Adopted effective August 31, 2004)

Sec. 36a-1-37. Motions for compliance

(a) A requester serving a request for inspection and copying pursuant to section 36a-1-35 of the Regulations of Connecticut State Agencies may move for an order by the presiding officer under this section to require the production of those records, papers and documents not provided by the requestee or with respect to any disagreement over objections filed to the request.

(b) If the presiding officer orders compliance as to any part of a request for inspection and copying, compliance with the order shall be made at the time set by the presiding officer.

(Adopted effective August 31, 2004)

Sec. 36a-1-38. Rulings on motions for compliance

(a) The presiding officer shall consider the following factors in ruling on a motion for compliance with a request to inspect or copy records, papers and documents:

(1) The timeliness of the request or the motion for compliance, and whether granting the request would prejudice any party, intervenor or the department, or would interfere with the orderly conduct of the proceedings;

(2) The relevance and materiality of the requested material;

(3) The failure of the requestee to file timely and proper objections;

(4) The existence of any privilege or other bar to disclosure pursuant to federal or state law; and

(5) Any other relevant factors.

(b) The presiding officer may order an in camera inspection of a requested document if, in the presiding officer's discretion, such inspection is necessary to rule on a motion for compliance.

(Adopted effective August 31, 2004)

Sec. 36a-1-39. Failure to comply with an order on a motion for compliance

(a) If a requestee fails to comply with an order of the presiding officer requiring production of records, papers and documents, the presiding officer may make such orders as the ends of justice require. Such orders may include the following:

(1) The entry of an order that the matters relating to the records, papers or documents sought or other related facts shall be taken to be established for the purposes of the action in accordance with the claim of the requester;

(2) The entry of an order prohibiting the requestee from introducing designated matters or items into evidence;

(3) The limitation of participation by the requestee in the hearing on issues or facts relating to the records, papers or documents sought; and

(4) An adverse ruling on the issue that is the subject of the request.

(b) The presiding officer shall report to the commissioner the requestee's failure to comply with the presiding officer's order. The commissioner may deny the petition or application that is the subject of the hearing filed by the requestee or seek enforcement of the order in Superior Court pursuant to section 4-177b of the Connecticut General Statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-40. Continuing duty to disclose

(a) If after complying with any request for the inspection and copying of records, papers and documents pursuant to section 4-177c of the Connecticut General Statutes and section 36a-1-35 of the Regulations of Connecticut State Agencies, and prior to or during a hearing, a requestee discovers additional or new material or information previously requested or discovers that prior compliance was totally or partially incorrect, or though correct when made is no longer correct, the requestee shall promptly notify the requester and shall file and serve a supplemental or corrected response not more than five days after such discovery to the requester that made the initial request.

(b) A requester may file a motion for sanctions with the presiding officer if a requestee fails to comply with subsection (a) of this section. The presiding officer may issue such orders or sanctions as the ends of justice require, including those specified in subsection (a) of section 36a-1-39 of the Regulations of Connecticut State Agencies.

(Adopted effective August 31, 2004)

Sec. 36a-1-41. Conferences

(a) Prior to the hearing, the parties, the department and their counsel or representative may meet with the presiding officer, at the direction of the presiding officer or by mutual consent, in person at a specified time and place or confer with the presiding officer by telephone for the purpose of scheduling the course and conduct of the proceeding. The identification of potential witnesses, the time for and manner of inspecting and copying documents, and the exchange of any prehearing materials including witness lists, exhibits and any other materials may also be determined at the scheduling conference.

(b) The presiding officer may, in addition to the scheduling conference, upon motion by the presiding officer, any party or the department, order the parties, the department and their counsel or representative to meet with the presiding officer in person or by telephone at a prehearing conference or may recess the hearing to address any or all of the following:

(1) Simplification and clarification of the issues;

(2) Exchange of witness and exhibit lists and copies of exhibits;

(3) Stipulations, admissions of fact, and the contents, authenticity and admissibility into evidence of documents;

(4) Matters of which official notice may be taken pursuant to section 4-178 of the Connecticut General Statutes and subsection (e) of section 36a-1-46 of the Regulations of Connecticut State Agencies;

(5) Issues relating to witnesses and exhibits;

(6) Summary disposition of any and all issues;

(7) Resolution of document production issues or disputes;

(8) Amendments to pleadings; and

(9) Such other matters as may aid in the orderly disposition of the proceeding.

(c) At or within a reasonable time following the conclusion of the scheduling conference or any prehearing conference, the presiding officer may serve on each party and the department an order setting forth any agreements reached and any procedural determinations made. If the presiding officer has ordered a party to disclose all witnesses or exhibits, no witness may testify and no exhibit may be introduced at the hearing if such witness or exhibit was not disclosed pursuant to such order, unless the presiding officer allows a party or the department sufficient time to prepare in light of the undisclosed witness or exhibit.

(d) Following any discussion among the presiding officer, the parties and the department addressing any issues in a contested case that occurs during a hearing recess, the presiding officer shall place the substance of the communication on the record including any action taken and any agreements made by the parties and the department as to any matters that were discussed.

(Adopted effective August 31, 2004)

Sec. 36a-1-42. Hearing subpoenas

(a) (1) Upon application for a hearing subpoena by a pro se party or pro se intervenor showing general relevance and reasonableness of scope of the testimony or other evidence sought, the presiding officer may issue a subpoena requiring the attendance of a witness at the hearing or the production of documentary or physical evidence at such hearing. The application for the hearing subpoena may also contain a proposed subpoena specifying the attendance of a witness or the production of evidence at any designated place where the hearing is being conducted.

(2) If a pro se party applies for a hearing subpoena during a hearing, such application may be made orally on the record before the presiding officer.

(3) If the presiding officer grants an application for a hearing subpoena requested pursuant to this section, the presiding officer shall promptly issue the hearing subpoena. If the presiding officer determines that the application does not set forth a valid basis for the issuance of the subpoena, or that any of its terms are unreasonable, vague, oppressive, excessive in scope or unduly burdensome, the presiding officer may refuse to issue the

subpoena or may issue it in modified form.

(b) Any person to whom a hearing subpoena is directed may file with the presiding officer a motion to modify or quash such subpoena, accompanied by a statement of the basis for quashing or modifying the subpoena.

(c) Any motion to quash or modify a hearing subpoena shall be filed with the presiding officer prior to the time specified in the subpoena for compliance.

(d) If a subpoenaed person fails to comply with any subpoena issued pursuant to this section or any order of the presiding officer which directs compliance with all or any portion of a subpoena, the presiding officer shall report to the commissioner the failure to comply with the presiding officer's subpoena. The commissioner may seek enforcement of the subpoena in Superior Court pursuant to section 4-177b of the Connecticut General Statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-43. Conduct of hearings

(a) Hearings shall be conducted so as to provide a fair and expeditious presentation of the relevant disputed issues. The department and each party has the right to present its case or defense by oral examination and documentary evidence and to conduct such cross-examination as may be required for full disclosure of the facts.

(b) The department shall present its case-in-chief first, unless otherwise ordered by the presiding officer or expressly specified by law. The department shall be the first to present an opening statement and a closing statement, and may make a rebuttal statement after the party's closing statement or, in the case of multiple parties, after the closing statements of all parties.

(c) The commissioner or presiding officer may, at any time prior to the rendering of a final decision, reopen the hearing upon the motion of the commissioner, presiding officer, any party or the department for good cause shown. The parties, intervenors and the department shall be notified of the reopening and the hearing shall be convened not less than five days after the sending of such notice unless waived by the parties and the department.

(Adopted effective August 31, 2004)

Sec. 36a-1-44. Recording of hearings

All hearings shall be recorded either stenographically or electronically. The presiding officer shall serve notice upon the department and all parties of receipt of the certified transcript. Any party may request a copy of the transcript from the court reporter and such copy shall be made available to any party upon payment of the cost of the transcript.

(Adopted effective August 31, 2004)

Sec. 36a-1-45. Transcript corrections

The presiding officer shall have the authority to order the transcript corrected upon a motion to correct, upon stipulation of the department and the parties, or upon the presiding

officer's own motion following notice to the department and the parties. The presiding officer may call for the submission of proposed corrections and may order the corrections at appropriate times during the course of the proceedings. Corrections in the official transcript may be made only to make it conform to the evidence presented at the hearing. Transcript corrections may be incorporated into the record at any time during the hearing or after the close of evidence, but not more than ten days from the date of receipt of the transcript by the presiding officer.

(Adopted effective August 31, 2004)

Sec. 36a-1-46. Evidence

(a) The rules of evidence shall be as prescribed in section 4-178 of the Connecticut General Statutes.

(b) The presiding officer may allow witnesses to use existing or newly created charts, exhibits, calendars, calculations, outlines or other graphic material to summarize, illustrate or simplify the presentation of testimony, provided that upon request by the presiding officer, a party or the department, the witness shall provide the books, papers, documents or sources from which the information contained in such materials is derived prior to its use or admission as evidence.

(c) Formal exceptions to rulings on evidence and procedure are unnecessary. It is sufficient that a party or the department, at the time a ruling of the presiding officer is made or sought, makes known to the presiding officer the action that the party or the department desires taken or the objections to such action and the grounds for such action or objection. Failure to object to the admission of evidence or any ruling constitutes a waiver of the objection.

(d) Any offer of proof made in connection with an objection taken to a ruling of the presiding officer rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence that would be adduced by such testimony. If the excluded evidence consists of evidence in documentary or written form or refers to documents or records, a copy of such evidence shall be marked for identification and shall constitute the offer of proof.

(e) Pursuant to subdivision (6) of section 4-178 of the Connecticut General Statutes, the presiding officer may take administrative notice of judicially cognizable facts and generally recognized technical or scientific facts within the agency's specialized knowledge.

(f) The presiding officer shall afford the parties and the department an opportunity to contest the material noticed before or during the hearing.

(g) The presiding officer and the commissioner shall have the authority to employ the agency's experience, technical competence and specialized knowledge in evaluating the evidence presented at the hearing for the purpose of making findings of fact and arriving at a decision in any contested case.

(h) The parties and the department may stipulate as to any relevant matters of fact or the authentication of any relevant documents that may be entered as evidence at the

commencement of or during the hearing.

(Adopted effective August 31, 2004)

Sec. 36a-1-47. In camera inspection and nonpublic information

(a) Any party or the department may file a motion with the presiding officer requesting an in camera inspection of any document claimed to be exempt from disclosure in a contested case or confidential, and the presiding officer may order and make such an inspection to determine whether or not such document is exempt from disclosure or confidential. If an in camera inspection is ordered, the person having custody of the document claimed to be exempt or confidential shall submit a copy of the document to the presiding officer.

(b) If the presiding officer determines that a document filed in connection with a proceeding is confidential, the presiding officer may continue the hearing in executive session and shall provide adequate safeguards designed to prevent further dissemination of such document in accordance with law, including making any proper order for its protection.

(Adopted effective August 31, 2004)

Sec. 36a-1-48. Filing of additional evidence

At any stage of the hearing, the commissioner or presiding officer may call for further evidence upon any issue and require that such evidence be produced by the party or parties concerned or by the department, or may authorize any party or the department to file specific documentary evidence as part of the record, either at the hearing or within a specified time, provided every other party and the department shall be afforded a reasonable opportunity to review and rebut or object to such evidence.

(Adopted effective August 31, 2004)

Sec. 36a-1-49. Briefs

Briefs may be filed by a party or the department either before or during the course of a hearing or within such time as the commissioner or presiding officer designates. Failure to file a brief shall in no way prejudice the rights of any party or the department. The order of filing briefs or reply briefs shall be designated by the presiding officer. The presiding officer shall provide the parties and the department at least seven days to file a brief after it is requested. A party or the department may request an extension of the briefing schedule set by the presiding officer prior to the due date. Late briefs may be returned by the presiding officer to the filing party or the department.

(Adopted effective August 31, 2004)

Sec. 36a-1-50. Review by commissioner of rulings

If a hearing is held before a presiding officer other than the commissioner, a party, before rendition of the final decision, may, in accordance with section 4-178a of the Connecticut General Statutes, request a review by the commissioner of any preliminary, procedural or

evidentiary ruling made at the hearing. The commissioner may make an appropriate order, including the reconvening of the hearing.

(Adopted effective August 31, 2004)

Sec. 36a-1-51. Proposed final decision

(a) If the presiding officer has been designated by the commissioner as the hearing officer, the presiding officer shall submit to the commissioner a proposed final decision made in accordance with section 4-179 of the Connecticut General Statutes. The commissioner shall consider the proposed final decision when rendering the agency's final decision and may, if required by justice, order the taking of additional evidence on the record or preside over such a proceeding on the record.

(b) The commissioner may adopt, modify in whole or in part, or reject the proposed final decision submitted by a presiding officer.

(Adopted effective August 31, 2004)

Sec. 36a-1-52. Final decision

A final decision in a contested case shall be rendered in accordance with the provisions of section 4-180 of the Connecticut General Statutes. All decisions and orders of the commissioner concluding a contested case shall be in writing. If a final decision is adverse to a party, the decision shall include all findings of fact and conclusions of law relied upon by the commissioner in arriving at the decision, the findings of fact and conclusions of law to be separately stated. The findings of fact shall also set forth a concise and explicit statement of the underlying facts supporting the findings of fact, where appropriate.

(Adopted effective August 31, 2004)

Sec. 36a-1-53. Reconsideration

A party or the department may file a petition for reconsideration of a final decision and the commissioner may reconsider, reverse, modify or correct a final decision in accordance with section 4-181a of the Connecticut General Statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-54. Right to appeal

A person who is aggrieved by the final decision of the commissioner may seek judicial review of the decision in accordance with the provisions of section 4-183 of the Connecticut General Statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-55. Voluntary termination of proceeding

(a) Pursuant to subsection (c) of section 4-177 of the Connecticut General Statutes, unless precluded by law, any contested case may be resolved by stipulation, agreed settlement, consent order or default. Any party may, at any time in the proceeding, submit to counsel

for the department, oral or written offers or proposals for settlement of the proceeding, without prejudice to the rights of any of the parties. The presiding officer shall proceed with a hearing in a contested case unless there has been a continuance, default or a written stipulation, settlement agreement or consent order that has been executed by the commissioner and a party or, in the case of a party that is an entity such as a partnership, limited liability company, institution, corporation, agency or institution, a party's authorized representative. By submitting an offer of settlement, the party making the offer waives, subject to acceptance of the offer, (1) all hearings pursuant to the statutory provisions under which the proceeding is to be or has been instituted, (2) proceedings before and a proposed final decision by a presiding officer, (3) a final decision by the commissioner, (4) all post-hearing procedures, and (5) judicial review by any court. Any informal disposition of a contested case by the commissioner is without prejudice to the right of the commissioner to take any enforcement action against a party to enforce a stipulation, agreed settlement or consent order if the commissioner determines that a party is not fully complying with any term or condition stated in such stipulation, agreed settlement or consent order. A consent order shall contain all provisions required by law including, if applicable, subsection (f) of section 36b-27 or subsection (d) of section 36b-72 of the Connecticut General Statutes.

(b) The commissioner may withdraw an order at any time before a final decision is issued. A respondent to an order may withdraw the request for hearing at any time, an applicant may withdraw a request for hearing at any time, and a petitioner for a declaratory ruling or a regulation-making may withdraw the petition at any time. Nothing in the rules of practice shall preclude the commissioner from withdrawing an order after a proceeding has terminated.

(Adopted effective August 31, 2004)

Sec. 36a-1-56. Stays pending judicial review

(a) Unless the proceeding has been stayed by a court, if a preliminary, procedural or intermediate agency action or ruling is appealed to any court, the challenged proceeding shall continue without regard to the pendency of the appeal or collateral attack. No default or failure to act as directed in the proceeding shall be excused based on the pendency of the appeal or collateral attack.

(b) The filing of an appeal to the Superior Court of a final decision of the commissioner shall not, unless specifically ordered by the commissioner or a reviewing court, operate as a stay of any decision issued by the commissioner. The commissioner may, in the commissioner's discretion, and on such terms as the commissioner finds just, stay the effectiveness of all or any part of a decision pending a final decision on a petition for review of that decision.

(Adopted effective August 31, 2004)

Sec. 36a-1-57. Commissioner's right to conduct an examination

Nothing contained in the rules of practice limits in any manner the right of the

commissioner to conduct, or continue during the pendency of a contested case, any examination, inspection or investigation of any party.

(Adopted effective August 31, 2004)

Sec. 36a-1-58to36a-1-62. Reserved

ARTICLE 3

PETITIONS AND APPLICATIONS

Sec. 36a-1-63. General rule

Petitions and applications shall include all forms of proposals, requests, applications, notices, petitions and filings of any nature that are placed before the commissioner pursuant to law, including, but not limited to, petitions for declaratory ruling, petitions for a regulation, applications for any license or registration, and applications for establishment of branches, mergers and consolidations, acquisitions, conversions and bank holding company formations.

(Adopted effective August 31, 2004)

Sec. 36a-1-64. Form

The form to be followed in the filing of petitions and applications pursuant to the rules of practice will vary to the extent necessary to provide for the nature of the legal rights, duties or privileges involved therein. Except as otherwise provided by law or the commissioner otherwise determines, the petitions and applications shall include the following:

(1) Each petition or application shall incorporate a statement setting forth clearly and concisely the authorization or other relief sought. The statement shall cite by appropriate reference the statutory provision or other authority under which such authorization or relief is to be granted by the commissioner. In addition to the specific requirements for particular types of petitions and applications, the petition or application shall further set forth:

(A) The exact legal name of each person seeking the authorization or relief and the address or principal place of business of each such person. If any applicant or petitioner is a corporation, limited liability company, partnership, trust, association or other organized group, it shall also specify the state under the laws of which it was created or organized.

(B) The name, title, address and telephone number of the attorney or other person to whom correspondence or communications in regard to the petition or application are to be addressed. Notice, orders and other papers may be served upon the person so named and such service shall be deemed to be service upon the petitioner or applicant.

(C) A concise and explicit statement of the facts on which the commissioner is expected to rely in granting the authorization or other relief sought.

(D) An explanation of any unusual circumstances involved in the petition or application to which the commissioner will be expected to direct particular attention, including the

existence of emergency conditions or any request for the granting of interlocutory relief by way of an interim order during the pendency of the petition or application.

(2) There shall be attached to the petition or application any exhibits, sworn written testimony, data, models, illustrations or other materials that the petitioner or applicant deems necessary or desirable to support the granting of the petition or application or that any statute or regulation may require for the lawful determination of the petition or application.

(Adopted effective August 31, 2004)

Sec. 36a-1-65. Deficiencies in filing application or petition

(a) The department may reject any application or petition if it is incomplete or otherwise inadequate to permit processing or disposition of an application or petition.

(b) Any application submitted without the proper fee shall be considered incomplete and shall not be approved.

(c) Written notice by the department to any applicant that its application is incomplete or has not been made current shall stop the running of any period of time that by law begins to run when the department receives an application. Any such period of time shall begin anew when the deficiency in the application is corrected.

(d) If an application is incomplete six months after the applicant was provided written notice of the deficiency, the commissioner may notify the applicant that the application is deemed withdrawn and will no longer be processed.

(e) Nothing shall preclude the commissioner from requiring additional information from an applicant or petitioner if the application or petition is not rejected under this section.

(Adopted effective August 31, 2004)

Sec. 36a-1-66. Forms and instructions

(a) Copies of forms and instructions for the preparation of requests or applications for certain approvals, authorizations or licenses are available on the department's web site, the Connecticut Licensing Info Center web site at http://www.ct-clic.com or may be obtained upon request from the office of the commissioner.

(b) The commissioner may from time to time adopt additional forms and instructions, and alter, amend or discontinue any form or instruction.

(Adopted effective August 31, 2004)

Sec. 36a-1-67to36a-1-69. Reserved

Personal Data

(Transferred from § 36-1-48)

Sec. 36a-1-70. Personal data

(a) **Authority**

These Regulations are promulgated pursuant to the provisions of section 4-196 of the

General Statutes.

(b) **Definitions**

(1) "Department" means the Department of Banking and includes the Banking Commissioner.

(2) "Financial institutions" includes all institutions, corporations, partnerships, organizations, associations, sole proprietorships, other individuals and enterprises regulated by the Department, and also includes applicants to become financial institutions.

(3) "Licensee or registrant" means any individual who, or personnel of any financial institution which, has been granted by the Department or has applied to the Department for a permit, certificate, approval, registration, license, charter or similar form of permission required by law.

(4) "Personal data" means any information, as set forth in Section 4-190 (9) of the General Statutes, and other data, as defined in subsection (7) of this section concerning any individual.

(5) "Category of personal data" means the classification of personal information set forth in the Personal Data Act, Section 4-190 (9) of the General Statutes.

(6) "Personnel of financial institutions" includes all organizers, directors, incorporators, officers and employees of financial institutions.

(7) "Other data" means any information which because of name, identifying number, mark or description can be readily associated with a particular person.

(c) **General Nature and Purpose of Personal Data Systems**

(1) Personnel Records.

(A) All personnel records are maintained and under the control of the Connecticut Department of Banking, which is located at 260 Constitution Plaza, Hartford, Connecticut.

(B) Personnel records are maintained in both automated and manual form.

(C) Personnel records are maintained for the purpose of providing a history of payroll, promotion, discipline and related personnel information concerning Department employees.

(D) Personnel records are the responsibility of the Personnel Officer, whose business address is the Connecticut Department of Banking, 260 Constitution Plaza, Hartford, Connecticut. All requests for disclosure or amendment of these records should be made to the Personnel Officer.

(E) Routine sources for information maintained in personnel records are generally the employee, previous employers of the employee, references provided by applicants for employment, the employee's supervisor, the Comptroller's Office, the Department of Administrative Services, Division of Personnel and Labor Relations and State insurance carriers.

(F) Personal data in personnel records are collected, maintained and used under authority of the State Personnel Act, Chapter 67 of the General Statutes.

(2) Records maintained in connection with licensees, registrants and personnel of financial institutions.

(A) These records are maintained at the Connecticut Department of Banking, 260

Constitution Plaza, Hartford, Connecticut.

(B) These records are maintained in both automated and manual form.

(C) As authorized by the applicable state statutes, these records are maintained for the purpose of fulfilling the Department's licensing and other regulatory responsibilities.

(D) The Director of the Securities and Business Investments Division is responsible for the records pertaining to securities registration and licensing. The Director of the Bank Examination Division is responsible for the records relating to banking institutions. The Director of the Consumer Credit Division is responsible for the records regarding mortgage lenders, consumer collection agencies, small loan companies, sales finance companies and debt adjusters. Requests for disclosure or amendment of these records should be made to the appropriate director as mentioned above. The business address for each of these Directors is the Connecticut Department of Banking, 260 Constitution Plaza, Hartford, Connecticut.

(E) Routine sources for information maintained in these records are generally the licensee, the registrant, the applicant, State Police background checks, applicable licensing authorities in other states, the State Police Bureau of Identification and employers.

(F) Personal data in these records are collected, maintained and used under authority of the General Statutes: (i) Chapters 664 to 667, inclusive (Banking Institutions); (ii) Chapters 672 to 672c, inclusive (Securities); and (iii) Chapters 668 to 669, inclusive (Consumer Credit).

(d) **Categories of Personal Data**

(1) Personnel Records.

(A) The following categories of personal data are maintained in personnel records:

(i) Educational records.

(ii) Medical or emotional condition or history.

(iii) Employment records.

(iv) Marital status.

(B) The following categories of other data may be maintained in personnel records:

(i) Addresses.

(ii) Telephone numbers.

(C) Personnel records are maintained on employees of the Department of Banking.

(2) Records maintained in connection with licensees, registrants and personnel of financial institutions.

(A) The following categories of personal data are maintained in these records:

(i) Educational records.

(ii) Medical or emotional condition or history.

(iii) Employment records.

(iv) Marital status.

(v) Financial records.

(vi) Reputation or character.

(B) The following categories of other data may be maintained in these records:

(i) Addresses.

(ii) Telephone numbers.

(iii) Complaints and/or inquiries.

(C) These records are maintained on licensees, registrants and personnel of financial institutions.

(e) **Maintenance of Personal Data—General**

(1) The Department shall maintain only such personal data as is relevant and necessary to accomplish the lawful purposes of the Department. Where the Department finds irrelevant or unnecessary public records in its possession, the Department shall dispose of the records in accordance with its records retention schedule, and with the approval of the Public Records Administrator pursuant to Section 11-8a of the General Statutes, or, if the records are not disposable under the records retention schedule, request permission from the Public Records Administrator to dispose of the records under Section 11-8a of the General Statutes.

(2) The Department will collect and maintain all records with accurateness and completeness.

(3) Insofar as it is consistent with the needs and mission of the Department, the Department, wherever practical, shall collect personal data directly from the persons to whom a record pertains.

(4) All employees who function as custodians of the Department's personal data systems or who have access thereto are to be given a copy of the provisions of Chapter 55 of the General Statutes, Section 36a-21 of the General Statutes and these regulations, and a copy of the Freedom of Information Act, Chapter 3 of the General Statutes and any other state or federal statute or regulation concerning maintenance or disclosure of personal data kept by the agency,

(5) All such departmental employees are to take reasonable precautions to protect personal data under their supervision from the danger of fire, theft, flood, natural disaster and other physical threats.

(6) The Department shall incorporate by reference the provisions of the Personal Data Act and regulations promulgated thereunder in all contracts, agreements or licenses for the operation of a personal data system or for research, evaluation and reporting of personal data for the Department or on its behalf.

(7) The Department shall have an independent obligation to insure that personal data requested from any other state agency is properly maintained.

(8) Only employees of the Department who have a specific need to review personal data records for lawful purposes of the Department will be entitled to access to such records under the Personal Data Act.

(9) The Department will keep a written up-to-date list of individuals entitled to access to each of the Department's personal data systems.

(10) The Department will insure against unnecessary duplication of personal data records. In the event it is necessary to send personal data records through interdepartment mail, such records will be sent in envelopes or boxes sealed and marked "confidential."

(11) The Department will insure that all records in manual personal data systems are kept under lock and key and, to the greatest extent practical, are kept in controlled access areas.

(f) **Maintenance of Personal Data—Automated System**

(1) To the greatest extent practical, automated equipment and records shall be located in a limited access area.

(2) To the greatest extent practical, the Department shall require visitors to such limited access area to sign a visitor's log and permit access to said area on a bona fide need-to-enter basis only.

(3) To the greatest extent practical, the Department will insure that regular access to automated equipment is limited to operations personnel.

(4) The Department shall utilize appropriate access control mechanisms to prevent disclosure of personal data to unauthorized individuals.

(g) **Maintenance of Personal Data—Disclosure**

(1) Within four business days of receipt of a written request therefor, the Department shall mail or deliver to the requesting individual a written response in plain language, informing him/her as to whether or not the Department maintains personal data on that individual, the category and location of the personal data maintained on that individual and procedures available to review the records.

(2) Except where nondisclosure is required or specifically permitted by law, the Department shall disclose to any person upon written request all personal data concerning that individual which is maintained by the Department. The procedures for disclosure shall be in accordance with Sections 1-15 through 1-21k of the General Statutes. If the personal data is maintained in coded form, the Department shall transcribe the data into a commonly understandable form before disclosure.

(3) The Department is responsible for verifying the identity of any person requesting access to his/her own personal data.

(4) The Department is responsible for ensuring that disclosure made pursuant to the Personal Data Act is conducted so as not to disclose any personal data concerning persons other than the person requesting the information.

(5) The Department may refuse to disclose to a person medical, psychiatric or psychological data on that person if the Department determines that such disclosure would be detrimental to that person.

(6) In any case where the Department refuses disclosure, it shall advise that person of his/her right to seek judicial relief pursuant to the Personal Data Act.

(7) If the Department refuses to disclose medical, psychiatric or psychological data to a person based on its determination that disclosure would be detrimental to that person and nondisclosure is not mandated by law, the Department shall, at the written request of such person, permit a qualified medical doctor to review the personal data contained in the person's record to determine if the personal data should be disclosed. If disclosure is recommended by the person's medical doctor, the Department shall disclose the personal

data to such person; if nondisclosure is recommended by such person's medical doctor, the Department shall not disclose the personal data and shall inform such person of the judicial relief provided under the Personal Data Act.

(8) The Department shall maintain a complete log of each person, individual, agency or organization who has obtained access to, or to whom disclosure has been made of, personal data under the Personal Data Act, together with the reason for each such disclosure or access. This log shall be maintained for not less than five years from the date of such disclosure or access or for the life of the personal data record, whichever is longer.

(h) **Contesting the Content of Personal Data Records**

(1) Any person who believes that the Department is maintaining inaccurate, incomplete or irrelevant personal data concerning him/her may file a written request with the Department for correction of said personal data.

(2) Within thirty days of receipt of such request, the Department shall give written notice to that person that it will make the requested correction, or if the correction is not to be made as submitted, the Department shall state the reason for its denial of such request and notify the person of his/her right to add his/her own statement to his/her personal data records.

(3) Following such denial by the Department, the person requesting such correction shall be permitted to add a statement to his or her personal data record setting forth what that person believes to be an accurate, complete and relevant version of the personal data in question. Such statements shall become a permanent part of the Department's personal data system and shall be disclosed to any individual, agency or organization to which the disputed personal data is disclosed.

(i) **Uses to be Made of the Personal Data**

(1) Employees of the Department who are assigned personnel and payroll responsibilities use the personal data contained in the Department's personnel records in processing promotions, reclassifications, transfers to another agency, retirement and other personnel actions. Supervisors use that personal data when promotion, career counseling or disciplinary action against such employee is contemplated, and for other employment related purposes.

(2) Authorized employees of the Department use records in connection with licensees, registrants and personnel of financial institutions in processing registration and license applications, processing financial institution applications, processing consumer complaints and as otherwise needed in enforcing regulations regarding those entities subject to the jurisdiction of the Department.

(3) The Department retains personnel records and records in connection with licensees, registrations and personnel of financial institutions according to schedules published by the Public Records Administrator, Connecticut State Library.

(4) When an individual is asked to supply personal data to the Department, the Department shall disclose to that individual, upon request, the name of the agency and the division within the agency which is requesting the data, the legal authority under which the

agency is empowered to collect and maintain the personal data, the individual's rights pertaining to such records under the Personal Data Act and the Department's regulations, the known consequences arising from supplying or refusing to supply the requested personal data, and the proposed use to be made of the requested personal data.

(Effective May 20, 1987; Transferred April 24, 1995; Amended January 30, 1996)

ARTICLE 4

REGULATION-MAKING

Sec. 36a-1-71. General rules

The rules of practice set forth the procedure to be followed by the commissioner in the promulgation, amendment or repeal of a regulation.

(Adopted effective August 31, 2004)

Sec. 36a-1-72. Form of petitions

(a) Any interested person may at any time petition the commissioner to adopt, amend or repeal any regulation.

(b) The petition shall conform to the rules of practice where applicable, and shall set forth clearly and concisely the text of the proposed regulation, amendment or the provisions sought to be repealed. The petition shall also state the facts and arguments that favor the action the petitioner proposes by including such data, facts and arguments either in the petition or in a brief annexed to the petition. The petition shall be signed by the petitioner and shall include the address of the petitioner and the name and address of the petitioner's attorney, if any.

(Adopted effective August 31, 2004)

Sec. 36a-1-73. Procedure after petition filed

(a) Not more than thirty days after receipt of the petition, the commissioner shall determine whether to deny the petition or to initiate regulation-making proceedings in accordance with law.

(b) If the commissioner denies the petition, the commissioner shall give the petitioner notice in writing, stating the reasons for the denial.

(Adopted effective August 31, 2004)

Sec. 36a-1-74. Notice of intent to adopt regulations

Prior to the adoption of any regulation, the commissioner shall give such notice as is required by section 4-168 of the Connecticut General Statutes or other applicable statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-75. Procedure after notice of intent to adopt regulations

(a) All interested persons may submit data, views and arguments in writing to the commissioner not more than thirty days after notice of intent to adopt the regulation has been published. Oral presentations may be allowed by the commissioner in the commissioner's discretion, but an opportunity to present oral argument shall be granted if requested by fifteen persons, by a governmental subdivision or agency or by an association having not less than fifteen members, provided notice of such request is made to the commissioner not later than fourteen days after the date of publication of the notice of intent to adopt regulations in the Connecticut Law Journal. Upon completion of the hearing, the commissioner may permit additional written material to be filed during such period as the commissioner may determine.

(b) Upon reaching a decision whether to proceed with a proposed regulation or to alter its text from that initially proposed, the commissioner shall give notice as required by subsection (d) of section 4-168 of the Connecticut General Statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-76. Availability of regulation, fiscal note and regulation-making record

(a) All the regulations and currently pending proposed regulations of the commissioner shall be available for inspection during normal business hours at the office of the department. Copies of all such regulations shall be available to any person upon request. The commissioner may charge a reasonable fee for each copy in accordance with the provisions of section 1-212 of the Connecticut General Statutes.

(b) All interested persons may inspect and copy a fiscal note prepared pursuant to subdivision (5) of section 4-168 of the Connecticut General Statutes during normal business hours at the office of the department.

(c) The official regulation-making record that is maintained by the department pursuant to section 4-168b of the Connecticut General Statutes shall be available for public inspection and copying during normal business hours at the office of the department.

(Adopted effective August 31, 2004)

Sec. 36a-1-77. Advance notice of regulation-making proceedings

(a) Any person or group may file a request with the commissioner for advance notice of regulation-making proceedings. The request shall be clearly titled "Request for Advance Notice of Regulation-Making Proceedings" and shall state in order:

(1) The name of the person or group making the request;

(2) The address of the person or group to which responses shall be mailed; and

(3) The date of the request.

(b) The commissioner shall give at least thirty days' notice of the adoption of a regulation in accordance with section 4-168 of the Connecticut General Statutes. The notice shall include:

(1) Either a statement of the terms or of the substance of the proposed regulation or

description sufficiently detailed so as to apprise persons likely to be affected by the issues and subjects involved in such proposed regulation;

(2) A statement of the purpose for which the regulation is proposed;

(3) A reference to the statutory authority for such proposed regulation; and

(4) The time, place and the manner in which interested persons may present their views on the proposed regulation, and such additional information as may be required by law.

(Adopted effective August 31, 2004)

Sec. 36a-1-78. Emergency regulations

When the commissioner finds that an imminent peril to the public health, safety or welfare so requires, the commissioner may adopt emergency regulations, in accordance with the provisions of subsection (b) of section 4-168 of the Connecticut General Statutes. If the commissioner adopts emergency regulations, the commissioner shall take appropriate measures to make the emergency regulations known in accordance with section 4-172(b) of the Connecticut General Statutes, including giving notice by mail, electronic means, publication in a newspaper or the Connecticut Law Journal.

(Adopted effective August 31, 2004)

Sec. 36a-1-79to36a-1-82. Reserved.

ARTICLE 5

DECLARATORY RULINGS

Sec. 36a-1-83. General rule

The rules of practice set forth the procedure to be followed by the commissioner in the disposition of requests for declaratory rulings as to the validity of any regulation, or the applicability to specified circumstances of any statutory provision, regulation or final decision of the commissioner on a matter within the jurisdiction of the agency in accordance with section 4-176 of the Connecticut General Statutes. A ruling of the commissioner disposing of a petition for a declaratory ruling shall have the same status as any decision or order of the commissioner in a contested case.

(Adopted effective August 31, 2004)

Sec. 36a-1-84. Form and content of petition for declaratory ruling; filing procedure

Any person may request a declaratory ruling from the commissioner with respect to the validity of any regulation or applicability to specified circumstances of any statute, regulation or final decision on a matter within the jurisdiction of the agency. Such request shall be in writing, addressed to the commissioner and filed at the office of the department. It shall give the address of the person seeking the declaratory ruling inquiring and the name and address of such person's attorney, if any. The request shall state clearly and concisely the substance and nature of the request, identify the statute, regulation or final decision

concerning which the request is made and identify the particular aspect thereof to which the request is directed. The request for a declaratory ruling shall be accompanied by a statement of any supporting data, facts and arguments that support the position of the person making the inquiry.

(Adopted effective August 31, 2004)

Sec. 36a-1-85. Notice of declaratory ruling petition or declaratory ruling proceeding

(a) Not more than thirty days after the commissioner receives a petition for declaratory ruling filed in accordance with section 36a-1-84 of the Regulations of Connecticut State Agencies, the commissioner shall give notice of the petition to (1) any person who has requested notice under section 36a-1-86 of the Regulations of Connecticut State Agencies, (2) any person who has been given status in the declaratory ruling proceeding as a party or an intervenor pursuant to section 36a-1-89 of the Regulations of Connecticut State Agencies, and (3) any person to whom notice is required by any provision of law.

(b) The commissioner may, on the commissioner's own initiative, commence a proceeding for the issuance of a declaratory ruling as provided by section 4-176 of the Connecticut General Statutes. Not less than thirty days before a hearing is held in such proceeding or, if no hearing is held, not less than thirty days before the commissioner issues the declaratory ruling, the commissioner shall give notice of the proceeding to (1) any person who has requested notice under section 36a-1-86 of the Regulations of Connecticut State Agencies and (2) any person to whom notice is required by any provision of law. Such notice shall provide information about the opportunity to file comments and to request intervenor or party status pursuant section 36a-1-88 of the Regulations of Connecticut State Agencies.

(Adopted effective August 31, 2004)

Sec. 36a-1-86. Requests for notice of declaratory ruling petitions or proceedings

Any person may request that the department provide notice of the filing of declaratory ruling petitions, or the commencement by the commissioner on the commissioner's own initiative of declaratory ruling proceedings, on a particular subject matter. A request for such notice shall be made in writing, addressed to the commissioner, filed at the office of the department, and contain a specific statement of the subject matter with which the requester is concerned. A request under this section shall be effective only for the calendar year in which it is made and shall expire on December 31 of such calendar year.

(Adopted effective August 31, 2004)

Sec. 36a-1-87. Proceedings on declaratory rulings

(a) Not more than sixty days after the commissioner receives a petition for declaratory ruling filed in accordance with section 36a-1-84 of the Regulations of Connecticut State Agencies, or issues a notice pursuant to section 36a-1-85 of the Regulations of Connecticut State Agencies that the commissioner, on the commissioner's own initiative, has commenced

a proceeding for a declaratory ruling, the commissioner shall take action in accordance with subsection (e) of section 4-176 of the Connecticut General Statutes. The commissioner's decision under such subsection, and any declaratory ruling subsequently issued, shall be delivered to (1) any person granted status as a party or intervenor under section 36a-1-89 of the Regulations of Connecticut State Agencies; (2) any person who filed comments under subsection (c) of this section; (3) the petitioner, if applicable; and (4) any other person who has filed a written request for notice of the declaratory ruling with the commissioner.

(b) The commissioner may order that a hearing be held in a declaratory ruling proceeding if the commissioner deems a hearing necessary or helpful to determine any issue concerning the request for declaratory ruling or when, in the commissioner's judgment, a hearing is otherwise appropriate. If the commissioner schedules a hearing in a declaratory ruling proceeding, the commissioner shall provide notice of the hearing pursuant to subsection (f) of section 4-176 of the Connecticut General Statutes. A hearing in a declaratory ruling proceeding shall be governed by the provisions of sections 36a-1-19 to 36a-1-62, inclusive, of the Regulations of Connecticut State Agencies.

(c) Whether or not a hearing is held in a proceeding for a declaratory ruling, any person may file written comments in connection with such proceeding. Comments shall be directed to the commissioner, signed by the commenter or by the commenter's attorney or other representative, if any, and contain the name and telephone number of the commenter and the commenter's attorney or other representative, if any. Unless the commissioner provides otherwise, comments shall be filed with the commissioner at the office of the department not more than thirty days after the commissioner has given notice pursuant to section 36a-1-85 of the Regulations of Connecticut State Agencies.

(Adopted effective August 31, 2004)

Sec. 36a-1-88. Petition for party or intervenor status in proceedings for declaratory rulings

Any person may apply to be made a party to or an intervenor in a proceeding for a declaratory ruling. Any person who proposes to be admitted as an intervenor or party in a proceeding for a declaratory ruling shall file a written petition to be so designated with the commissioner at the office of the department, and shall mail copies of the request to all parties and intervenors not later than five days before the date of the hearing of the declaratory ruling proceeding. The petition shall state:

(1) The name, address and telephone number of the person filing the petition and that of the person's authorized legal representative, if any;

(2) The manner in which the petitioner's legal rights, duties or privileges shall be specifically affected by the proceeding and any facts demonstrating that the petitioner's participation is in the interests of justice and will not impair the orderly conduct of the proceedings; and

(3) A summary of any evidence that the person making the request intends to present.

(Adopted effective August 31, 2004)

Sec. 36a-1-89. Determination of party or intervenor status

The commissioner may grant a timely petition to become a party or an intervenor if the commissioner finds that the petitioner has satisfied the standards of subsection (d) of section 4-176 of the Connecticut General Statutes. The commissioner may define an intervenor's participation in the manner set forth in subsection (d) of section 4-177a of the Connecticut General Statutes.

(Adopted effective August 31, 2004)

Sec. 36a-1-90to36a-1-92. Reserved

Agency
Department of Banking

Subject
Community Reinvestment Act Compliance, Consumer Protection Law Compliance and Community Reinvestment Plan Requirements for Certain Transaction Applications

Inclusive Sections

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Community Reinvestment Act Compliance, Consumer Protection Law Compliance and Community Reinvestment Plan Requirements for Certain Transaction Applications

Sec. 36a-34-1. Definitions

(a) As used in sections 36a-34-1 to 36a-34-3, inclusive, of the Regulations of Connecticut State Agencies:

(1) "Connecticut holding company" shall have the same meaning as set forth in section 36a-410 of the Connecticut General Statutes.

(2) "Entity" shall have the same meaning as set forth in subsection (a) of section 36a-34 of the Connecticut General Statutes.

(3) "Federal CRA" shall have the same meaning as set forth in subsection (a) of section 36a-30 of the Connecticut General Statutes.

(4) "Resulting entity" shall have the same meaning as set forth in subsection (a) of section 36a-34 of the Connecticut General Statutes.

(5) "State CRA" means sections 36a-30 to 36a-33, inclusive, of the Connecticut General Statutes.

(b) Terms used in sections 36a-34-1 to 36a-34-3, inclusive, of the Regulations of Connecticut State Agencies that are defined in section 36a-2 of the Connecticut General Statutes shall have the same meaning as set forth in section 36a-2 unless the context otherwise requires.

(Adopted effective January 29, 1999)

Sec. 36a-34-2. Submissions concerning community reinvestment act compliance, consumer protection law compliance and community reinvestment plan required in connection with applications for the establishment of branches, mergers or consolidations, the organization of holding companies and interstate banking approvals

(a) In connection with any application for an approval pursuant to section 36a-125, subsections (b), (c) and (d) of section 36a-145, section 36a-181, section 36a-411 or subdivisions (1) and (2) of subsection (a) of section 36a-412 of the Connecticut General Statutes, the applicant or applicants shall submit to the commissioner to the extent applicable, except as waived by the commissioner, the following information with respect to each entity:

(1) A copy of the entity's most recent Federal CRA performance evaluation, including the composite Federal CRA rating;

(2) Copies of any decision or order issued during the last two years by any federal financial supervisory agency concerning the entity's compliance with Federal CRA;

(3) An opinion of counsel addressing the entity's record of compliance with applicable consumer protection laws during the last two years, if requested by the commissioner in any case where the commissioner is unable to determine such record of compliance based on state or federal reports of examination prepared within the last two years and other

documentation filed by the applicant or applicants, or is not satisfied with the contents of such reports and documentation; and

(4) Copies of any administrative or judicial decision or order concerning the entity's compliance with applicable consumer protection laws.

(b) (1) (A) Except as otherwise provided in subparagraph (B) of this subdivision, if the entity, and in the case of an approval pursuant to section 36a-411 of the Connecticut General Statutes, the bank or any subsidiary bank of the Connecticut holding company, received any overall rating other than an assigned rating of "outstanding" on its most recent applicable community reinvestment performance evaluation, the applicant or applicants shall submit to the commissioner a written plan detailing the manner in which the resulting entity will provide adequate services to meet the banking needs of all community residents, including low-income residents and moderate-income residents, to the extent permitted by its charter.

(B) In any case where the resulting entity is not subject to the requirements of Federal CRA and State CRA, and the commissioner determines that such resulting entity is not authorized by its charter to provide consumer banking services, or in any case where the commissioner deems the provisions of this subsection to be inapplicable to the establishment of a limited branch pursuant to subsection (c) of section 36a-145 of the Connecticut General Statutes, the commissioner may waive the submission of a plan under this subsection. The submission of a plan shall not be required under subsection (d) of section 36a-145 of the Connecticut General Statutes, provided the commissioner may require the filing of such information in lieu of a plan as the commissioner deems appropriate.

(2) Unless clearly inapplicable, the plan shall: (A) Identify any specific unmet credit and consumer banking needs in the local community that are known to the resulting entity or the applicant or applicants, and specify how such needs will be satisfied; (B) describe the proposed distribution of banking services among branches and satellite devices located in low-income neighborhoods; (C) contain assurances that banking services will be offered on a nondiscriminatory basis; (D) demonstrate a commitment to extending credit for housing, small business and consumer purposes in low-income neighborhoods; and (E) contain any other factors required by the commissioner.

(3) The plan may consist of or incorporate any document or combination of documents that satisfy the criteria set forth in subdivision (2) of this subsection, including, but not limited to: (A) (i) The resulting entity's most recent State CRA performance evaluation or Federal CRA performance evaluation, or both, if prepared within the last two years and the resulting entity received a composite rating of "satisfactory" or higher, (ii) the resulting entity's current or proposed community reinvestment statement or policy, and (iii) written assurances of the governing board or management committee or executive officers appropriately designated by the governing board, of each applicant or the resulting entity, as applicable, that the resulting entity will continue to provide adequate services to meet the banking needs of all community residents, including low-income residents and moderate-income residents, as described in the performance evaluation or evaluations and

the community reinvestment statement or policy; or (B) if acceptable to the commissioner, the resulting entity's currently effective strategic plan, or the relevant portion thereof, prepared and approved under applicable provisions of Federal CRA and State CRA. The plan shall adequately identify the provisions contained in any such document or combination of documents that correspond to the criteria set forth in subdivision (2) of this subsection.

(4) The plan shall be certified by the secretary of each applicant as having been duly adopted by the governing board or management committee or executive officers appropriately designated by the governing board, of each applicant by vote of at least a majority of all the members thereof, provided, in the case of an application for an approval pursuant to section 36a-125 of the Connecticut General Statutes, unless otherwise required by the commissioner, the plan shall be certified by the secretaries of the constituent banks as having been duly adopted by the vote of at least a majority of the governing board or management committee or executive officers appropriately designated by the governing board, of each constituent final bank and of all the organizers of each constituent temporary bank.

(c) In connection with any plan submitted or to be submitted under subsection (b) of this section, the applicant or applicants shall file with the commissioner a preliminary draft of the legal advertisement required by subsection (b) of section 36a-34 of the Connecticut General Statutes. The applicant or applicants shall not publish such legal advertisement in accordance with subsection (b) of section 36a-34 without the prior review and verbal concurrence of the commissioner. No such legal advertisement shall be published unless the plan to which it pertains has been filed with the commissioner.

(Adopted effective January 29, 1999)

Sec. 36a-34-3. Submissions concerning community reinvestment act compliance, consumer protection law compliance and community reinvestment plan required in connection with the acquisition of beneficial ownership of voting securities of banks and holding companies

(a) In connection with any acquisition statement filed pursuant to section 36a-184 of the Connecticut General Statutes:

(1) If the acquiring person is a holding company, the acquiring person shall submit to the commissioner to the extent applicable, except as waived by the commissioner, the following information regarding the acquiring person's subsidiaries:

(A) A copy of the subsidiaries' most recent Federal CRA performance evaluation including the composite Federal CRA rating;

(B) Copies of any decision or order issued during the last two years by any federal financial supervisory agency concerning the subsidiaries' compliance with Federal CRA;

(C) An opinion of counsel addressing the subsidiaries' record of compliance with applicable consumer protection laws during the last two years, if requested by the commissioner in any case where the commissioner is unable to determine such record of compliance based on state or federal reports of examination prepared within the last two

years and other documentation filed by the acquiring person, or is not satisfied with the contents of such reports and documentation; and

(D) Copies of any administrative or judicial decision or order concerning the subsidiaries' compliance with applicable consumer protection laws.

(2) If the acquiring person is a bank or out-of-state bank, the acquiring person shall submit to the commissioner to the extent applicable, except as waived by the commissioner, the following information in addition to any information required by subdivision (1) of this subsection:

(A) A copy of the acquiring person's most recent Federal CRA performance evaluation including the composite Federal CRA rating;

(B) Copies of any decision or order issued during the last two years by any federal financial supervisory agency concerning the acquiring person's compliance with Federal CRA;

(C) An opinion of counsel addressing the acquiring person's record of compliance with applicable consumer protection laws during the last two years, if requested by the commissioner in any case where the commissioner is unable to determine such record of compliance based on state or federal reports of examination prepared within the last two years and other documentation filed by the acquiring person, or is not satisfied with the contents of such reports and documentation; and

(D) Copies of any administrative or judicial decision or order concerning the acquiring person's compliance with applicable consumer protection laws.

(b) (1) Except as otherwise provided in this subsection, if (A) the acquiring person is not a natural person or the acquiring person is a natural person who would be the beneficial owner of twenty-five per cent or more of any class of voting securities of the bank or holding company referred to in the acquisition statement, and (B) the bank or any banking subsidiary of the holding company received any overall rating other than an assigned rating of "outstanding" on its most recent applicable community reinvestment performance evaluation, the acquiring person shall submit to the commissioner a written plan detailing the manner in which such bank or such holding company's banking subsidiaries in this state will provide adequate services to meet the banking needs of all community residents, including low-income residents and moderate-income residents, to the extent permitted by its charter or their charters.

(2) Unless clearly inapplicable, the plan shall: (A) Identify any specific unmet credit and consumer banking needs in the local community that are known to such bank or banking subsidiaries or to the acquiring person, and specify how such needs will be satisfied; (B) describe the proposed distribution of banking services among branches and satellite devices located in low-income neighborhoods; (C) contain assurances that banking services will be offered on a nondiscriminatory basis; (D) demonstrate a commitment to extending credit for housing, small business and consumer purposes in low-income neighborhoods; and (E) contain any other factors required by the commissioner.

(3) The plan may consist of or incorporate any document or combination of documents

that satisfy the criteria set forth in subdivision (2) of this subsection, including, but not limited to: (A) (i) Such bank's or such banking subsidiaries' most recent State CRA performance evaluation or Federal CRA performance evaluation, or both, if prepared within the last two years and the bank or banking subsidiary received a composite rating of "satisfactory" or higher, (ii) such bank's or such banking subsidiaries' current or proposed community reinvestment statement or policy, and (iii) written assurances of the governing board or management committee or executive officers appropriately designated by the governing board, of such bank or such banking subsidiaries that such bank or banking subsidiaries will continue to provide adequate services to meet the banking needs of all community residents, including low-income residents and moderate-income residents, as described in the performance evaluation or evaluations and the community reinvestment statement or policy; or (B) if acceptable to the commissioner, such bank's or such banking subsidiaries' currently effective strategic plan, or the relevant portion thereof, prepared and approved under applicable provisions of Federal CRA and State CRA. The plan shall adequately identify the provisions contained in any such document or combination of documents that correspond to the criteria set forth in subdivision (2) of this subsection.

(4) If the acquiring person is not a natural person, the plan shall be certified by the secretary of the acquiring person as having been duly adopted by the governing board or management committee or executive officers appropriately designated by the governing board, of the acquiring person by vote of at least a majority of all the members thereof. If the acquiring person is a natural person who would be the beneficial owner of twenty-five per cent or more of any class of voting securities of the bank or holding company referred to in the acquisition statement, the plan shall be signed by the acquiring person.

(5) In connection with any plan submitted or to be submitted under this subsection, the acquiring person shall file with the commissioner a preliminary draft of the legal advertisement required by subsection (c) of section 36a-34 of the Connecticut General Statutes. The acquiring person shall not publish such legal advertisement in accordance with subsection (c) of section 36a-34 without the prior review and verbal concurrence of the commissioner. No such legal advertisement shall be published unless the plan to which it pertains has been filed with the commissioner.

(c) If the acquiring person is a natural person who would be the beneficial owner of less than twenty-five per cent of all classes of voting securities of the bank or holding company referred to in the acquisition statement and such bank or any banking subsidiary of such holding company received any overall rating other than an assigned rating of "outstanding" on its most recent applicable community reinvestment performance evaluation, in lieu of the plan required by subsection (b) of this section, the acquiring person shall submit to the commissioner a written statement expressing the commitment of the acquiring person to use the acquiring person's best efforts to cause the bank or the banking subsidiaries of the holding company referred to in the acquisition statement to provide adequate services to meet the banking needs of all community residents, including low-income residents and moderate-income residents, to the extent permitted by its charter or their charters. The

statement shall be signed by the acquiring person.

(d) (1) In any case where the bank referred to in the acquisition statement is not subject to the requirements of Federal CRA and State CRA, and the commissioner determines that such bank is not authorized by its charter to provide consumer banking services, the commissioner may waive the submission of a plan under subsection (b) of this section or the submission of a statement under subsection (c) of this section. (2) In any case where a banking subsidiary in this state of the holding company referred to in the acquisition statement is not subject to the requirements of Federal CRA and State CRA, and the commissioner determines that such banking subsidiary is not authorized by its charter to provide consumer banking services, the commissioner may waive the submission of a plan under subsection (b) of this section or the submission of a statement under subsection (c) of this section with respect to such banking subsidiary.

(Adopted effective January 29, 1999)

Agency
Department of Banking

Subject
Retention of Records by Connecticut Banks and Connecticut Credit Unions

Inclusive Sections
§§ 36a-40-1—36a-40-4

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(Transferred from § 36-2a)

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Retention of Records by Connecticut Banks and Connecticut Credit Unions

(Transferred from § 36-2a)

Sec. 36a-40-1. Definitions

As used in sections 36a-40-3 and 36a-40-4 of the Regulations of Connecticut State Agencies:

(1) "Advices" includes debit and credit advices on correspondent accounts and on all demand accounts.

(2) "Daily transactions journal" includes computer reports, machine created journals and any other transaction journal sources for all departments.

(3) "Payment record" includes all loan coupons, direct billings, and whenever applicable, paid loan ticklers.

(4) "Tellers' balance sheets" includes various tellers' functions, such as bond and food stamp tellers.

(5) "Trial balances" includes computer reports, adding machine tapes and any other trial balance sources for all departments.

(Effective August 24, 1993; ; Amended January 30, 1996)

Sec. 36a-40-2. General rules

(a) Section 36a-40-3 of The Regulations of Connecticut State Agencies lists the records that shall be retained by Connecticut banks and the length of time that each such record shall be retained. Section 36a-40-4 of the Regulations of Connecticut State Agencies lists the records that shall be retained by Connecticut credit unions and the length of time that each such record shall be retained. Unless otherwise required by sections 36a-40-3 and 36a-40-4 of the Regulations of Connecticut State Agencies, the retention period shall commence on the date of the document. Retention schedules for records which are not listed in sections 36a-40-3 and 36a-40-4 of the Regulations of Connecticut State Agencies and which are routine or internal in nature may be established by each Connecticut bank or Connecticut credit union according to experience and policy with advice of counsel and with approval by the members of the governing board properly recorded in the minute book.

(b) Unless otherwise required by this section or sections 36a-40-3 and 36a-40-4 of the Regulations of Connecticut State Agencies:

(1) All correspondence in connection with records listed for retention in sections 36a-40-3 and 36a-40-4 of the Regulations of Connecticut State Agencies shall be retained for the same length of time as the scheduled item;

(2) All other correspondence shall be treated as routine or internal records as described in subsection (a) of this section; and

(3) Any successor form to a federal or state tax form listed for retention in section 36a-40-3 or 36a-40-4 of the Regulations of Connecticut State Agencies shall be retained for the same length of time as the scheduled item.

(c) Records which are retained in accordance with sections 36a-40-3 and 36a-40-4 of

the Regulations of Connecticut State Agencies may be:

(1) Retained in their original forms; or

(2) Reproduced from the original by durable means, including, but not limited to, photographic, microphotographic, photostatic, xerographic, electronic, computerized, or mechanized process, including enlargements or reductions thereof, provided the original record is accurately reproduced in all details.

(Effective August 24, 1993; ; Amended January 30, 1996)

Sec. 36a-40-3. Connecticut banks

(a) **Administrative/Corporate - Retention Schedule**

(1) Minute books of meetings (corporators, stockholders, directors and all committees) - Permanent

(2) Bank charter or certificate of incorporation, By-laws and Amendments - Permanent

(3) Bank call reports - 7 years

(4) Directors' examination reports, including outside auditors' reports - 7 years

(5) Community Reinvestment Act compliance documentation - 3 years

(6) Earnings and dividend reports to supervising agencies - 7 years

(7) Bank building/branch offices (approval of commissioner for alterations, acquisitions and improvements and all relevant legal documents regarding same) - 25 years

(8) Blanket Bond - 6 years after expiration

(9) All other insurance coverage - 2 years after expiration

(10) Repaid notes for all types of borrowed funds - 7 years after date of repayment

(11) Charged-off asset records - 7 years

(12) Leases, agreements and contracts - 7 years after expiration

(13) Night depository agreements and contracts - 7 years after expiration

(14) Night depository logs/receipts for depositor bags - 1 year after entry or receipt

(15) All legal rulings - 7 years after expiration of resulting action

(16) All federal and state corporate tax records - 7 years

(17) All corporate income and property tax returns - 25 years

(18) All federal and state customer tax records and supporting records - 7 years

(19) Attachments and garnishments of property due customer

(A) After release by judgment or court certificate - 1 year after release

(B) After ordinary release - 7 years after release

(20) Power of Attorney - 7 years after account is closed

(21) Security ledgers (investments) - 7 years

(22) Broker-Dealer confirmations of securities transactions - 7 years

(23) Broker-Dealer account statements - 7 years

(24) Securities purchase and sale blotter - 7 years

(25) General Ledger

(A) Statement of condition (daily) - 25 years

(B) General ledger and subsidiary ledgers - 25 years

(C) All general ledger debit and credit tickets - 7 years
(26) Central Information File
(A) Address changes - 2 years
(B) CIF records - 1 year after termination of customer relationship
(C) Daily report sheets (any changes in account status) - 1 year
(27) Control and Proof
(A) Trial balances on all loan and deposit functions - 7 years
(B) All transaction journals - 7 years
(C) All new and paid-off loan reports - 2 years
(D) All delinquent loan reports - 2 years
(E) Daily reserve computations - 2 years
(F) Balance and verification of cash letters - 2 years
(G) Cash letters - 2 years
(H) Reconcilement and remittances of serviced loan reports - 2 years
(I) Automated clearinghouse, point of sale terminal, automated teller machine and other electronic fund transfer records/transactions - 2 years
(28) Purchasing Department
(A) Inventory and control records - 7 years
(B) Purchase orders - 2 years
(C) Paid bills, orders and expense vouchers - 7 years after date of payment
(29) Personnel and Pensions
(A) Employee list - 3 years
(B) Applications (not hired) - 1 year
(C) Attendance records - 7 years
(D) Employee history records - 3 years after termination
(E) Employee insurance benefit records - 3 years after termination
(F) Payroll register - 3 years
(G) All employee federal and state tax returns - 7 years
(H) Employee payroll deduction plans - 7 years
(I) Pension option forms - 6 years after expiration of option
(J) Pension plans - 7 years after expiration of plan
(K) Retirement certificates - 7 years after death of retiree
(L) Occupational illness and injury records - 5 years
(M) Pension payment register - 7 years
(N) All other employee pension documentation - 7 years
(30) Capital Stock banks
(A) Capital stock certificates (not cancelled), records and stubs - Permanent
(B) Capital stock ledger - Permanent
(C) Capital stock transfer register - Permanent
(D) Receipts of stock certificates, affixed to stub of certificate book - 7 years
(E) Proxies - 3 years

(F) Dividend checks - 7 years after date paid
(G) Dividend register - 7 years
(H) Report of lost or stolen certificates - 3 years
(I) Cancelled capital stock certificates - 7 years after cancellation
(b) **Cash - Retention Schedule**
(1) Due from banks
(A) Reconcilement of bank statements - 2 years
(B) Check register including all paid checks and drafts - 7 years after issuance of check or draft
(C) Deposit records - 7 years
(D) Signature authorizations - 7 years after termination of authorization
(E) Advices of debit/credit - 6 months
(2) Tellers
(A) Cash item record - 1 year
(B) Tellers' variation record - 1 year
(C) Tellers' balance records - 6 months
(D) Return item register - 2 years
(E) Collection items, incoming and outgoing register - 2 years
(c) **Deposit Accounts - Retention Schedule**
(1) Demand accounts
(A) Customers' statements - 7 years
(B) Deposit and withdrawal tickets - 7 years
(C) Stop payment orders and releases, lost check affidavits - 7 years
(D) Undelivered statements and cancelled checks - 7 years
(E) Unclaimed deposits - 3 years after escheated to State
(F) Checks ("on us") - 7 years after date paid
(G) Signature cards - 7 years after account is closed
(H) BAD checks and forgery data and correspondence - 7 years
(I) Advices - 6 months
(J) Overdraft reports - 2 months
(K) Unless a longer time is required by this section, records sufficient to reconstruct a demand account and either to trace a check in excess of $100 deposited in a demand account through a Connecticut bank's processing system or to describe a check in excess of $100 deposited in a demand account - 2 years
(2) Official checks and drafts
(A) Officers' checks (if paid) - 7 years after date paid
(B) Officers' check register - 7 years
(C) Certified checks - 7 years after date paid
(D) Certified check register - 7 years
(E) Drafts (if paid) - 7 years after date paid
(F) Draft register - 7 years

(3) Savings and time deposits
(A) Deposit and withdrawal tickets - 7 years
(B) Affidavit of lost passbook - 7 years
(C) Permanent dividend order - 7 years after account is closed
(D) Signature cards - 7 years after account is closed
(E) Unclaimed accounts - 3 years after escheated to State
(F) Certificates of deposit - 7 years after date paid
(G) Individual Retirement Accounts (all records) - 5 years after account is closed
(4) Club deposits
(A) Cancelled checks - 7 years after cancellation
(B) Payment record (coupons, etc.) - 2 years
(C) Check register - 7 years
(d) **Loans - Retention Schedule**
(1) All loans (to the extent applicable)
(A) Borrowing resolutions - Until loan is paid
(B) Assigned leases, agreements, contracts, deeds, security agreements, releases and other chattel and collateral documents - Until loan is paid
(C) Notes, loan agreements and other loan documents - Until loan is paid
(D) Loan applications, appraisals, credit reports, financial statements, and all other pertinent loan information
(i) For loans which are made - 25 months after loan is paid
(ii) For loan applications which have been denied - 25 months after notice of adverse action
(E) Liability ledger - 7 years after loan is transferred or paid
(F) Inactive credit records and files for paid loans - 7 years after loan is paid
(2) Mortgage Loans
(A) Construction loan record cards - 7 years after final disbursement
(B) Delinquent tax record - 7 years
(C) Foreclosed real estate documents - 7 years after disposal of property
(D) Escrow analysis - 1 year
(E) Payment record (coupons, bills, paid loan ticklers, etc.) - 2 years after respective payment
(F) All documents evidencing compliance with Truth in Lending - 2 years after date disclosures are required to be made or action is required to be taken
(3) Loans and discounts
(A) Collateral receipts (customers) - 7 years after loan is paid
(B) Collateral register or cards - 7 years after disposal of collateral
(C) Pledge agreements including letter of hypothecation - 7 years after loan is paid
(D) Other receipts for items returned to borrower - 7 years
(4) Consumer Loans
(A) Payment record (coupons, bills, paid loan ticklers, etc.) - 2 years after respective

payment

(B) Education loan disbursement book (interim loans) - 7 years after transfer

(C) Payment register - 7 years after final payment

(D) Credit Card applications/files - 2 years after account is closed

(E) Interbank credit cards

(i) Transmittal/register - 2 years

(ii) Sales drafts - 7 years

(iii) Customer's statement - 7 years

(F) All documents evidencing compliance with Truth in Lending - 2 years after date disclosures are required to be made or action is required to be taken

(e) **Customer Services - Retention Schedule**

(1) Safe deposit and safekeeping records

(A) Safe deposit contract cards - 7 years after expiration

(B) Safe deposit access cards and slips - 7 years

(C) Safekeeping records after surrender of item - 7 years

(D) Rent and storage payment receipts - 2 years

(E) Records relating to contents of drilled boxes - 3 years after escheat or other disposition

(F) Cancelled signature cards - 2 years after expiration

(2) Special Services

(A) Travelers check applications - 2 years

(B) Travelers check control and inventory records - 2 years

(C) Savings Bond applications - 4 months

(D) State Revenue Services Commissioner report of death of joint depositor -7 years

(E) Food stamp reports and controls - 1 year

(F) All lottery records/advices - 1 year

(G) Authorization (transfer of funds) - 7 years

(H) Security camera film (processed and unprocessed) and video surveillance system videocassettes, videotape or other output media - 6 months

(I) Unless a longer time is required by this section, a record of each advice, request or instruction given or received by a Connecticut bank which results in the transfer of more than $10,000 of funds, currency, checks, travelers checks, money orders, investment securities or credit to any person, account or place outside the United States - 5 years

(J) Unless a longer time is required by this section, a record of and each document representing a transfer of more than $10,000 of funds, currency, checks, travelers checks, money orders, investment securities or credit to or from any person, account or place outside the United States - 5 years

(K) Unless a longer time is required by this section, each money order or registered check for more than $100 - 5 years

(f) **International Department - Retention Schedule**

(1) Cable copies - 7 years

(2) Cable requisitions - 7 years
(3) Foreign collection register - 7 years
(4) Foreign draft applications - 7 years
(5) Foreign draft carbons - 7 years
(6) Foreign exchange remittance sheets or books - 7 years after issue
(7) Foreign mail transfer applications - 7 years
(8) Foreign mail transfer carbons - 7 years
(9) Letter of credit applications - 7 years
(10) Letter of credit ledger sheets - 7 years

(g) **Trust Department - Retention Schedule**

(1) Administrative

(A) Minute book of meetings (Directors, Trust Committee, Officers' Investment Committee and Trust Policy Committee) - Permanent
(B) Surety Bonds - 7 years after expiration
(C) Dividend record cards (closed) - 7 years after payment
(D) Dividend and interest disbursement checks - 7 years after payment
(E) Daily statement of Trust Department - 3 years
(F) Individual vault entry tickets - 7 years
(G) Inheritance tax returns - 7 years
(H) Federal and state tax information returns - 7 years
(I) Transfer tax waivers - 7 years
(J) Corporate trust ledgers - 7 years
(K) Buy and sell orders - 7 years
(L) Bonds and coupons - Until cancellation
(M) Receipts for cancelled bonds and cancelled coupons - 7 years after account is closed
(N) Correspondence - all types - 7 years
(O) Signature files - 7 years after account is closed
(P) Registered and certified mail reports - 3 years
(Q) Paid invoices: Tradesman, professional and miscellaneous - 3 years after payment
(R) Security acquisition reports - 7 years

(2) Probate Trusts, Guardian, Conservator, Estate Accounts

(A) Copy of wills - 7 years after account is closed
(B) Receipts for property delivered - 7 years after account is closed
(C) Assets, income and principal cash ledgers - 7 years after account is closed

(3) Intervivos Trusts, Custody and Agency Accounts

(A) Original instruments - 7 years after account is closed
(B) Receipts for property delivered - 7 years after account is closed
(C) Assets, income and principal cash ledgers - 7 years after account is closed

(4) Stock Transfer

(A) Cancelled certificates - 7 years after cancellation
(B) Dividend assignment - 7 years after release of assignment or account is closed

(C) Stockholders ledgers - 7 years after account is closed
(D) Transfer journal - 7 years after account is closed
(5) General Ledger
(A) Trust ledger - 7 years after account is closed
(B) Check register - 7 years after issue of check
(C) Trust checks cancelled - 7 years after cancellation
(D) Asset ledger, cash ledger, investment ledger and stock transfer ledger - 7 years after account is closed

(Effective June 29, 1994; ; Amended January 30, 1996)

Sec. 36a-40-4. Connecticut credit unions

(a) **Administrative - Retention Schedule**

(1) Minutes of members' meetings, minutes of governing board and various committees - Permanent

(2) Supervisory committee comprehensive annual audit reports and attachments including CPA audits - 7 years

(3) Supervisory committee records of 100% verification of members' accounts - 7 years

(4) Charter or certificate of organization, license, by-laws and amendments - Permanent

(5) General ledger - 25 years

(6) Journal and cash ledger and records - 25 years

(7) Subsidiary expense ledger - 25 years

(8) Journal vouchers (not otherwise specified in this section) - 7 years

(9) Documents pertaining to currently held real estate - Permanent

(10) Regulations, orders and other correspondence from the Commissioner of Banking - Permanent

(11) Monthly financial and statistical reports and schedule of delinquent loans - 2 years

(12) Paid bills and invoices - 7 years

(13) Dividend work sheets and payment records - 7 years

(14) Interest refund payment records - 7 years

(15) Trial balance of general ledger accounts - 7 years

(16) Any records of transactions which are the subject of litigation - Permanent

(17) Surety bonds - Current plus 6 years

(18) Other insurance not specified in this section - Current plus 2 years

(19) Leases, agreements and contracts - 7 years after expiration

(20) All legal rulings - 7 years after expiration of resulting action

(21) All federal and state tax records not otherwise required by this section - 7 years

(22) Power of attorney - 7 years after account is closed

(23) Copies of each annual financial and statistical report (Dec. 31 before and after closing) and year end schedule of delinquent loans including all reports filed with the Commissioner of Banking - Permanent

(24) Authorization to pay various insurance premiums for members (open accounts) -

Permanent

(b) **Cash - Retention Schedule**

(1) Bank account reconcilement and bank statement - 2 years

(2) Cash received vouchers and tellers' proof sheets and summaries - 7 years

(3) Documents, in effect, authorizing permanent change fund - Permanent

(4) Signed disbursement vouchers or loan disbursement vouchers - 7 years

(5) Voided and cancelled checks and money orders - 7 years

(6) Deposit slips/or copies thereof (checking accounts) - 7 years

(7) Records or wire transfers (deposits and withdrawals) - 7 years

(8) Records of investments (deposits and withdrawals) - 7 years

(9) Savings passbooks (including investments of all kinds)

(A) Closed accounts - 7 years

(B) Open accounts - Permanent

(c) **Loans - Retention Schedule**

(1) Security agreements and other documents for repossessed collateral - 7 years after disposal of collateral

(2) Loan applications, appraisals, credit reports, financial statements and all other pertinent loan information

(A) For loans which are made - 25 months after loan paid

(B) For loan applications which have been denied - 25 months after notice of adverse action

(3) All documents evidencing compliance with Truth in Lending - 2 years after date disclosures are required to be made or action is required to be taken

(4) Mortgage Loans

(A) Borrowing resolutions - 7 years after loan is paid

(B) Assigned leases and agreements - 7 years after expiration

(C) Notes, deeds and releases - To borrower after loan is paid

(D) Loan applications, appraisals, credit reports, financial statements, and all other pertinent loan information - 25 months after loan is paid

(5) Collateral receipts (customer) - 7 years after loan is paid

(6) Pledge agreements including letters of hypothecation - 7 years after loan is paid

(7) Foreclosed real estate documents - 7 years after property is sold

(8) Individual loan ledger - 7 years after loan is transferred or paid

(9) Loan officer's report - 7 years

(10) Loan transfer summaries - 7 years

(11) Monthly proof tapes of loan ledger - 7 years

(12) Borrower's protection insurance records - 7 years

(d) **Customer Services - Retention Schedule**

(1) Safe deposit and safekeeping records

(A) Safe deposit contract cards - 7 years after expiration

(B) Safe deposit access cards and slips - 7 years

(C) Safekeeping records after surrender of item - 7 years
(D) Rent and storage payment receipts - 2 years
(E) Records relating to contents of drilled boxes - 3 years after escheat or other disposition
(F) Cancelled signature cards - 2 years after expiration
(2) Special services
(A) Travelers check applications - 2 years
(B) Travelers check control and inventory records - 2 years
(C) Savings Bond applications - 4 months
(D) State Revenue Services Commissioner report of death of joint depositor -7 years
(E) Food stamp reports and controls - 1 year
(F) All lottery records/advices - 1 year
(G) Authorization (transfer of funds) - 7 years
(H) Security camera film (processed and unprocessed) and video surveillance system videocassettes, videotape or other output media - 6 months
(I) Unless a longer time is required by this section, a record of each advice, request or instruction given or received by a Connecticut credit union which results in the transfer of more than $10,000 of funds, currency, checks, travelers checks, money orders, investment securities or credit to any person, account or place outside the United States - 5 years
(J) Unless a longer time is required by this section, a record of and each document representing a transfer of more than $10,000 of funds, currency, checks, travelers checks, money orders, investment securities or credit to or from any person, account or place outside the United States - 5 years
(K) Unless a longer time is required by this section, each money order or registered check for more than $100 - 5 years
(e) **Shares and Deposits - Retention Schedule**
(1) Individual share ledger - 25 years
(2) Signature cards and applications for membership
(A) Closed accounts - 7 years
(B) Open accounts - Permanent
(3) Applications and agreements for share accounts in trust
(A) Closed accounts - 7 years
(B) Open accounts - Permanent
(4) Paid share drafts or copies thereof - 7 years
(5) Payroll deduction records (applied to shares) - 7 years
(6) Authorizations to apply shares to loans - 7 years
(7) Authorizations for payroll deductions
(A) Closed accounts - 7 years
(B) Open accounts - Permanent
(8) Monthly proof tapes of share ledger - 7 years
(9) Correspondence pertaining to escheating of accounts - 3 years after remittance to

State Treasurer

(10) Life savings insurance records - 7 years

(11) Records pertaining to share insurance (NCUA) - 7 years

(12) Vouchers pertaining to withdrawals from members' accounts - 7 years

(13) Individual cash receipts, vouchers and summaries (members' accounts) - 7 years

(14) Unless a longer time is required by this section, records sufficient to reconstruct a share draft account and either to trace a share draft deposited in a share draft account through a Connecticut credit union's processing system or to describe a share draft deposited in a share draft account - 2 years

(15) Official checks, money orders and share drafts

(A) Registered and money order checks - 7 years after date paid

(B) Registered and money order check register - 7 years

(C) Guaranteed share drafts - 7 years after date paid

(D) Guaranteed share draft register - 7 years

(f) **Personnel and Pension Records - Retention Schedule**

(1) Employee list - Permanent

(2) Applications (not hired) - 2 years

(3) Attendance records - 2 years

(4) Employee history records - 2 years after termination

(5) Employee insurance benefit record - 2 years after termination

(6) Payroll register - 7 years

(7) All employee federal and state tax returns - 7 years

(8) Employee payroll deduction plans - 2 years

(9) Pension option forms and pension plan - life of option plus 7 years

(10) Form W-4 Employee's Withholding Exemption Certificate - 7 years

(11) Individual employee earnings record - 7 years

(g) **Tax Records - Retention Schedule**

(1) Form 941 - Employer's Quarterly Federal Tax return - 7 years

(2) Form W-2 - Wage and Tax Statement - 7 years

(3) Form W-3 - Reconciliation of Income Tax Withheld from Wages - 7 years

(4) Records evidencing withholding and remitting of City Income Tax - 7 years

(5) Form 1099 - U.S. Information Return (reporting income paid as described on the form, except dividends paid to members) - 7 years

(6) Unemployment Tax records Form 940 - Employer's Annual Federal Unemployment Tax Return - 7 years

(7) Form UC 2-5A (Combination Form) Employer's Quarterly Contribution Report (State) - 7 years

(8) Income and property tax returns - 25 years

(9) Form 1096 - U.S. Information Return (summary report of Form 1099) - 7 years

(Effective June 29, 1994; ; Amended January 30, 1996)

Agency
Department of Banking

Subject
Conversion of Mutual Connecticut Banks to Capital Stock Connecticut Banks

Inclusive Sections
§§ 36a-136-1—36a-136-48

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Conversion of Mutual Connecticut Banks to Capital Stock Connecticut Banks

Sec. 36a-136-1. Definitions

As used in sections 36a-136-1 to 36a-136-48, inclusive, of the Regulations of Connecticut State Agencies, unless the context otherwise requires:

(1) "Acting in concert" means (A) knowing participation in a joint activity or interdependent conscious parallel action towards a common goal whether or not pursuant to an express agreement, or (B) a combination or pooling of voting or other interests in the securities of an issuer for a common purpose pursuant to any contract, understanding, relationship, agreement or other arrangement, whether written or otherwise. A person that acts in concert with another person shall also be deemed to be acting in concert with any person that is also acting in concert with that other person, except that any tax-qualified employee stock benefit plan shall not be deemed to be acting in concert with its trustee or a person that serves in a similar capacity solely for the purpose of determining whether stock held by the trustee and stock held by the plan will be aggregated. For purposes of the share purchase limitations of sections 36a-136-24 to 36a-136-32, inclusive, of the Regulations of Connecticut State Agencies, the following presumptions shall apply: (A) Persons shall be presumed to be acting in concert with each other where both own stock in a bank or out-of-state bank and both are also management officials, controlling shareholders, partners or trustees of another company, or one person provides credit to another person or is instrumental in obtaining financing for another person to purchase stock of the converting institution, (B) a company controlling or controlled by another company and companies under common control shall be presumed to be acting in concert, (C) persons shall be presumed to be acting in concert where they constitute a group under the beneficial ownership reporting rules under Section 13 of the Securities Exchange Act of 1934, 15 USC 78m, or the proxy rules under Section 14 of the Securities Exchange Act of 1934, 15 USC 78n, promulgated by the Securities and Exchange Commission, (D) a person shall be presumed to be acting in concert with any trust for which such person serves as trustee, except that a tax-qualified employee tax benefit plan shall not be presumed to be acting in concert with its trustee or a person acting in a similar fiduciary capacity and (E) persons shall be presumed to be acting in concert with each other and with any other person with which they also are presumed to act in concert;

(2) An "affiliate" of a specified person means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with the specified person;

(3) "Associate", when used to indicate a relationship with any person, means (A) a corporation or organization, other than the converting institution or a majority-owned subsidiary of the converting institution, if the person is an officer or partner or beneficially owns, directly or indirectly, ten per cent or more of any class of equity securities of the corporation or organization; (B) a trust or other estate if the person has a substantial beneficial interest in the trust or estate or is a trustee or fiduciary of the trust or estate, except that for purposes of sections 36a-136-27, 36a-136-29 to 36a-136-32, inclusive, and 36a-

136-39 of the Regulations of Connecticut State Agencies, it does not include a converting institution's tax-qualified employee stock benefit plan or nontax-qualified employee stock benefit plan in which a person has a substantial beneficial interest or serves as a trustee or a fiduciary, and for the purposes of section 36a-136-27 of the Regulations of Connecticut State Agencies, does not include the converting institution's tax-qualified employee stock benefit plan; and (C) any person who is related by blood or marriage to such person and who lives in the same home as such person, or who is a director or senior officer of the converting institution or its holding company or subsidiary;

(4) "Capital stock bank" means a "Connecticut bank" or a "federal bank", as defined in section 36a-2 of the Connecticut General Statutes, that is authorized to accumulate funds through the issuance of its capital stock;

(5) "Commissioner" means "commissioner" as defined in section 36a-2 of the Connecticut General Statutes;

(6) "Control", "controlling", "controlled by" and "under common control with" means the direct or indirect power to direct or exercise a controlling influence over the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise as described in 12 CFR 574;

(7) "Converted institution" means a mutual institution that has converted to a capital stock bank pursuant to section 36a-136 of the Connecticut General Statutes and sections 36a-136-1 to 36a-136-48, inclusive, of the Regulations of Connecticut State Agencies;

(8) "Converting institution" means a mutual institution that is in the process of converting to a capital stock bank pursuant to section 36a-136 of the Connecticut General Statutes and sections 36a-136-1 to 36a-136-48, inclusive, of the Regulations of Connecticut State Agencies;

(9) "Department" means the Department of Banking;

(10) "Deposit" means "deposit" as defined in section 36a-2 of the Connecticut General Statutes;

(11) "Deposit account" means "deposit account" as defined in section 36a-2 of the Connecticut General Statutes;

(12) "Depositor" means any person who is legally entitled to withdraw funds from a deposit account with the converting institution;

(13) "Director" means "director" as defined in section 36a-2 of the Connecticut General Statutes;

(14) "Eligibility record date" means the date for determining eligible account holders, which date is at least one year before the date the converting institution's governing board adopts the plan of conversion;

(15) "Eligible account holder" means any person holding a qualifying deposit on the eligibility record date;

(16) "Governing board" means "governing board" as defined in section 36a-2 of the Connecticut General Statutes;

(17) "Liquidation account" means an account that represents the potential interest of

eligible account holders and supplemental eligible account holders in the converting institution's net worth at the time of conversion and that is established by the converting institution, pursuant to subsection (i) of section 36a-136 of the Connecticut General Statutes and section 36a-136-37 of the Regulations of Connecticut State Agencies, for the benefit of eligible account holders and supplemental eligible account holders if there is a subsequent complete liquidation of the converted institution;

(18) "Local community" includes (A) any county, city or town in which the converting institution has a main office or branch, (B) each county's, city's or town's metropolitan statistical area, (C) all zip code areas in the converting institution's Community Reinvestment Act assessment area, and (D) any other area or category set out in the plan of conversion, as approved by the commissioner;

(19) "Mutual institution" means a mutual savings bank, federal mutual savings bank, mutual savings and loan association or federal mutual savings and loan association;

(20) "Mutual savings and loan association" means an institution chartered or organized under the laws of this state as a savings and loan association without capital stock;

(21) "Offer" or "offer to sell" means an attempt or offer to dispose of or a solicitation of an offer to purchase a security or interest in a security for value. "Offer" or "offer to sell" does not include preliminary negotiations or an agreement with an underwriter or among underwriters who are or will be in privity of contract with the converting institution;

(22) "Officer" means the chairman of the board, chief executive officer, president, vice president, secretary, treasurer, chief financial officer, chief operating officer, any other person performing similar functions with respect to any organization, whether incorporated or unincorporated, and any person who has been designated as an officer by the governing board;

(23) "Person" means "person" as defined in section 36a-2 of the Connecticut General Statutes;

(24) "Proxy solicitation material" includes a proxy statement, form of proxy or other written or oral communication regarding the conversion;

(25) "Purchase" includes any contract to acquire a security or interest in a security for value;

(26) "Qualifying deposit" means the total balance in an account holder's qualifying deposit accounts at the close of business on the eligibility record date or supplemental eligibility record date, provided the plan of conversion may provide that only qualifying deposit accounts with total deposit balances of fifty dollars or more will qualify;

(27) "Qualifying deposit account" means a deposit account but does not include a tax and loan account, note account, United States Treasury General Account, United States Treasury Time Deposit Open Account or an escrow account established pursuant to section 49-2a of the Connecticut General Statutes;

(28) "Sale" or "sell" includes any contract to dispose of a security or interest in a security for value;

(29) "Security" means "security" as defined in section 36b-3 of the Connecticut General

Statutes;

(30) "Solicitation" and "solicit" means a request for a proxy, whether or not accompanied by or included in a form of proxy; a request to execute, not execute or revoke a proxy; or the furnishing of a form of proxy or other communication reasonably calculated to cause the converting institution's depositors to procure, withhold or revoke a proxy. "Solicitation" or "solicit" does not include providing a form of proxy at the unsolicited request of a depositor, the acts required to mail communications for depositors or ministerial acts performed on behalf of a person soliciting a proxy;

(31) "Subscription offering" means the offering of shares through nontransferable subscription rights to: (A) Eligible account holders under section 36a-136-24 of the Regulations of Connecticut State Agencies; (B) tax-qualified employee stock ownership plans under section 36a-136-29 of the Regulations of Connecticut State Agencies; (C) supplemental eligible account holders under section 36a-136-24 of the Regulations of Connecticut State Agencies; and (D) in the case of a mutual savings and loan association, other voting depositors under section 36a-136-26 of the Regulations of Connecticut State Agencies;

(32) "Subsidiary" means "subsidiary" as defined in section 36a-2 of the Connecticut General Statutes;

(33) "Supplemental eligibility record date" means the date for determining supplemental eligible account holders, which date is the last day of the calendar quarter before the commissioner approves the conversion and will only occur if the commissioner has not approved the conversion within fifteen months after the eligibility record date;

(34) "Supplemental eligible account holder" means any person, except the converting institution's officers, directors and their associates, holding qualifying deposits on the supplemental eligibility record date;

(35) "Tax-qualified employee stock benefit plan" is any defined benefit plan or defined contribution plan, such as an employee stock ownership plan, stock bonus plan, profit-sharing plan or other plan, and a related trust that is qualified under Section 401 of the Internal Revenue Code, 26 USC 401; and

(36) "Underwriter" is any person who purchases any securities from the converting institution with a view to distributing the securities, offers or sells securities for the converting institution in connection with the securities' distribution or participates or has a direct or indirect participation in the direct or indirect underwriting of any such undertaking. Underwriter does not include a person whose interest is limited to a usual and customary distributor's or seller's commission from an underwriter or dealer.

(Adopted effective September 7, 2007)

Sec. 36a-136-2. Pre-conversion meeting

Appropriate representatives of the converting institution designated by its governing board shall meet with the commissioner before the converting institution files its conversion application to discuss the conversion, general issues that the converting institution may

confront in the conversion process and any other pertinent issues.

(Adopted effective September 7, 2007)

Sec. 36a-136-3. Business plan

(a) Prior to filing an application for conversion, the converting institution shall adopt a business plan reflecting the converting institution's intended plans for deployment of the proposed conversion proceeds. The chief executive officer and the governing board shall review, and at least a majority of the governing board shall approve, the business plan. Such business plan is required under section 36a-136-8 of the Regulations of Connecticut State Agencies to be included in the conversion application. At a minimum, the business plan shall address:

(1) The converting institution's projected operations and activities for three years following the conversion. The converting institution shall describe how it will deploy the conversion proceeds at the converted institution and holding company, if applicable, what opportunities are available to reasonably achieve the planned deployment of conversion proceeds and how the deployment will provide a reasonable return commensurate with investment risk, investor expectations and industry norms by the final year of the business plan. The converting institution shall include three years of projected financial statements. The business plan shall provide that the converted institution shall retain at least fifty per cent of the net conversion proceeds. The commissioner may: (A) Require that a larger percentage of proceeds remain in the converted institution, or (B) authorize the converted institution to retain a smaller percentage if the commissioner determines that the proposed deployment of proceeds is consistent with safety and soundness and will benefit the community;

(2) The converting institution's plan for deploying conversion proceeds to meet credit and lending needs in the proposed market areas;

(3) The risks associated with the converting institution's plan for deployment of conversion proceeds and the effect of this plan on management resources, staffing and facilities; and

(4) The expertise of the converting institution's management and governing board, or the converting institution's plan for adequate staffing and controls to prudently manage the growth, expansion, new investment and other operations and activities proposed in the business plan.

(b) The converting institution shall not project returns of capital or special dividends in any part of the business plan. A newly converted institution or its holding company, if applicable, shall not plan on stock repurchases in the first year of the business plan.

(c) If the commissioner approves the application for conversion and the conversion is completed, the converted institution shall operate within the parameters of the business plan. The converted institution shall obtain the prior written approval of the commissioner for any material deviations from the business plan.

(Adopted effective September 7, 2007)

Sec. 36a-136-4. Confidentiality

(a) The converting institution may discuss information about the conversion with individuals that it authorizes to prepare documents for the conversion or otherwise engages to assist in the conversion process.

(b) Except as permitted under subsection (a) of this section, the converting institution shall keep all information about the conversion confidential until its governing board adopts the plan of conversion.

(c) If the converting institution violates this section, the commissioner may require it to take remedial action, including any or all of the following actions:

(1) Publicly announce that the converting institution is considering a conversion;

(2) Set an eligibility record date acceptable to the commissioner;

(3) Limit the subscription rights of any person who violates or aids in a violation of this section; or

(4) Take any other action to assure that the conversion is fair and equitable.

(Adopted effective September 7, 2007)

Sec. 36a-136-5. Adoption of plan of conversion

Prior to filing an application for conversion, the governing board of the converting institution shall adopt, by at least a majority vote, a plan of conversion that conforms to sections 36a-136-1 to 36a-136-48, inclusive, of the Regulations of Connecticut State Agencies. The plan of conversion is required, under section 36a-136-8 of the Regulations of Connecticut State Agencies, to be included in the converting institution's conversion application. The plan of conversion shall include the information included in sections 36a-136-18 to 36a-136-37, inclusive, and 36a-136-39 of the Regulations of Connecticut State Agencies. The commissioner may require the converting institution to delete or revise any provision in the plan of conversion if the commissioner determines that the provision is inequitable, detrimental to the converting institution, its account holders or other Connecticut-chartered banks or contrary to public interest.

(Adopted effective September 7, 2007)

Sec. 36a-136-6. Notice to depositors

(a) (1) The converting institution shall promptly notify its depositors that its governing board adopted a plan of conversion and that a copy of the plan is available for the depositors' inspection in the converting institution's main office and branches. The converting institution shall mail a letter to each depositor or publish a notice in the local newspaper in each local community where the converting institution has a branch office. The converting institution may also issue a press release.

(2) The commissioner may require notification broader than that required under subdivision (1) of this subsection, if necessary, to ensure adequate notice to the depositors.

(b) The converting institution shall not provide financial statements, describe the benefits of conversion, estimate the value of the converting institution's shares upon conversion or,

in the case of a converting mutual savings and loan association, solicit proxies in the letter, notice or press release. If the converting institution responds to inquiries about the conversion, the converting institution may address only the matters listed in subsections (c) and (d) of this section.

(c) The converting institution may include any of the following statements and descriptions in its letter, notice or press release:

(1) The governing board adopted a proposed plan to convert from a mutual to a stock institution;

(2) The commissioner must approve the conversion before the conversion will be effective. The depositors will have an opportunity to file written comments, including objections and materials supporting the objections, with the commissioner;

(3) The Internal Revenue Service must issue a favorable tax ruling, or a tax expert must issue an appropriate tax opinion, on the tax consequences of the conversion before the commissioner will approve the conversion. The ruling or opinion must indicate the conversion will be a tax-free reorganization;

(4) The commissioner might not approve the conversion and the Internal Revenue Service or a tax expert might not issue a favorable tax ruling or tax opinion;

(5) Account holders will continue to hold accounts in the converted institution with the same dollar amounts, rates of return and general terms as existing deposits. The Federal Deposit Insurance Corporation will continue to insure the accounts;

(6) The conversion will not affect borrowers' loans, including the amount, rate, maturity, security and other contractual terms;

(7) The converting institution's business of accepting deposits and making loans will continue without interruption;

(8) The converting institution's current management and staff will continue to conduct current services for depositors and borrowers under current policies and in existing offices;

(9) The converting institution may continue to be a member of the Federal Home Loan Bank System;

(10) The converting institution may terminate the proposed conversion;

(11) The proposed record date for determining the eligible account holders who are entitled to receive subscription rights to purchase shares of the converting institution;

(12) A brief description of the circumstances under which supplemental eligible account holders will receive subscription rights to purchase shares of the converting institution;

(13) A brief description of how directors, officers and employees will participate in the conversion;

(14) A brief description of the proposed plan of conversion;

(15) The par value, if any, and approximate number of shares the converting institution will issue and sell in the conversion; and

(16) The converting institution may substantially amend the plan of conversion.

(d) A converting institution that is a mutual savings and loan association may also include any of the following statements and descriptions in its letter, notice or press release:

(1) The converting institution will send the depositors a proxy statement with detailed information on the proposed conversion before convening a depositors' meeting to vote on the conversion;

(2) The depositors will have an opportunity to approve or disapprove the proposed conversion at a meeting. At least a majority of the eligible votes shall approve the conversion;

(3) The converting institution will not vote existing proxies to approve or disapprove the conversion. The converting institution will solicit new proxies for voting on the proposed conversion;

(4) The converting institution may substantively amend the converting institution's proposed plan of conversion before the depositors' meeting;

(5) After the commissioner approves the proposed conversion, the converting institution will send proxy materials providing additional information. After the converting institution sends proxy materials, depositors may telephone or write to the converting institution with additional questions; and

(6) A brief description of how depositors may participate in the conversion.

(Adopted effective September 7, 2007)

Sec. 36a-136-7. Amendment of plan of conversion of a mutual savings and loan association

A converting mutual savings and loan association may amend the plan of conversion before it solicits proxies. After soliciting proxies, such converting institution may amend the plan of conversion only with the approval of the commissioner.

(Adopted effective September 7, 2007)

Sec. 36a-136-8. Filing requirements

(a) The converting institution shall file an original and three copies of the conversion application using the "Application for Conversion from a Mutual to a Stock Institution" that may be obtained from the department or the department's website. The conversion application shall include the following:

(1) The plan of conversion;

(2) An appraisal that meets the requirements of subsection (b) of section 36a-136-12 of the Regulations of Connecticut State Agencies;

(3) In the case of a converting mutual savings and loan association, proxy solicitation materials required under section 36a-136-14 of the Regulations of Connecticut State Agencies, including: (A) A preliminary proxy statement with signed financial statements; (B) a form of proxy that meets the requirements of subsection (b) of section 36a-136-14 of the Regulations of Connecticut State Agencies; and (C) any additional proxy solicitation materials, including press releases, personal solicitation instructions, radio or television scripts that the converting institution plans to use or furnish to the depositors and a legal opinion indicating that any marketing materials used or furnished comply with all applicable

securities laws;

(4) An offering circular that includes any material provisions of Connecticut law applicable to the conversion;

(5) The documents and information required by the "Application for Conversion from a Mutual to a Stock Institution". The proposed certificate of incorporation shall include a provision requiring the converted institution to establish and maintain a liquidation account for eligible account holders and supplemental eligible account holders pursuant to section 36a-136-37 of the Regulations of Connecticut State Agencies;

(6) Written consents, signed and dated, of any accountant, attorney, investment banker, appraiser or other professional who prepared, reviewed, passed upon or certified any statement, report or valuation for use;

(7) The business plan, submitted as a separately bound, confidential exhibit under section 36a-136-9 of the Regulations of Connecticut State Agencies;

(8) The proposed charter and bylaws, or trust agreement, of any charitable organization to which the converted institution will make a contribution under section 36a-136-44; and

(9) Any additional information the commissioner requires.

(b) The commissioner shall not accept for filing and shall return any application for conversion that is improperly executed, materially deficient, substantially incomplete or that provides for unreasonable conversion expenses.

(Adopted effective September 7, 2007)

Sec. 36a-136-9. Confidentiality of conversion application

The converting institution may request the commissioner to keep portions of the conversion application confidential. The converting institution shall separately bind and clearly designate such portions as "confidential" and provide a written statement specifying the grounds supporting the request for confidentiality. The commissioner may keep such portions of the conversion application confidential to the extent permitted by law.

(Adopted effective September 7, 2007)

Sec. 36a-136-10. Amendment of conversion application

To amend the conversion application, the converting institution shall (1) file an amendment with an appropriate facing sheet, (2) number each amendment consecutively, (3) respond to all issues raised by the commissioner, and (4) demonstrate that the amendment conforms to section 36a-136 of the Connecticut General Statutes and all applicable regulations.

(Adopted effective September 7, 2007)

Sec. 36a-136-11. Notice of filing of application and comment process

(a) The converting institution shall publish a notice of the conversion that includes the following:

(1) The institution's name and address;

(2) The type of application;

(3) A statement that the nonconfidential portions of the application are on file at the department and are available for public inspection during regular business hours;

(4) A statement indicating that any person may submit written comments to the commissioner not later than thirty calendar days after the date of publication of the notice; and

(5) The address of the department.

(b) The notice shall be published in a newspaper designated by the commissioner having a substantial circulation in the area in which the institution's main office is located no earlier than seven days before and no later than the date of filing of the application. The converting institution shall simultaneously prominently post such notice in its main office and branches.

(c) Promptly after publication, the converting institution shall file with the commissioner a copy of any public notice and an affidavit of publication from each publisher.

(Adopted effective September 7, 2007)

Sec. 36a-136-12. Actions by commissioner on conversion application

(a) The commissioner may approve the conversion only if the commissioner makes the determinations required by subsection (l) of section 36a-136 of the Connecticut General Statutes, provided a plan of conversion that is fair to depositors shall at a minimum:

(1) Give priority to depositors to purchase stock of the converting institution in accordance with section 36a-136-18 of the Regulations of Connecticut State Agencies;

(2) Provide for a qualifying deposit as defined in subdivision (26) of section 36a-136-1 of the Regulations of Connecticut State Agencies;

(3) Provide for an eligibility record date as defined in subdivision (14) of section 36a-136-1 of the Regulations of Connecticut State Agencies and a supplemental eligibility record date as defined in subdivision (33) of section 36a-136-1 of the Regulations of Connecticut State Agencies;

(4) Provide that the insurable accounts and deposits of the converted institution shall be insured by the Federal Deposit Insurance Corporation; and

(5) Provide that each eligible account holder and supplemental eligible account holder of the converting institution shall receive, without payment, a withdrawable deposit account or accounts in the converted institution equal in withdrawable amount to the withdrawal value of such eligible account holder's or supplemental eligible account holder's deposit account or accounts in the converting institution.

(b) The commissioner shall review the appraisal filed under subdivision (2) of subsection (a) of section 36a-136-8 of the Regulations of Connecticut State Agencies in determining whether to approve the conversion application. The appraisal shall be subject to the following:

(1) Independent persons experienced and expert in corporate appraisal, and acceptable to the commissioner, shall prepare the appraisal report;

(2) An affiliate of the appraiser may serve as an underwriter or selling agent if the

converting institution ensures that the appraiser is separate from the underwriter or selling agent affiliate and the underwriter or selling agent affiliate does not make recommendations or affect the appraisal;

(3) The appraiser shall not receive any fee in connection with the conversion other than for appraisal services;

(4) The appraisal report shall include a complete and detailed description of the elements of the appraisal, a justification for the appraisal methodology and sufficient support for the conclusions;

(5) If the appraisal is based on a capitalization of the converting institution's pro forma income, it shall indicate the basis for determining the income to be derived from the sale of shares and demonstrate that the earnings multiple used is appropriate, including future earnings growth assumptions;

(6) If the appraisal is based on a comparison of the converting institution's shares with outstanding shares of existing capital stock banking institutions, the existing capital stock banking institutions shall be reasonably comparable in size, market area, competitive conditions, risk profile, profit history and expected future earnings;

(7) The commissioner may decline to process the application for conversion and deem it materially deficient or substantially incomplete if the initial appraisal report is materially deficient or substantially incomplete; and

(8) The converting institution shall not represent or imply that the commissioner approved the appraisal.

(c) The commissioner may require the converting institution to amend the conversion application if further explanation is necessary, material is missing or needs to be corrected.

(d) The commissioner shall deny the conversion application if the application does not meet the requirements of sections 36a-136-1 to 36a-136-48, inclusive, of the Regulations of Connecticut State Agencies, unless the commissioner waives the requirement under subsection (j) or (k) of section 36a-136 of the Connecticut General Statutes.

(Adopted effective September 7, 2007)

Sec. 36a-136-13. Vote by depositors of a converting mutual savings and loan association

In the case of a converting institution that is a mutual savings and loan association:

(a) After the commissioner approves the plan of conversion, the converting institution shall submit the plan of conversion to its depositors for approval. The converting institution shall obtain this approval at a special meeting.

(b) The plan of conversion shall require the approval of not less than fifty-one per cent of the votes cast by the depositors at the special meeting.

(c) Depositors may vote in person or by proxy. The converting institution shall determine depositors' eligibility to vote by setting a voting record date that is not more than sixty days or less than twenty days before the special meeting.

(d) The converting institution shall notify its depositors of the meeting to consider the

conversion by sending them a proxy statement authorized by the commissioner twenty to forty-five days before the meeting. In the case of an account held in a fiduciary capacity, the converting institution shall also notify each beneficial holder of such account if the name and address of the beneficial holder is disclosed on the converting institution's records.

(e) Promptly after the depositors' meeting, the converting institution shall file the following information with the commissioner: (1) A certified copy of each adopted resolution on the conversion; (2) the total votes eligible to be cast; (3) the total votes represented in person or by proxy; (4) the total votes cast in favor of and against each matter; (5) the percentage of votes necessary to approve each matter; and (6) an opinion of counsel that the converting institution conducted the depositors' meeting in compliance with all applicable state or federal laws and regulations.

(Adopted effective September 7, 2007)

Sec. 36a-136-14. Proxy solicitation for vote of depositors of a mutual savings and loan association

(a) A converting mutual savings and loan association shall comply with the provisions of this section. Any depositor who provides proxy solicitation material to depositors for the meeting to vote on the conversion also shall comply with the provisions of this section, except where: (1) The depositor solicits fifty people or fewer and does not solicit proxies on behalf of the converting institution; or (2) the depositor solicits proxies through newspaper advertisements after the converting institution's governing board adopts the plan of conversion. Any newspaper advertisements may include only the following information: (A) The converting institution's name; (B) the reason for the advertisement; (C) the proposal or proposals to be voted upon; (D) where a depositor may obtain a copy of the proxy solicitation material; and (E) a request for depositors to vote at the meeting.

(b) The form of proxy shall include all of the following: (1) A statement in bold face type stating whether management is soliciting the proxy; (2) blank spaces for the depositor to date and sign the proxy; (3) clear and impartial identification of each matter or group of related matters that depositors will vote upon. Any proposed charitable contribution shall be included as an item to be voted on separately; (4) the phrase "Revocable Proxy" in at least eighteen point bold face type; (5) a description of any restrictions or conditions on votes by proxy; (6) an acknowledgment that the depositor received a proxy statement before he or she signed the form of proxy; (7) the date, time and place of the meeting, when available; (8) a way for the depositor to specify by ballot whether he or she approves or disapproves of each matter that depositors will vote upon; (9) a statement that management will vote the proxy in accordance with the depositor's specifications; and (10) a statement in bold face type indicating how management will vote the proxy if the depositor does not specify a choice for a matter.

(c) The converting institution shall not use previously executed proxies for the plan of conversion vote. If depositors consider the plan of conversion at an annual meeting, the converting institution may vote proxies obtained through other proxy solicitations only on

matters not related to the plan of conversion. The converting institution may vote a proxy obtained for the plan of conversion vote on matters that are incidental to the conduct of the meeting but shall not vote any such proxy at any meeting other than the meeting to vote on the plan of conversion or any adjournment of such meeting.

(d) The converting institution shall prepare its proxy statement in compliance with this section and the proxy statement shall include the type of information required to be included by Form PS issued by the Office of Thrift Supervision.

(e) The commissioner shall review the proxy solicitation material with the application for conversion and shall authorize the use of such material. The converting institution shall provide an authorized written proxy statement to depositors before or at the same time it provides any other soliciting material and shall mail authorized proxy solicitation material to depositors not later than ten days after the commissioner authorizes the solicitation.

(f) If the converting institution revises its proxy solicitation materials, it shall file the revised materials as an amendment to its application for conversion in accordance with section 36a-136-10 of the Regulations of Connecticut State Agencies. The converting institution shall obtain the authorization of the commissioner prior to sending or giving the proxy solicitation material to depositors. The converting institution shall indicate the date that it will release the materials. Unless the commissioner so requests, the converting institution need not file copies of replies to inquiries from its depositors or copies of communications that merely request depositors to sign and return proxy forms.

(g)

(1) The converting institution shall mail a depositor's authorized proxy solicitation material if (A) the governing board adopted a plan of conversion, (B) a depositor requests in writing that the institution mail the proxy solicitation material, (C) the commissioner has authorized the depositor's proxy solicitation, and (D) the depositor agrees to defray the converting institution's reasonable expenses.

(2) As soon as practicable after the converting institution receives a request under subdivision (1) of this subsection, it shall mail or otherwise furnish the following information to the depositor: (A) The approximate number of depositors that it solicited or will solicit or the approximate number of members of any group of account holders that the depositor designates; and (B) the estimated cost of mailing the proxy solicitation material for the depositor.

(3) The converting institution shall mail authorized proxy solicitation material to the designated depositors promptly after the depositor furnishes the materials, envelopes or other containers and postage or payment for postage to it.

(4) The converting institution shall not be responsible for the content of a depositor's proxy solicitation material.

(5) A depositor may furnish such depositor's proxy solicitation material, authorized by the commissioner, subject to the rules in this section to other depositors.

(h)

(1) No person may use proxy solicitation material for the depositors' meeting if the

material contains any statement which, considering the time and the circumstances of the statement: (A) Is false or misleading with respect to any material fact; (B) omits any material fact that is necessary to make the statements not false or misleading; or (C) omits any material fact that is necessary to correct a statement in an earlier communication that has become false or misleading.

(2) No person may represent or imply that the commissioner determined that the proxy solicitation material is accurate, complete, not false or not misleading or passed upon the merits of or approved any proposal.

(3) No person may solicit: (A) An undated or post-dated proxy; (B) a proxy that states it will be dated after the date it is signed by a depositor; (3) a proxy that is not revocable at will by the depositor; or (D) a proxy that is part of another document or instrument.

(i) If a solicitation violates subsection (h) of this section, the commissioner may, in addition to any other remedy provided by law, require remedial measures, including: (1) Correction of the violation by a retraction and a new solicitation; (2) rescheduling the depositors' meeting; or (3) any other actions necessary to ensure a fair vote.

(j) If the converting institution amends its application for conversion, the commissioner may require it to re-solicit proxies for the depositors' meeting as a condition of approval of the amendment.

(Adopted effective September 7, 2007)

Sec. 36a-136-15. Filing of offering circular

(a) The converting institution shall prepare and file its offering circular with the commissioner in compliance with section 36a-136-8 of the Regulations of Connecticut State Agencies.

(b) In the case of a mutual savings and loan association, the stock offering shall be conditioned upon depositor approval of the plan of conversion.

(c) The commissioner shall review the offering circular and may comment on the included disclosures and financial statements.

(d) The converting institution shall file with the commissioner four copies of each pre-effective offering circular, final offering circular and any post-effective amendment to the final offering circular.

(e) The commissioner shall not approve the adequacy or accuracy of the offering circular or the disclosures.

(f) After the converting institution satisfactorily addresses the commissioner's concerns, it shall request the commissioner to declare the offering circular effective for a time period. The time period shall not exceed the maximum time period for the completion of the sale of all of the shares under section 36a-136-33 of the Regulations of Connecticut State Agencies.

(Adopted effective September 7, 2007)

Sec. 36a-136-16. Distribution of offering circular

(a) A mutual savings and loan association may distribute a preliminary offering circular at the same time as or after it mails the proxy statement to its depositors.

(b) A converting institution shall not distribute an offering circular until the commissioner declares it effective.

(c) The offering circular shall be distributed not later than ten days after the commissioner declares it effective to persons listed in the plan of conversion.

(Adopted effective September 7, 2007)

Sec. 36a-136-17. Filing of post-effective amendment to the offering circular

(a) The converting institution shall file a post-effective amendment to the offering circular with the commissioner when a material event or change of circumstance occurs.

(b) After the commissioner declares the post-effective amendment effective, the converting institution shall immediately deliver the amendment to each person who subscribed for or ordered shares in the offering.

(c) The post-effective amendment shall indicate that each person may increase, decrease or rescind such person's subscription or order.

(d) The post-effective offering period shall remain open no less than ten days nor more than twenty days from the effective date of the amendment, unless the commissioner approves a longer rescission period.

(Adopted effective September 7, 2007)

Sec. 36a-136-18. Purchase priority and timing of offer to sell conversion shares

(a) The converting institution shall offer to sell its shares in the following order: (1) Eligible account holders, (2) tax-qualified employee stock ownership plans, (3) supplemental eligible account holders, (4) other depositors who have subscription rights, and (5) the community, the community and the general public or the general public.

(b) The converting institution may offer to sell its conversion shares after the commissioner approves the conversion, authorizes the proxy statement, if applicable, and declares the offering circular effective. In the case of a mutual savings and loan association, the offer may commence at the same time as the proxy solicitation of depositors.

(Adopted effective September 7, 2007)

Sec. 36a-136-19. Pricing of conversion shares

(a) The converting institution shall sell its conversion shares at a uniform price per share and at a total price that is equal to the estimated pro forma market value of the shares after it converts.

(b) The maximum price shall be no more than fifteen per cent above the midpoint of the estimated price range in the offering circular.

(c) The minimum price shall be no more than fifteen per cent below the midpoint of the estimated price range in the offering circular.

(d) If the commissioner permits, the maximum price of conversion shares sold may be increased. The maximum price, as adjusted, shall be no more than fifteen per cent above the maximum price computed under subsection (b) of this section.

(e) The maximum price shall be between five dollars and fifty dollars per share.

(f) The estimated price shall be included in any preliminary offering circular.

(Adopted effective September 7, 2007)

Sec. 36a-136-20. Sale of conversion shares

(a) The converting institution shall sell its conversion shares in a subscription offering. It shall distribute order forms to all eligible account holders, supplemental eligible account holders and other depositors with subscriptions rights to enable them to subscribe for the conversion shares they are permitted under the plan of conversion. The converting institution may either send the order forms with the offering circular or after it distributes the offering circular.

(b) The converting institution may sell its conversion shares in a community offering, a public offering or both. It may begin the community offering, the public offering or both at any time during the subscription offering or upon conclusion of the subscription offering.

(c) The converting institution may pay underwriting commissions, including underwriting discounts, if prior to the payment of such commissions, it obtains a letter of no objection from the commissioner. The converting institution may reimburse an underwriter for accountable expenses in a subscription offering if the public offering is limited. If no public offering occurs, the converting institution may pay an underwriter a consulting fee if prior to the payment of such fee it obtains a letter of no objection from the commissioner.

(d) If the community offering, the public offering or both are conducted at the same time as the subscription offering, the converting institution shall fill all subscription orders first.

(e) The order form shall be prepared in compliance with this section and the form of the "Order Form for Conversion Shares" which can be obtained on the department's website.

(Adopted effective September 7, 2007)

Sec. 36a-136-21. Prohibited sales practices

(a) In connection with offers, sales or purchases of conversion shares, the converting institution and its directors, officers, agents or employees shall not engage in any activity prohibited by section 36b-4 of the Connecticut General Statutes.

(b) During the conversion, no person may:

(1) Transfer or enter into any agreement or understanding to transfer the legal or beneficial ownership of subscription rights for the conversion shares or the underlying securities to the account of another;

(2) Make any offer or any announcement of an offer to purchase any conversion shares from anyone but the converting institution; or

(3) Knowingly acquire more than the maximum purchase allowable under the plan of

conversion.

(c) The restrictions in subdivisions (1) and (2) of subsection (b) of this section do not apply to offers for more than ten per cent of any class of conversion shares by:

(1) An underwriter or a selling group, acting on behalf of the converting institution, that makes the offer with a view toward public resale; or

(2) Any of the converting institution's tax-qualified employee stock ownership plans so long as the plan does not beneficially own more than twenty-five per cent of any class of the converting institution's equity securities in the aggregate.

(Adopted effective September 7, 2007)

Sec. 36a-136-22. Payment for conversion shares by subscribers

(a) A subscriber may purchase conversion shares with cash, by a withdrawal from a savings account or a withdrawal from a certificate of deposit. If a subscriber purchases shares by a withdrawal from a certificate of deposit, the converting institution shall not assess a penalty for the withdrawal.

(b) The converting institution shall not extend credit to any person to purchase the conversion shares.

(Adopted effective September 7, 2007)

Sec. 36a-136-23. Payment of interest on payments for conversion shares

(a) The converting institution shall pay interest from the date it receives a payment for conversion shares until the date the conversion is completed or terminated. Interest shall be paid at no less than the passbook rate for amounts paid in cash, check or money order.

(b) If a subscriber withdraws money from a savings account to purchase conversion shares, the converting institution shall pay interest on the payment until the conversion is completed or terminated as if the withdrawn amount remained in the account.

(c) If a depositor fails to maintain the applicable minimum balance requirement because he or she withdraws money from a certificate of deposit to purchase conversion shares, the converting institution may cancel the certificate and pay interest at no less than the passbook rate on any remaining balance.

(Adopted effective September 7, 2007)

Sec. 36a-136-24. Subscription rights of eligible account holders and supplemental eligible account holders

(a) The converting institution shall give each eligible account holder subscription rights to purchase conversion shares in an amount equal to the greater of:

(1) The maximum purchase limitation established for the community offering or the public offering under section 36a-136-32 of the Regulations of Connecticut State Agencies;

(2) One-tenth of one per cent of the total stock offering; or

(3) Fifteen times the following number: The total number of conversion shares that will be issued multiplied by a fraction whose numerator is the total qualifying deposit of the

eligible account holder and denominator is the total qualifying deposits of all eligible account holders. The product of this multiplied fraction shall be rounded to the next whole number.

(b) The converting institution shall give subscription rights to purchase shares to each supplemental eligible account holder in the same amount as described in subsection (a) of this section, except that the numerator of the fraction described in subdivision (3) of subsection (a) of this section shall be the total qualifying deposit of the supplemental eligible account holder and the denominator shall be the total qualifying deposits of all supplemental eligible account holders.

(Adopted effective September 7, 2007)

Sec. 36a-136-25. Officers and directors and their associates as eligible account holders

Officers and directors of the converting institution and their associates may be eligible account holders, provided if an officer or director or his or her associate receives subscription rights based on increased deposits in the year before the eligibility record date, the converting institution shall subordinate subscription rights for such deposits to subscription rights exercised by other eligible account holders.

(Adopted effective September 7, 2007)

Sec. 36a-136-26. Purchase of conversion shares by other depositors of a mutual savings and loan association

(a) A converting institution that is a savings and loan association shall give rights to purchase the conversion shares to depositors who are neither eligible account holders nor supplemental eligible account holders. Such depositors shall be allocated purchase rights that are equal to the greater of:

(1) The maximum purchase limitation established for the community offering and the public offering under section 36a-136-32 of the Regulations of Connecticut State Agencies; or

(2) One-tenth of one per cent of the total stock offering.

(b) Such purchase rights shall be subordinated to the rights of eligible account holders, tax-qualified employee stock ownership plans and supplemental eligible account holders.

(Adopted effective September 7, 2007)

Sec. 36a-136-27. Limitations on the aggregate purchases of conversion shares by officers, directors and their associates

(a) Officers and directors of the converting institution and their associates shall not purchase, in the aggregate, more than the following percentage of the total stock offering in the conversion:

Officer, director and associate

Institution size	purchases (per cent)
$50,000,000 or less	35
$50,000,001-100,000,000	34
$100,000,001-150,000,000	33
$150,000,001-200,000,000	32
$200,000,001-250,000,000	31
$250,000,001-300,000,000	30
$300,000,001-350,000,000	29
$350,000,001-400,000,000	28
$400,000,001-450,000,000	27
$450,000,001-500,000,000	26
Over $500,000,000	25

(b) The purchase limitations in this section shall not apply to shares held in tax-qualified employee stock benefit plans that are attributable to the officers, directors and their associates.

(Adopted effective September 7, 2007)

Sec. 36a-136-28. Allocation of conversion shares if shares are oversubscribed

(a) If the conversion shares are oversubscribed by the eligible account holders, the converting institution shall allocate shares among the eligible account holders so that each, to the extent possible, may purchase one hundred shares.

(b) If the conversion shares are oversubscribed by the supplemental eligible account holders, the converting institution shall allocate shares among the supplemental eligible account holders so that each, to the extent possible, may purchase one hundred shares.

(c) If a person is an eligible account holder and a supplemental eligible account holder, the converting institution shall include the eligible account holder's allocation in determining the number of conversion shares that it may allocate to the person as a supplemental eligible account holder.

(d) For conversion shares that are not allocated under subsections (a) and (b) of this section, the converting institution shall allocate the shares among the eligible or supplemental eligible account holders equitably, based on the amounts of qualifying deposits. The method of allocation shall be described in the plan of conversion.

(e) In the case of a mutual savings and loan association, if shares remain after the allocation of shares as provided in subsections (a) and (b) of this section, and if depositors who are neither eligible account holders nor supplemental account holders oversubscribe, the converting institution shall allocate the conversion shares among such depositors equitably. The method of allocation shall be described in the plan of conversion.

(Adopted effective September 7, 2007)

Sec. 36a-126-29. Purchase of conversion shares by employee stock ownership plan

(a) The converting institution's tax-qualified employee stock ownership plan may purchase up to ten per cent of the total offering of the conversion shares.

(b) If the commissioner approves a revised stock valuation range as described in subsection (d) of section 36a-136-19 of the Regulations of Connecticut State Agencies, and the final conversion stock valuation range exceeds the former maximum stock offering range, the converting institution may allocate conversion shares to the tax-qualified employee stock ownership plan up to the ten per cent limit in subsection (a) of this section.

(c) If the tax-qualified employee stock ownership plan is not able to or chooses not to purchase stock in the offering, it may, with prior approval of the commissioner and appropriate disclosure in the offering circular, purchase stock in the open market or purchase authorized but unissued conversion shares.

(d) The converting institution may include stock contributed to a charitable organization in the conversion in the calculation of the total offering of conversion shares under subsections (a) and (b) of this section, unless the commissioner objects on supervisory grounds.

(Adopted effective September 7, 2007)

Sec. 36a-136-30. Imposition of purchase limitations by the converting institution

(a) The converting institution may limit the number of shares that any person, group of associated persons or persons otherwise acting in concert may subscribe to between one per cent and five per cent of the total stock sold.

(b) If the converting institution sets a limit of five per cent under subsection (a) of this section, it may modify that limit with the commissioner's approval to provide that any person, group of associated persons or persons otherwise acting in concert subscribing for five per cent, may purchase between five and ten per cent as long as the aggregate amount that the subscribers purchase does not exceed ten per cent of the total stock offering.

(c) The converting institution may require persons exercising subscription rights to purchase a minimum number of conversion shares. The minimum number of shares shall equal the lesser of the number of shares obtained by a five hundred dollar subscription or twenty-five shares.

(d) In setting purchase limitations under this section, the converting institution shall not aggregate conversion shares attributed to a person in its tax-qualified employee stock ownership plan with shares purchased directly by, or otherwise attributable to, that person.

(Adopted effective September 7, 2007)

Sec. 36a-136-31. Purchase preference for persons in the local community

(a) In its subscription offering, the converting institution may give purchase preference to eligible account holders, supplemental eligible account holders and, in the case of a mutual savings and loan association, other depositors residing in its local community.

(b) In its community offering, the converting institution shall give a purchase preference

to natural persons residing in its local community.

(Adopted effective September 7, 2007)

Sec. 36a-136-32. Other conditions applicable to the offering of conversion shares in a community offering, a public offering or both

(a) The converting institution shall offer and sell its stock to achieve a widespread distribution of the stock.

(b) If the converting institution offers shares in a community offering, a public offering or both, the converting institution shall first fill orders for its stock up to a maximum of two per cent of the conversion stock on a basis that will promote a widespread distribution of stock. Any remaining shares shall be allocated on an equal number of shares per order basis until all orders are filled.

(Adopted effective September 7, 2007)

Sec. 36a-136-33. Completion of sale of stock

(a) All sales of stock shall be completed not later than forty-five calendar days after the last day of the subscription period, unless the offering is extended under subsection (b) of this section.

(b) Upon written request by the converting institution, the commissioner may grant extensions of time to sell the shares. The commissioner shall not grant any single extension for more than ninety days. If the commissioner grants such request, the converting institution shall provide a post-effective amendment to the offering circular under section 36a-136-17 of the Regulations of Connecticut State Agencies to each person who subscribed for or ordered stock. The amendment shall indicate that the commissioner extended the offering period and that each person who subscribed for or ordered stock may increase, decrease or rescind such person's subscription or order within the time remaining in the extension period.

(Adopted effective September 7, 2007)

Sec. 36a-136-34. Completion of conversion

(a) The plan of conversion shall set a date by which the conversion shall be completed. This date shall not be more than twenty-four months from the date that the governing board or, in the case of a mutual savings and loan association, the depositors approve the plan of conversion. The date, once set, shall not be extended by the converting institution without the approval of the commissioner.

(b) The conversion shall be deemed complete on the date that the converting institution accepts the offers for the stock.

(c) Promptly after completion of the conversion, the converting institution shall submit an opinion of counsel that it complied with all laws applicable to the conversion.

(Adopted effective September 7, 2007)

Sec. 36a-136-35. Termination of the conversion

The governing board of the converting institution may terminate the conversion at any time, provided in the case of a mutual savings and loan association: (1) The depositors may terminate the conversion by failing to approve the conversion at the depositors' meeting, (2) the converting institution may terminate the conversion before the depositors' meeting, or (3) the converting institution may terminate the conversion after the depositors' meeting only if the commissioner concurs.

(Adopted effective September 7, 2007)

Sec. 36a-136-36. Rights of depositors of the converted institution

(a) Each depositor shall have, without payment, a withdrawable deposit account or accounts in the same amount and under the same terms and conditions as their accounts before the conversion.

(b) The converted institution shall provide a liquidation account for each eligible account holder and supplemental eligible account holder under section 36a-136-37 of the Regulations of Connecticut State Agencies.

(Adopted effective September 7, 2007)

Sec. 36a-136-37. Liquidation account

(a) At the time of conversion, the converting institution shall establish a liquidation account. The initial balance of the liquidation account shall be the net worth of the converting institution in the statement of financial condition included in the final offering circular. The liquidation account shall be maintained for a period of ten years subsequent to the conversion. The liquidation account shall not affect the converted institution's net worth. The converting institution shall maintain a sub-account to reflect the interest of each eligible account holder or supplemental eligible account holder. Eligible account holders or supplemental eligible account holders do not retain any voting rights based on their liquidation sub-accounts.

(b) If there is a complete liquidation of a converted bank not later than ten years subsequent to the conversion, the converted institution shall give a liquidation distribution to those eligible account holders and supplemental eligible account holders who hold qualifying deposit accounts from the time of conversion until liquidation. A merger, consolidation or similar combination or transaction with another depository institution is not a liquidation. If the converting institution is involved in such a transaction, the surviving institution shall assume the liquidation account.

(c) The converting institution shall not record the liquidation account in its financial statements and shall disclose the liquidation account in the footnotes to the financial statements.

(d) (1) The converting institution shall determine the initial sub-account balance for a qualifying deposit account held by an eligible account holder by multiplying the initial balance of the liquidation account by the following fraction: The numerator is the qualifying

deposit in the qualifying deposit account expressed in dollars on the eligibility record date. The denominator is total qualifying deposits of all eligible account holders on that date.

(2) The converting institution shall determine the initial sub-account balance for a qualifying deposit account held by a supplemental eligible account holder by multiplying the initial balance of the liquidation account by the following fraction: The numerator is the qualifying deposit in the qualifying deposit account expressed in dollars on the supplemental eligibility record date. The denominator is the total qualifying deposits of all supplemental eligible account holders on that date.

(3) If an account holder holds a qualifying deposit account on the eligibility record date and a separate qualifying deposit account on the supplemental eligibility record date, the converting institution shall compute separate sub-accounts for the qualifying deposits in the qualifying deposit account on each record date.

(e) The converting institution shall not increase the initial sub-account balances and shall decrease the initial balance as depositors reduce or close their accounts as follows:

(1) The converting institution shall reduce the balance of an eligible account holder's or supplemental eligible account holder's sub-account if the deposit balance in the account holder's qualifying deposit account at the close of business on any annual closing date, which for purposes of this section is the converting institution's fiscal year end, after the relevant eligibility record date is less than (A) the deposit balance in the account holder's qualifying deposit account at the close of business on any other annual closing date after the relevant eligibility record date; or (B) the qualifying deposits in the account holder's qualifying deposit account on the relevant eligibility record date.

(2) The reduction shall be proportionate to the reduction in the deposit balance.

(3) If the converting institution reduces the balance of a liquidation sub-account, it shall not subsequently increase it if the deposit balance increases.

(4) The converting institution is not required to adjust the liquidation account and sub-account balances at each annual closing date if it maintains sufficient records to make the computations if a liquidation subsequently occurs.

(5) During the period that the converting institution is required to maintain a liquidation account, it shall maintain the liquidation sub-account for each account holder as long as the account holder maintains a qualifying deposit account with the same social security number.

(6) If there is a complete liquidation not later than ten years subsequent to the conversion, the converting institution shall provide each account holder with a liquidation distribution in the amount of the sub-account balance.

(Adopted effective September 7, 2007)

Sec. 36a-136-38. Implementation of a stock option plan or management or employee stock benefit plan

(a) With the approval of commissioner, a converted institution may implement a stock option plan or management or employee stock benefit plan not later than twelve months after the conversion if such institution meets all of the following requirements:

(1) It disclosed the plans in its proxy statement and offering circular and indicated in the offering circular that there would be a separate vote on the plans at least six months after the conversion;

(2) It does not grant stock options under its stock option plan in excess of ten per cent of the shares issued in the conversion;

(3) It does not permit the management stock benefit plans, in the aggregate, to hold more than three per cent of the shares issued in the conversion, provided if it has tangible capital of ten per cent or more following the conversion, the commissioner may permit it to establish a management stock benefit plan that holds up to four per cent of the shares issued in the conversion;

(4) It does not permit any tax-qualified employee stock benefit plan and management stock benefit plan, in the aggregate, to hold more than ten per cent of the shares issued in the conversion, provided if it has tangible capital of ten per cent or more following the conversion, the commissioner may permit the tax-qualified employee stock benefit plans and management stock benefit plans, in the aggregate, to hold up to twelve per cent of the shares issued in the conversion;

(5) No individual receives more than twenty-five per cent of the shares under any plan;

(6) Directors who are not employees do not receive more than five per cent of the shares of any plan individually or thirty per cent of the shares of any plan in the aggregate;

(7) Shareholders approve each plan by a majority of the total votes eligible to be cast at a duly called meeting before establishment or implementation of the plan. The converted institution shall not hold such meeting until at least six months after the conversion;

(8) Any proxies or related material distributed to shareholders in connection with the vote on a plan state that the plan complies with Connecticut statutes and regulations and that the commissioner does not endorse or approve the plan in any way. The converted institution shall not make any written or oral representation to the contrary;

(9) The converted institution does not grant stock options at less than the market price at the time such options are granted;

(10) The converted institution does not use stock issued at the time of conversion to fund management or employee stock benefit plans;

(11) The plan does not begin to vest earlier than one year after the shareholders approve the plan and does not vest at a rate exceeding twenty per cent per year;

(12) The plan permits accelerated vesting only for disability or death or if there is a change of control; and

(13) The plan provides that officers or directors shall exercise or forfeit their options if the institution becomes critically undercapitalized under applicable federal law, is subject to an enforcement action by the commissioner or receives a capital directive from the commissioner.

(b) Not later than five calendar days after the shareholders approve the plan, the converted institution shall file a copy of the approved stock option plan or management or employee stock benefit plan with the commissioner and certify to the commissioner, in

writing, that the plan approved by the shareholders is the same plan that the converted institution filed with and disclosed in the proxy materials distributed to shareholders in connection with the vote on the plan.

(c) The converted institution may provide dividend equivalent rights or dividend adjustment rights to allow for stock splits or other adjustments to the stock in stock option plans or management or employee stock benefit plans under this section.

(d) If the plan is amended more than one year following the conversion, any material deviations to the requirements in subsection (a) of this section shall be ratified by the shareholders.

(Adopted effective September 7, 2007)

Sec. 36a-136-39. Restrictions on trading of shares by directors, officers and their associates

(a) Directors and officers who purchase conversion shares shall not sell the shares for one year after the date of purchase, except that the successor in interest of a deceased officer or director may sell the shares. The converting institution shall include notice of such restriction on each certificate of stock that a director or officer purchases during the conversion or receives in connection with a stock dividend, stock split or otherwise with respect to such restricted shares. The converting institution shall instruct its stock transfer agent about the transfer restrictions in this section.

(b) For three years after the conversion, officers, directors and their associates may purchase the converted institution's stock only from a broker-dealer registered under the Connecticut Uniform Securities Act, except that officers, directors and their associates may engage in a negotiated transaction involving more than one per cent of outstanding stock and may purchase stock through any of the converted institution's management or employee stock benefit plans.

(Adopted effective September 7, 2007)

Sec. 36a-136-40. Repurchase of shares after conversion

(a) A converted institution shall not repurchase its shares if: (A) The repurchase will reduce its regulatory capital below the amount required for the liquidation account under section 36a-136-37 of the Regulations of Connecticut State Agencies; or (B) the repurchase violates section 36a-111 of the Connecticut General Statutes or any other statute, regulation or agreement with or condition imposed by any regulator.

(b) The restrictions on share repurchases apply to a charitable organization under section 36a-136-44 of the Regulations of Connecticut State Agencies. The converted institution shall aggregate purchases of shares by the charitable organization with its repurchases.

(c) (1) A converted institution shall not repurchase its shares in the first year after the conversion, provided such institution may make (A) repurchases in the open market of up to five per cent of its outstanding stock in extraordinary circumstances, (B) repurchases of qualifying shares of a director or pursuant to an offer made to all shareholders, (C)

repurchases to fund management recognition plans that have been ratified by shareholders, or (D) repurchases to fund tax-qualified employee stock benefit plans.

(2) Any request for approval of a repurchase of shares pursuant to section 36a-111 of the Connecticut General Statutes during the first year following conversion shall include (A) the purpose of the repurchases, (B) if applicable, an explanation of the extraordinary circumstances necessitating the repurchases, and (C) any other information required by the commissioner.

(Adopted effective September 7, 2007)

Sec. 36a-136-41. Declaration or payments of dividends after conversion

The converting institution may declare or pay a dividend on its shares after the conversion if:

(1) The dividend will not reduce its regulatory capital below the amount required for the liquidation account under section 36a-136-37 of the Regulations of Connecticut State Agencies;

(2) It complies with the requirements of section 36a-110 of the Connecticut General Statutes; and

(3) It does not return any capital, other than ordinary dividends, to purchasers during the term of the business plan submitted with the conversion.

(Adopted effective September 7, 2007)

Sec. 36a-136-42. Acquisition of shares after conversion

(a) For three years after the conversion or such longer period as provided in the certificate of incorporation or plan of conversion, no person may, directly or indirectly, acquire or offer to acquire the beneficial ownership of more than ten per cent of any class of the equity securities of the converted institution without the commissioner's prior written approval. If a person violates this prohibition, the converted institution shall not permit the person to vote shares in excess of ten per cent and shall not count the shares in excess of ten per cent in any shareholder vote.

(b) A person acquires beneficial ownership of more than ten per cent of a class of shares when such person holds any combination of stock or revocable or irrevocable proxies under circumstances that give rise to a conclusive control determination under 12 CFR 574.4(a) or a rebuttable control determination under 12 CFR 574.4(b). The commissioner will presume that a person has acquired shares if such person entered into a binding written agreement for the transfer of shares. For purposes of this section, an offer is made when it is communicated. An offer does not include non-binding expressions of understanding or letters of intent regarding the terms of a potential acquisition.

(c) Notwithstanding the restrictions in this section:

(1) Subsections (a) and (b) of this section do not apply to any offer with a view toward public resale made solely and exclusively to the converted institution, the underwriters or a selling group acting on the converted institution's behalf;

(2) Unless the commissioner objects in writing, any person may offer or announce an offer to acquire up to one per cent of any class of shares. In computing the one per cent limit, the person shall include all of such person's acquisitions of the same class of shares during the prior twelve months;

(3) A corporation whose ownership is or will be substantially the same as the converted institution's ownership may acquire or offer to acquire more than ten per cent of the common stock if it makes the offer or acquisition more than one year after the conversion; and

(4) One or more of the converted institution's tax-qualified employee stock benefit plans may acquire the shares if the plan or plans do not beneficially own more than twenty-five per cent of any class of the shares in the aggregate.

(d) The commissioner may deny an application under subsection (a) of this section if the proposed acquisition:

(1) Is contrary to the purposes of sections 36a-136-1 to 36a-136-48, inclusive, of the Regulations of Connecticut State Agencies;

(2) Is manipulative or deceptive;

(3) Subverts the fairness of the conversion;

(4) Is likely to injure the converted institution;

(5) Is inconsistent with the converted institution's plan to meet the credit and lending needs of its proposed market area;

(6) Otherwise violates laws or regulations; or

(7) Does not prudently deploy the conversion proceeds.

(Adopted effective September 7, 2007)

Sec. 36a-136-43. Other requirements after conversion

After the conversion, the converted institution shall:

(a) Promptly register its shares under the Securities Exchange Act of 1934, 15 USC 78a et seq., and shall not deregister the shares for three years.

(b) Encourage and assist a market maker to establish and to maintain a market for the shares. A market maker for a security is a dealer who:

(1) Regularly publishes bona fide competitive bid and offer quotations for the security in a recognized inter-dealer quotation system;

(2) Furnishes bona fide competitive bid and offer quotations for the security on request; or

(3) May effect transactions for the security in reasonable quantities at quoted prices with other brokers or dealers.

(c) Use its best efforts to list its shares on a national or regional securities exchange or on the National Association of Securities Dealers Automated Quotation system.

(d) File all post-conversion reports that the commissioner requires.

(Adopted effective September 7, 2007)

Sec. 36a-136-44. Donation of conversion shares or conversion proceeds to a charitable organization

(a) The converted institution may contribute some of its conversion shares or proceeds to a charitable organization if:

(1) The plan of conversion provides for the proposed contribution;

(2) In the case of a converting mutual savings and loan association, the depositors separately approve the proposed contribution by at least a majority of the total eligible votes at the meeting to consider the conversion; and

(3) The Internal Revenue Service either has approved or approves not later than two years after formation the charitable organization as a tax-exempt charitable organization under the Internal Revenue Code.

(b) The converted institution may contribute a reasonable amount of conversion shares or proceeds to a charitable organization if the contribution will not exceed limits for charitable deductions under the Internal Revenue Code and the commissioner does not object on supervisory grounds. If the converted institution is well-capitalized, the commissioner generally will not object if it contributes an aggregate amount of eight per cent or less of the conversion shares or proceeds.

(c) The charitable organization's charter or trust agreement and gift instrument shall provide that:

(1) The charitable organization's primary purpose is to serve and make grants in its local community;

(2) As long as the charitable organization controls shares, it shall vote those shares in the same ratio as all other shares voted on each proposal considered by the shareholders; and

(3) There shall be representation on the charitable organization's governing board or board of trustees from the local community.

(d) Any person who is an officer, director or employee of the converting institution or who otherwise owes a fiduciary duty to the converting institution and who will serve as an officer, director or employee of the charitable organization shall:

(1) Not advance such person's own personal or business interests or those of others with whom such person has a personal or business relationship at the expense of the converted institution; and

(2) If such person has an interest in a matter or transaction before the governing board:

(A) Disclose to the governing board all material nonprivileged information relevant to the governing board's decision on the matter or transaction, including the existence, nature and extent of such person's interests and the facts known to such person as to the matter or transaction under consideration;

(B) Refrain from participating in the governing board's discussion of the matter or transaction; and

(C) Recuse such person from voting on the matter or transaction.

(e) Before the converting institution's governing board may adopt a plan of conversion

that includes a charitable organization, the converting institution shall identify its directors that will serve on the charitable organization's board. Such directors shall not participate in the governing board's discussions concerning contributions to the charitable organization and shall not vote on the matter.

(f) The converting institution shall include the following legend in the stock certificates of shares that it contributes to the charitable organization or that the charitable organization otherwise acquires: "The governing board shall consider the shares that this stock certificate represents as voted in the same ratio as all other shares voted on each proposal considered by the shareholders, as long as the shares are controlled by the charitable organization."

(g) As long as the charitable organization controls shares, the converting institution shall consider those shares as voted in the same ratio as all of the shares voted on each proposal considered by its shareholders.

(h) The converting institution shall submit to the commissioner a copy of the charitable organization's conflict of interest policy and the gift instrument for contributions of either stock or cash to the charitable organization, after completion of the stock offering, and a copy of the operating plan not later than six months after completion of the stock offering.

(Adopted effective September 7, 2007)

Sec. 36a-136-45. Formation of a holding company as part of the conversion

The converting institution may convert to stock form as part of a transaction where it organizes a holding company to acquire all of its shares upon their issuance. In such a transaction, the holding company shall offer rights to purchase its shares instead of the converting institution's shares. Unless clearly inapplicable, all of the requirements of sections 36a-136-1 to 36a-136-46, inclusive, of the Regulations of Connecticut State Agencies shall apply to the holding company as they apply to the converting institution.

(Adopted effective September 7, 2007)

Sec. 36a-136-46. Acquisition of another insured capital stock bank as part of the conversion

When the converting institution converts to stock form, it may acquire for cash or stock another insured depository institution that is already in the stock form of ownership.

(Adopted effective September 7, 2007)

Sec. 36a-136-47. Merger with an existing insured capital stock bank as part of the conversion

A converting institution may convert to stock form by merging with an existing insured capital stock bank as part of a transaction in which the equity securities of the existing insured capital stock bank or the converting institution are issued. In such a transaction in which the existing insured capital stock bank is the surviving institution, the eligible account holders and supplemental eligible account holders of the converting institution shall receive, without payment, nontransferable rights in accordance with section 36a-136-24 of the

Regulations of Connecticut State Agencies to purchase the capital stock of the surviving institution in lieu of capital stock of the converting institution. Unless clearly inapplicable, all of the requirements of sections 36a-136-1 to 36a-136-48, inclusive, of the Regulations of Connecticut State Agencies shall apply to a conversion under this section.

(Adopted effective September 7, 2007)

Sec. 36a-136-48. Acquisition by an existing holding company as part of the conversion

(a) A converting institution may convert to stock form as part of a transaction in which an existing holding company acquires upon issuance all the capital stock of the converted institution. In such a transaction, the eligible account holders and supplemental eligible account holders of the converting institution shall receive, without payment, nontransferable rights under section 36a-136-24 of the Regulations of Connecticut State Agencies from the holding company to purchase its capital stock in lieu of the capital stock of the converting institution. Unless clearly inapplicable, all of the requirements of sections 36a-136-1 to 36a-136-48, inclusive, of the Regulations of Connecticut State Agencies shall apply to a conversion under this subsection.

(b) A converting institution may convert to stock form by merging into an existing insured capital stock bank which is a wholly-owned subsidiary of a holding company. In such a transaction, the eligible account holders and supplemental eligible account holders of the converting institution shall receive, without payment, nontransferable rights under section 36a-136-24 of the Regulations of Connecticut State Agencies from the holding company to purchase its capital stock in lieu of capital stock of the converting institution. Unless clearly inapplicable, all of the requirements of sections 36a-136-1 to 36a-136-48, inclusive, of the Regulations of Connecticut State Agencies shall apply to a conversion under this subsection.

(Adopted effective September 7, 2007)

Agency
Department of Banking

Subject
Community Reinvestment Act Compliance, Consumer Protection Law Compliance and Community Reinvestment Plan Requirements for Certain Transaction Applications

Section

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Sec. 36a-145-1. Submissions concerning community reinvestment act compliance and consumer protection law compliance required in connection with applications for the establishment by Connecticut banks of branches, limited branches or mobile branches outside

Community Reinvestment Act Compliance, Consumer Protection Law Compliance and Community Reinvestment Plan Requirements for Certain Transaction Applications

Sec. 36a-145-1. Submissions concerning community reinvestment act compliance and consumer protection law compliance required in connection with applications for the establishment by Connecticut banks of branches, limited branches or mobile branches outside of this state

(a) As used in this section:

(1) "Branch", "limited branch" and "mobile branch" shall have the same meaning as set forth in subsection (a) of section 36a-145 of the Connecticut General Statutes;

(2) "Federal CRA" shall have the same meaning as set forth in subsection (a) of section 36a-30 of the Connecticut General Statutes;

(3) "State CRA" means sections 36a-30 to 36a-33, inclusive, of the Connecticut General Statutes; and

(4) Terms that are defined in section 36a-2 of the Connecticut General Statutes shall have the same meaning as set forth in section 36a-2 unless the context otherwise requires.

(b) In connection with any application filed by a Connecticut bank to establish a branch, limited branch or mobile branch outside of this state pursuant to subsection (i) of section 36a-145 of the Connecticut General Statutes, the Connecticut bank shall submit to the commissioner the following information, except as waived by the commissioner:

(1) A copy of the Connecticut bank's most recent Federal CRA performance evaluation, including the composite Federal CRA rating;

(2) Copies of any decision or order issued during the last two years by any federal financial supervisory agency concerning the Connecticut bank's compliance with Federal CRA;

(3) An opinion of counsel addressing the Connecticut bank's record of compliance with applicable consumer protection laws during the last two years, if requested by the commissioner in any case where the commissioner is unable to determine such record of compliance based on state or federal reports of examination prepared within the last two years and other documentation filed by the Connecticut bank, or is not satisfied with the contents of such reports and documentation; and

(4) Copies of any administrative or judicial decision or order concerning the Connecticut bank's compliance with applicable consumer protection laws.

(Adopted effective January 29, 1999)

Agency
Department of Banking

Subject
Maximum Deposit Liability, Collateral and Reports by Qualified Public Depositories

Inclusive Sections
§§ 36a-332-1—36a-332-8

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(Transferred from § 36-385)

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Maximum Deposit Liability, Collateral and Reports by Qualified Public Depositories

(Transferred from § 36-385)

Sec. 36a-332-1. Definitions

As used in sections 36a-332-2 to 36a-332-8, inclusive, and sections 36a-333-1 and 36a-333-2 of the Regulations of Connecticut State Agencies:

(1) "Commissioner" means "commissioner" as defined in section 36a-2 of the Connecticut General Statutes;

(2) "Eligible collateral" means "eligible collateral" as defined in section 36a-330 of the Connecticut General Statutes;

(3) "Financial institution" means "financial institution" as defined in section 36a-330 of the Connecticut General Statutes;

(4) "Net worth" means, in the case of a Connecticut credit union, "net worth" as defined in section 36a-441a of the Connecticut General Statutes and, in the case of a federal credit union, "net worth" as defined in 12 CFR 702.2;

(5) "Public deposit" means "public deposit" as defined in section 36a-330 of the Connecticut General Statutes;

(6) "Qualified public depository" or "depository" means "qualified public depository" or "depository" as defined in section 36a-330 of the Connecticut General Statutes; and

(7) "Total assets" means "total assets" as defined in 12 CFR 702.2.

(Effective May 22, 1992; ; Amended January 30, 1996; Amended July 31, 2006)

Sec. 36a-332-2. Requirements for qualification as qualified public depository

In order to qualify as a qualified public depository, a financial institution shall:

(1) Have its principal office in Connecticut, except in the case of an out-of-state bank that maintains in this state a branch as defined in section 36a-410 of the Connecticut General Statutes.

(2) In the case of a Connecticut credit union, comply with the net worth requirement of section 36a-441a of the Connecticut General Statutes.

(3) In the case of a federal credit union, comply with the net worth requirement of 12 CFR 702.

(4) Have assets which shall at all times exceed its liabilities.

(Effective May 22, 1992; ; Amended January 30, 1996; Amended July 31, 2006)

Sec. 36a-332-3. Other terms and conditions

(a) No qualified public depository shall maintain eligible collateral in its own trust department unless such depository is authorized under law to exercise fiduciary powers in this state.

(b) Concurrent with receipt of a public deposit, a qualified public depository shall transfer eligible collateral to secure such public deposit in accordance with section 36a-333 of the

Connecticut General Statutes.

(c) A qualified public depository shall maintain records including but not limited to a full report of all public deposits by depositor name and location, account name, account number, amount and Federal Employer Identification Number (FEIN).

(d) A qualified public depository shall not charge costs, fees or expenses incidental to the transfer or maintenance of eligible collateral against the required amount of eligible collateral.

(e) Each qualified public depository shall permit the commissioner or any authorized employee of the department of banking to inspect, verify and review all documents, reports, records and all other financial information deemed necessary to verify compliance with part III of chapter 665a of the Connecticut General Statutes and these regulations.

(f) If during any calendar quarter after the issuance of its call report, the qualified public depository determines that pursuant to section 36a-333 of the Connecticut General Statutes, it is required to increase the amount of eligible collateral maintained by it, it shall immediately increase such collateral to the amount required and shall immediately thereafter give written notification of its action to the commissioner and to its public depositors. Such notification shall include, but not be limited to, the depository's current risk-based capital ratio and the amount, nature and value of the additional eligible collateral segregated and designated therefor in accordance with part III of chapter 665a of the Connecticut General Statutes and these regulations.

(g) Any qualified public depository that ceases to be a qualified public depository or no longer wishes to be a qualified public depository shall no longer receive public deposits and shall give immediate notice to the commissioner, who shall thereupon instruct such qualified public depository of the procedures to be followed with respect to the return of public deposits and eligible collateral.

(Effective May 22, 1992;)

Sec. 36a-332-4. Requirements for financial institutions to serve as trustee for segregated eligible collateral

No financial institution shall accept a transfer of eligible collateral from a qualified public depository pursuant to subsection (b) of section 36a-333 of the Connecticut General Statutes unless such financial institution (1) is authorized under law to exercise fiduciary powers in this state, (2) meets the requirements of section 36a-332-2 of the Regulations of Connecticut State Agencies, as applicable, and (3) is federally insured or receives the approval of the commissioner. If a financial institution ceases to meet such requirements, it shall give immediate notice to the qualified public depository and the commissioner who shall thereupon instruct such institution with respect to the disposition of eligible collateral.

(Effective May 22, 1992; ; Amended July 31, 2006)

Sec. 36a-332-5. Requirements for the transfer of eligible collateral

(a) Prior to the transfer of eligible collateral to a financial institution serving as trustee

or the designation of collateral already in the custody of such financial institution as eligible collateral, the qualified public depository shall receive written confirmation in the form of a certified notice from such financial institution that it is in compliance with section 36a-332-4 of the Regulations of Connecticut State Agencies and forward a copy of the confirmation to the commissioner.

(b) Each qualified public depository shall enter into a written trust agreement with the financial institution, federal reserve bank or federal home loan bank serving as trustee. Such agreement shall identify that the collateral to be transferred or designated is eligible collateral subject to the requirements of part III of chapter 665a of the Connecticut General Statutes, governing public deposits, and sections 36a-332-1 to 36a-332-8, inclusive, and sections 36a-333-1 and 36a-333-2 of the Regulations of Connecticut State Agencies.

(c) Each transfer or designation of eligible collateral shall be accompanied by a certified statement from the qualified public depository showing the par value or original face amount, current par value, description and interest rate, CUSIP number, maturity date, market value and security rating, where applicable, of the eligible collateral being transferred or designated and the name of the financial institution, federal reserve bank or federal home loan bank serving as trustee receiving or holding such collateral. A copy of the certified statement shall be maintained on file with the qualified public depository.

(Effective May 22, 1992; ; Amended July 31, 2006)

Sec. 36a-332-6. Valuation of eligible collateral

When the market value of eligible collateral is not readily determinable, its value shall be based on a written appraisal performed by an independent certified appraiser knowledgeable in the valuation of the type of collateral.

(Effective May 22, 1992;)

Sec. 36a-332-7. Reports to commissioner

Each qualified public depository shall file with the commissioner the following:

(a) Call reports for each of the quarters ending March thirty-first, June thirtieth, September thirtieth and December thirty-first. Each report shall be submitted to the commissioner not later than thirty days after the date ending the quarter covered by the report.

(b) Written reports, certified under oath, for each of the quarters ending March thirty-first, June thirtieth, September thirtieth and December thirty-first, indicating its total capital, risk-based capital ratio, public deposits, the interest or other pecuniary consideration such depository allows for or upon such deposit or payment and the amount, nature and value of the eligible collateral segregated and designated therefor in accordance with part III of chapter 665a of the Connecticut General Statutes and sections 36a-332-1 to 36a-332-8, inclusive, and sections 36a-333-1 and 36a-333-2 of the Regulations of Connecticut State Agencies. Each report shall be filed not later than thirty days after the date ending the quarter covered by the report. Each qualified public depository shall retain a copy of such reports

for a period of seven years.

(Effective May 22, 1992; ; Amended July 31, 2006)

Sec. 36a-332-8. Total capital

(a) For purposes of sections 36a-332-1 to 36a-332-7, inclusive, and sections 36a-333-1 and 36a-333-2 of the Regulations of Connecticut State Agencies, in the case of a bank or an out-of-state bank that maintains in this state a branch as defined in section 36a-410 of the Connecticut General Statutes, "total capital" shall be determined in accordance with applicable federal regulations concerning "qualifying total capital" or "total capital" as the case may be. For purposes of this subsection, "federal regulations" means the capital guidelines adopted by the Federal Deposit Insurance Corporation, 12 C.F.R. Part 325, Appendix A; the Office of the Comptroller of the Currency, 12 C.F.R. Part 3, Appendix A; the Board of Governors of the Federal Reserve System, 12 C.F.R. Part 208, Appendix A; or the Office of Thrift Supervision, 12 C.F.R. Part 567, as from time to time amended.

(b) For purposes of sections 36a-332-1 to 36a-332-7, inclusive, of the Regulations of Connecticut State Agencies, in the case of a Connecticut credit union and a federal credit union, "total capital" means the total of all reserves plus undivided earnings.

(Effective May 22, 1992; ; Amended January 30, 1996; Amended July 31, 2006)

Agency
Department of Banking

Subject
Protection of Public Deposits

Inclusive Sections
§§ 36a-333-1—36a-333-2

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(Transferred from § 36-386)

Sec. 36a-333-1. Risk-based capital ratio
Sec. 36a-333-2. Public deposits held by the depository

Protection of Public Deposits

(Transferred from § 36-386)

Sec. 36a-333-1. Risk-based capital ratio

(a) In the case of a bank or an out-of-state bank that maintains in this state a branch as defined in section 36a-410 of the Connecticut General Statutes, "risk-based capital ratio" shall be determined in accordance with applicable federal regulations concerning "qualifying risk-based capital ratio" or "risk-based capital ratio" as the case may be. For purposes of this subsection, "federal regulations" means capital guidelines adopted by the Federal Deposit Insurance Corporation, 12 C.F.R. Part 325, Appendix A; the Office of the Comptroller of the Currency, 12 C.F.R. Part 3, Appendix A; the Board of Governors of the Federal Reserve System, 12 C.F.R. Part 208, Appendix A; or the Office of Thrift Supervision, 12 C.F.R. Part 567, as from time to time amended.

(b) In the case of a Connecticut credit union and a federal credit union, "risk-based capital ratio" means net worth divided by total assets.

(Effective May 22, 1992; ; Amended January 30, 1996; Amended July 31, 2006)

Sec. 36a-333-2. Public deposits held by the depository

The amount of public deposits held for purposes of Section 36a-333 (a) of the Connecticut General Statutes, where either (a) public deposits reported on the most recent call report equals zero or (b) the average of the public deposits reported on the four most recent quarterly call reports equals zero, shall be the actual amount on deposit.

(Effective May 22, 1992;)

Agency
Department of Banking

Subject
Supervision and Examination of Out-of-State Banks

Inclusive Sections
§§ 36a-412-1—36a-412-3

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Sec. 36a-412-1. Authority, scope, purpose
Sec. 36a-412-2. Definition
Sec. 36a-412-3. Supervision, examination and reports

Supervision and Examination of Out-of-State Banks

(Transferred from § 36-555)

Sec. 36a-412-1. Authority, scope, purpose

(a) Sections 36a-412-1 to 36a-412-3, inclusive, of the Regulations of Connecticut State Agencies are adopted pursuant to the provisions of subsection (a) of section 36a-412 of the Connecticut General Statutes.

(b) Sections 36a-412-1 to 36a-412-3, inclusive, of the Regulations of Connecticut State Agencies apply to all out-of-state banks, whether or not owned or controlled by any out-of-state holding company, that merge or consolidate with or acquire a branch or significant part of the assets or ten per cent or more of the stock of a bank or establish in this state a de novo branch pursuant to subsection (a) of section 36a-412 of the Connecticut General Statutes.

(c) The purpose of sections 36a-412-1 TO 36a-412-3, inclusive, of The Regulations of Connecticut State Agencies is to facilitate the supervision and examination of such out-of-state banks by the commissioner.

(Effective March 25, 1991; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-412-2. Definition

As used in section 36a-412-3 of the Regulations of Connecticut State Agencies, "supervisory agency" means: (1) The banking regulators of a state other than this state or similar regulators in a foreign country; (2) The Federal Deposit Insurance Corporation; (3) the Office of Thrift Supervision; (4) the Board of Governors of the Federal Reserve System; (5) the United States Comptroller of the Currency; and (6) any successor to any of the foregoing agencies or individuals.

(Effective February 25, 1988; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-412-3. Supervision, examination and reports

(a) Any out-of-state bank that merges or consolidates with or acquires a branch or significant part of the assets or ten per cent or more of the stock of a bank or establishes in this state a de novo branch pursuant to subsection (a) of section 36a-412 of the Connecticut General Statutes shall make reports to the commissioner as required by section 36a-16 of the Connecticut General Statutes, except to the extent waived by the commissioner.

(b) The commissioner may request from any supervisory agency of any such out-of-state bank the examination reports, consolidated reports of income and condition and any other report or information concerning such out-of-state bank which the commissioner deems necessary.

(c) The commissioner may examine and supervise the Connecticut branches of any such out-of-state bank and may enter into agreements with any supervisory agency of such out-of-state bank concerning such examinations or supervision.

(Effective March 25, 1991; Transferred April 24, 1995; Amended January 30, 1996)

Agency
Department of Banking

Subject
Foreign Banks

Inclusive Sections
§§ 36a-428-1—36a-428-3

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Foreign Banks

Sec. 36a-428-1. Separate books and records

Each foreign bank with a licensed state branch or licensed state agency shall make and keep separate books and accounts for each such branch or agency.

(Adopted effective December 23, 1997)

Sec. 36a-428-2. Language

Each foreign bank with a licensed state branch or licensed state agency shall make and keep books, accounts, and other financial records for each such branch or agency in English, or make and keep English translations of such books, accounts and records.

(Adopted effective December 23, 1997)

Sec. 36a-428-3. Reports

Each foreign bank with a licensed state branch or licensed state agency shall file with the commissioner all reports pertaining to such foreign bank's operations in the United States that it files with any federal or state banking regulatory agency.

(Adopted effective December 23, 1997)

Agency
Department of Banking

Subject
Foreign Banks

Inclusive Sections
§§ 36a-428c-1—36a-428c-7

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Sec. 36a-428c-6. Deposit agreement
Sec. 36a-428c-7. Record of deposits

Foreign Banks

Sec. 36a-428c-1. Definitions

The definitions contained in section 36a-2 of the general statutes shall govern the interpretation of sections 36a-428-1 to 36a-428n-1, inclusive, of the Regulations of Connecticut State Agencies. In addition thereto and except as otherwise required by context, as used in sections 36a-428-1 to 36a-428n-1, inclusive, of the Regulations of Connecticut State Agencies:

(a) "Adjusted liabilities" means all liabilities of a foreign bank appearing in the books, accounts and records of its licensed state agencies and licensed state branches as liabilities of such agencies and branches, including acceptances and such other liabilities, including contingent liabilities, as the commissioner shall determine, but excluding amounts due and other liabilities to other offices, agencies, branches and affiliates of such foreign bank, including unremitted profits.

(b) "Deposit assets" means:

(1) United States dollar deposits payable in the United States, other than certificates of deposit;

(2) bonds, notes, debentures, or other obligations of the United States, or any agency or instrumentality thereof, or guaranteed by the United States, or of this state or of a county, city, town, village, school district, or instrumentality of this state or guaranteed by this state;

(3) bonds, notes, debentures or other obligations issued by the Federal Home Loan Mortgage Corporation and by the Federal National Mortgage Corporation;

(4) commercial paper payable in dollars in the United States, provided such paper is rated in one of the three highest rating categories by a rating service recognized by the commissioner. In the event that an issue of commercial paper is rated by more than one recognized rating service, it shall be rated in one of the three highest rating categories by each such rating service;

(5) negotiable certificates of deposit that are payable in the United States and issued by: (A) an unaffiliated bank or out-of-state bank other than a foreign bank, or (B) a domestic office of an unaffiliated foreign bank, provided such certificates of deposit are of equal rank with other senior liabilities of the foreign bank and are not subordinated in payment to any other liabilities of the foreign bank;

(6) bankers' acceptances that are payable in the United States and issued by: (A) an unaffiliated bank or out-of-state bank other than a foreign bank, or (B) a domestic office of an unaffiliated foreign bank, provided such bankers' acceptances are of equal rank with other senior liabilities of the foreign bank and are not subordinated in payment to any other liabilities of the foreign bank and the method and manner of repayment is reflected in such bankers' acceptances;

(7) reserves held at a Federal Reserve Bank; and

(8) such other assets as determined by the commissioner upon written application. If the commissioner determines that an asset which otherwise qualifies under this section shall be valued at less than the amount otherwise provided in this section, the commissioner shall

so notify the foreign bank which shall thereafter value such asset as directed by the commissioner.

(c) "Depository" means a Connecticut bank, federal bank, or the Federal Reserve Bank of New York or Boston.

(d) "Eligible assets" means any assets payable in the United States, or in United States funds, or with the prior approval of the commissioner, in funds freely convertible into United States funds, reduced by the amount of any specifically allocated reserves established on the books in connection with such assets, held in this state and recorded on the general ledger of a licensed state branch and licensed state agency of the foreign bank, subject to the following:

(1) marketable debt securities shall be allowed at their principal amount or market value, whichever is lower;

(2) restructured foreign debt bonds backed by United States Treasury obligations commonly known as "Brady Bonds", whether carried on the books of the licensed state branch or licensed state agency as loans or securities, shall be allowed at their book value or market value, whichever is lower;

(3) equity securities shall be ineligible;

(4) the balance from time to time of any assets classified loss, doubtful or substandard at the preceding examination by the commissioner, any other regulatory agency, outside accountants or the bank's internal loan review staff, shall be ineligible to the extent of one hundred per cent, fifty per cent and twenty per cent, respectively. Assets classified value impaired shall be ineligible to the extent of one hundred per cent of the amount of allocated transfer risk reserve which would be required by the appropriate federal banking regulatory agency for such exposure at a domestically chartered bank and twenty per cent of any residual exposure. For assets classified at the preceding examination by the commissioner or any other regulatory agency, if the deficiency or defect giving rise to the classification shall be removed subsequent to the examination, the department shall, upon written request supported by appropriate documentation, reconsider the classification;

(5) accrued income on assets classified loss, doubtful, substandard or value impaired shall be ineligible;

(6) the balance from time to time of any other asset or asset category disallowed at the preceding examination or by direction of the commissioner for any other reason shall be treated as ineligible until the underlying reasons for the disallowance have been removed;

(7) all amounts due from the home office, other offices and affiliates, including income accrued but uncollected on such amounts, shall be ineligible, except that with the commissioner's prior approval, all amounts due from other offices located within the United States shall be considered eligible;

(8) precious metals shall be considered eligible to the extent of seventy-five per cent of the market value;

(9) prepaid expenses and unamortized costs, furniture and fixtures and leasehold improvements shall be ineligible;

(10) real estate located in this state and carried on the accounting records as an asset shall be considered eligible at net book value or appraised value, whichever is less.

(e) "FRB" means board of governors of the federal reserve system.

(f) "Licensed state agency" means a state agency of a foreign bank licensed pursuant to section 36a-428a of the general statutes.

(g) "Licensed state branch" means a state branch of a foreign bank licensed pursuant to section 36a-428a of the general statutes.

(h) "Licensed representative office" means a representative office of a foreign bank licensed pursuant to section 36a-428g of the general statutes.

(i) "ROCA" means risk management, operation controls, compliance and asset quality, the rating system used by the FRB, the Office of the Comptroller of the Currency and state banking regulatory authorities to assess the condition of a branch or agency, or a commercial lending subsidiary of a foreign bank in the United States; and

(j) "SOSA" means strength of support assessment, the rating system used by the FRB to assess a foreign bank's ability to provide financial, liquidity and management support to its United States operations.

(Adopted effective December 23, 1997; Amended September 6, 2002)

Sec. 36a-428c-2. Maintenance of assets

The amount of eligible assets which is to be held by a foreign bank with a licensed state branch or licensed state agency is established at zero percent of its adjusted liabilities, provided the commissioner may impose specific asset maintenance requirements as deemed necessary for the protection of the public interest and the interest of depositors and creditors, and provided further the commissioner in specific cases may impose such other requirements as deemed necessary to effectuate the purpose of section 36a-428c(b) of the general statutes.

(Adopted effective December 23, 1997)

Sec. 36a-428c-3. Documentation for assets

Whether or not a foreign bank with a licensed state branch or licensed state agency is required to maintain eligible assets pursuant to section 36a-428c-2 of the Regulations of Connecticut State Agencies, such foreign bank shall maintain or make available within twenty-four hours after it is requested by the commissioner, at such branch or agency, the original of the evidence of indebtedness, or other documentation, for any asset which appears in the books, accounts and records of that branch or agency as an asset of that branch or agency.

(Adopted effective December 23, 1997)

Sec. 36a-428c-4. Assets to be deposited

(a) A foreign bank with a licensed state branch or licensed state agency shall keep deposit assets on deposit in accordance with section 36a-428c-6 of the Regulations of Connecticut

State Agencies as follows:

(1) If at the time the foreign bank filed its application to establish the licensed state branch or licensed state agency, it did not have an existing branch or agency in the United States: (A) for the first three years that the foreign bank maintains the licensed state branch or licensed state agency, an amount, based upon the lower of principal amount or market value, equal to the greater of one million dollars, or two per cent of adjusted liabilities; and (B) thereafter, an amount, based upon the lower of principal amount or market value, equal to the greater of one million dollars, or two per cent of adjusted liabilities up to a maximum of one hundred million dollars, provided such amount shall be subject to adjustment as provided in subsection (b) of this section. Notwithstanding the time requirement in subparagraph (A) of this subdivision, the commissioner may, in the commissioner's sole discretion, allow the foreign bank to keep deposit assets on deposit in the amount specified in this subparagraph (B) if (i) there is an information-sharing agreement between the commissioner and the foreign bank's home country regulators that is satisfactory to the commissioner, (ii) the licensed state branch or licensed state agency receives a satisfactory rating at an examination by the commissioner, and (iii) allowing such amount would not be contrary to the public interest;

(2) If the foreign bank maintains in the United States a branch or agency that has not been engaged in banking business continuously in the four years preceding the filing of the application by the foreign bank to establish the licensed state branch or licensed state agency: (A) for the first three years that the foreign bank maintains the licensed state branch or licensed state agency, or the first four years that the foreign bank maintains in the United States a branch or agency that has been engaged in banking business continuously, whichever period is shorter, an amount, based upon the lower of principal amount or market value, equal to the greater of one million dollars, or two per cent of adjusted liabilities, and (B) thereafter, an amount, based upon the lower of principal amount or market value, equal to the greater of one million dollars, or two per cent of adjusted liabilities up to a maximum of one hundred million dollars, provided such amount shall be subject to adjustment as provided in subsection (b) of this section. Notwithstanding the time requirement in subparagraph (A) of this subdivision, the commissioner may, in the commissioner's sole discretion, allow the foreign bank to keep deposit assets on deposit in the amount specified in this subparagraph (B) if (i) there is an information-sharing agreement between the commissioner and the foreign bank's home country regulators that is satisfactory to the commissioner, (ii) the licensed state branch or licensed state agency receives a satisfactory rating at an examination by the commissioner, and (iii) allowing such amount would not be contrary to the public interest;

(3) If the foreign bank maintains in the United States a branch or agency that has been engaged in banking business continuously in the four years preceding the filing of the application by the foreign bank to establish the licensed state branch or licensed state agency, an amount, based upon the lower of principal amount or market value, equal to the greater of one million dollars, or two per cent of adjusted liabilities up to a maximum of one hundred

million dollars, provided this amount shall be subject to adjustment as provided in subsection (b) of this section.

(b) (1) If any of the following criteria is met, the commissioner may, in the commissioner's sole discretion, increase the maximum amount of deposit assets required to be kept on deposit to five hundred million dollars, and if, in addition, the adjusted liabilities are less than one hundred million dollars, the commissioner may, in the commissioner's sole discretion, require that deposit assets be kept on deposit in the minimum amount of two million dollars. If two or more of the following criteria are met, the commissioner shall increase the maximum amount of deposit assets required to be kept on deposit to five hundred million dollars, and if, in addition, the adjusted liabilities are less than one hundred million dollars, the commissioner shall require that deposit assets be kept on deposit in the minimum amount of two million dollars:

(A) the licensed state branch or licensed state agency receives a ROCA composite rating of "3-Fair" at its most recent examination;

(B) the foreign bank's operations in the United States receive a ROCA comprehensive composite rating of "3-Fair" by the FRB;

(C) the rating of any outstanding debt issued by the foreign bank is placed on watch for a possible downgrade to below investment grade, by a rating service recognized by the commissioner;

(D) the sovereign rating of the home country of the foreign bank is placed on watch for possible bank downgrade to below investment grade, by a rating service recognized by the commissioner;

(E) the SOSA rating of the foreign bank is "2"; or

(F) a formal supervisory or enforcement action is issued against the foreign bank in any jurisdiction.

(2) If any of the following criteria is met, the minimum amount of deposit assets that the foreign bank shall keep on deposit shall be five million dollars, if adjusted liabilities are less than two hundred fifty million dollars and shall be two per cent of adjusted liabilities if such liabilities are two hundred fifty million dollars or more:

(A) the licensed state branch or licensed state agency receives a ROCA composite rating of "4-Marginal" or "5-Unsatisfactory" at its most recent examination;

(B) the foreign bank's operations in the United States receive a ROCA comprehensive composite rating of "4-Marginal" or "5-Unsatisfactory" by the FRB;

(C) the rating of any outstanding debt issued by the foreign bank is rated below investment grade by a rating service recognized by the commissioner;

(D) the sovereign rating of the home country of the foreign bank is rated below investment grade, by a rating service recognized by the commissioner; or

(E) the SOSA rating of the foreign bank is "3".

(c) A foreign bank opening its initial licensed state branch or licensed state agency shall keep deposit assets on deposit based upon the branch's or agency's projection of adjusted liabilities at the end of its first year of operation.

(d) If the commissioner determines that the protection of the public interest requires that a foreign bank should keep deposit assets on deposit in an amount greater than that required by this section, the commissioner shall so notify the foreign bank, which shall immediately thereafter keep deposit assets on deposit in such greater amount.

(e) For purposes of this section, liabilities arising from securities repurchase agreements may be excluded from the calculation of adjusted liabilities, to the extent such liabilities are secured by collateral within the meaning of section 36a-428n(i)(2)(D) of the Connecticut General Statutes unless the licensed state branch or licensed state agency has been notified otherwise by the commissioner.

(f) (1) With the approval of the commissioner, a foreign bank may satisfy up to twenty-five per cent of the amount that such foreign bank is required to keep on deposit in accordance with this section by obtaining and retaining a fidelity insurance bond for such amount from a monoline fidelity insurance company that is licensed by the insurance department to sell fidelity insurance in Connecticut and is rated in the two highest rating categories by a rating service recognized by the commissioner. Such bond shall be in a form satisfactory to the commissioner, shall name the commissioner as the beneficiary and provide that the fidelity insurance company issuing the bond shall make payment on the bond not later than twenty-four hours after the commissioner presents an order taking possession of the business and property of the foreign bank pursuant to section 36a-428n of the Connecticut General Statutes. The foreign bank shall file the fidelity insurance bond and proof of the authority of the fidelity insurance company to engage in business in Connecticut with the commissioner.

(2) If a fidelity insurance company that has issued a fidelity insurance bond to a foreign bank no longer meets any of the requirements of this subsection, such foreign bank, not later than five days of becoming aware of the failure to meet such requirements, shall notify the commissioner of such failure, and obtain a replacement fidelity insurance bond from a fidelity insurance company that meets such requirements, or place on deposit assets as required by this section.

(3) The commissioner shall revoke any approval issued under this subsection if the commissioner determines that the protection of the public interest so requires.

(Adopted effective December 23, 1997; Amended May 26, 2000; Amended September 6, 2002)

Sec. 36a-428c-5. Record of assets and liabilities

(a) Each foreign bank with one or more licensed state branches or licensed state agencies shall record, at the close of each business day, the liabilities of the foreign bank appearing in the books, accounts and records of such branches and agencies as liabilities of such branches and agencies as determined in accordance with section 36a-428c(b) of the general statutes and section 36a-428c-1(a) of the Regulations of Connecticut State Agencies and the assets as determined in accordance with section 36a-428c(b) of the general statutes and section 36a-428c-1(d) of the Regulations of Connecticut State Agencies. The daily record shall include a computation of the daily ratio of eligible assets to adjusted liabilities. The

daily record shall be maintained in permanent legible form and be retained until the conclusion of the next examination by the commissioner. A foreign bank authorized to maintain more than one licensed state branch or licensed state agency shall maintain the daily record on a consolidated basis. The daily record shall contain such information in sufficient detail as will permit ready verification of its accuracy.

(b) Each foreign bank with a licensed state branch or licensed state agency shall maintain, in addition to the daily record required to be maintained by subsection (a) of this section, a daily itemized record of assets deposited pursuant to section 36a-428c(a) of the general statutes and section 36a-428c-4 of the Regulations of Connecticut State Agencies. The record shall include the value of assets deposited at principal or market value, whichever is lower, and the ratio of the aggregate of such values to adjusted liabilities.

(c) The records required to be maintained by this section shall be authenticated by the signature of a duly authorized officer of the licensed state agency or licensed state branch.

(Adopted effective December 23, 1997)

Sec. 36a-428c-6. Deposit agreement

No deposit by a foreign bank with a licensed state branch or licensed state agency with a depository pursuant to section 36a-428c(a) of the general statutes shall be made until the foreign bank and the depository shall have executed a deposit agreement satisfactory to the commissioner. The commissioner may by written authorization relieve the foreign bank or the depository from compliance with any term or condition of the deposit agreement, including any term or condition prescribed by this section, if the commissioner finds such action necessary and proper to give effect to the purpose of section 36a-428c(a) of the general statutes or of sections 36a-428c-6 and 36a-428c-7 of the Regulations of Connecticut State Agencies. The deposit agreement, in addition to any other terms and considerations not inconsistent with this section, shall contain the following provisions:

(a) **Assets to be held as special deposit.** Assets deposited by a foreign bank with a depository under the deposit agreement shall be held by the depository as a special deposit free of any lien, charge, right of set-off, credit or preference in connection with any claim of the depository against the foreign bank. The depository shall not accept, as a deposit by the foreign bank pursuant to the deposit agreement, any asset that is not accompanied by documentation necessary to facilitate transfer of title.

(b) **Depository to furnish receipt.** The depository shall furnish to the foreign bank, upon deposit of any assets pursuant to the deposit agreement, a receipt or statement evidencing such deposit. Such receipt or statement shall identify the deposit as having been made by the foreign bank pursuant to section 36a-428c(a) of the general statutes and under the deposit agreement, and it shall provide the amount of the deposit and, with respect to deposits of securities, a description of each security so deposited.

(c) **Release of assets by depository.** The depository shall release deposited assets to the foreign bank upon written request (1) when accompanied by a certificate, as described in subsection (e) of this section, signed by a duly authorized officer of the foreign bank, or (2)

upon receipt of a written authorization of the commissioner to release to the foreign bank such part of the assets on deposit under such conditions and terms as the authorization may specify.

(d) **Termination of right to substitute or withdraw assets.** The right to substitute or withdraw assets provided in this section may be terminated or suspended by the commissioner at any time.

(e) **Model certificate.** The following or similar certificate shall be executed by a duly authorized officer of the foreign bank where withdrawals are made pursuant to subdivision (1) of subsection (c) of this section:

It is hereby certified that the aggregate of assets remaining on deposit pursuant to the Deposit Agreement after this withdrawal or substitution amounts to $, valued at the lower of principal amount or market value, and that such amount is at least equal to the amount required to be deposited pursuant to section 36a-428c(a) of the Connecticut General Statutes and Section 36a-428c-4 of the Regulations of Connecticut State Agencies. The amount required to be maintained on deposit, as calculated pursuant to Section 36a-428c-4 of the Regulations of Connecticut State Agencies is $ as of this date.

(f) **Depository to furnish monthly statements of all transactions.** The depository shall furnish to the foreign bank, at least once in each calendar month, a statement of all transactions in the special deposit account since the closing date of the previous such statement. The statement shall include a listing of the assets on deposit, as of the closing date of the statement. A copy of such statement shall be simultaneously forwarded by the depository to the commissioner.

(g) **Depository may pay interest earned upon assets.** The depository may pay to the foreign bank interest earned on assets deposited in accordance with such arrangements as may be made between the depository and the foreign bank. The commissioner is authorized to revoke this provision.

(h) **Responsibility of depository with respect to deposited securities.** Except as provided in this subsection, a depository shall hold the securities deposited by a foreign bank under the deposit agreement separate and apart from all other securities and shall permit examination and comparison thereof by duly authorized representatives of the foreign bank or of the commissioner. A depository may utilize a central depository, clearing corporation or book entry system to hold securities deposited pursuant to a deposit agreement, provided the records of the central depository, clearing corporation or book entry system show that the securities are held for the depository as principal, agent or custodian for its customers. The depository shall maintain adequate records to demonstrate the disposition of such book entry deposits.

(i) **Depository shall safeguard securities.** The depository shall give to the safekeeping, handling and shipping of securities deposited with it by the foreign bank the same degree of care given by such depository to its own securities.

(j) **Commissioner shall not pay for services rendered.** The commissioner shall not be required to pay for any of the services rendered or any expenses incurred by the depository or the foreign bank under or in connection with this section or the deposit agreement.

(k) **Termination of deposit agreement.** The foreign bank or the depository may terminate the deposit agreement by giving the other party thereto at least 60 days written notice of such termination, or such shorter notice as the commissioner may approve, provided no termination by the foreign bank shall be effective until (1) another depository has been designated by the foreign bank, (2) such other depository has been approved by the commissioner, (3) a deposit agreement has been executed in conformity with this section, and (4) the depository has released to the foreign bank all the assets on deposit in accordance with written instructions from the foreign bank, approved by the commissioner.

(*l*) **Termination of deposit agreement by action of commissioner.** If the conditions provided in subsection (k) of this section are not met within 60 days after notice of termination, or such shorter period as the commissioner may approve, the commissioner may require the depository to release the assets on such terms as the commissioner specifies. The depository, in such case, shall release the assets upon the terms so specified, and the deposit agreement shall terminate upon such release.

(Adopted effective December 23, 1997; Amended September 6, 2002)

Sec. 36a-428c-7. Record of deposits

(a) Each foreign bank shall retain until completion of its next examination by the commissioner the originals of all receipts or statements obtained from a depository pursuant to subsection (b) of section 36a-428c-6 of the Regulations of Connecticut State Agencies, copies of withdrawal requests and the certificate provided for in subsection (c) of section 36a-428c-6 of the Regulations of Connecticut State Agencies.

(b) Coincident with any withdrawal request, the foreign bank shall furnish to the commissioner a copy of the withdrawal request and the certificate provided for in subsection (c) of section 36a-428c-6 of the Regulations of Connecticut State Agencies.

(c) The amount of assets remaining on deposit and the amount of adjusted liabilities as certified pursuant to subsection (c) of section 36a-428c-6 of the Regulations of Connecticut State Agencies shall be supported by data contained in the daily record required to be maintained pursuant to section 36a-428c-5 of the Regulations of Connecticut State Agencies.

(Adopted effective December 23, 1997)

Agency
Department of Banking

Subject
Foreign Banks

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Sec. 36a-428g-1. Separate books and records
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Foreign Banks

Sec. 36a-428g-1. Separate books and records

Each foreign bank with a licensed representative office shall make and keep separate books and accounts for each such representative office.

(Adopted effective December 23, 1997)

Sec. 36a-428g-2. Language

Each foreign bank with a licensed representative office shall make and keep books, accounts, and other financial records for each such representative office in English, or make and keep English translations of such books, accounts and records.

(Adopted effective December 23, 1997)

Sec. 36a-428g-3. Reports

Each foreign bank with a licensed representative office shall file with the commissioner all reports pertaining to such foreign bank's operations in the United States that it files with any federal or state banking regulatory agency.

(Adopted effective December 23, 1997)

Agency
Department of Banking

Subject
Foreign Banks

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§ 36a-428n-1

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Sec. 36a-428n-1. Disposition of personal property in custody or possession of foreign bank in involuntary liquidation

Foreign Banks

Sec. 36a-428n-1. Disposition of personal property in custody or possession of foreign bank in involuntary liquidation

(a) In an involuntary liquidation of a foreign bank pursuant to section 1 of Public Act 97-160, if any person to whom the commissioner has mailed a notice to remove property or contents pursuant to subdivision (1) of subsection (h) of section 1 of Public Act 97-160, has not removed personal property in the possession or custody of the foreign bank or contents of the safe, vault or box, and paid all accrued rental or storage and other charges within the time fixed by the notice, the commissioner may cause such property to be inventoried, or such safe, vault or box, or any package, parcel or receptacle in the custody or possession of such foreign bank as bailee or depositary for hire or otherwise, to be opened and the contents, if any, to be removed and inventoried, in the commissioner's presence or in the presence of a deputy commissioner, a special deputy commissioner, or an examiner and of a notary public, who is not an officer or employee of such foreign bank or the department of banking. Such property or contents shall thereupon be sealed up by such notary public in a package distinctly marked by such notary public with the name of the person in whose name such property or such safe, vault, box, package, parcel or receptacle appears on the books of such foreign bank, and a copy of the inventory of the property therein shall be certified and attached thereto by such notary public. Such package may be kept by the commissioner in such place as the commissioner may determine at the expense and risk of the person in whose name it appears on the books of such foreign bank until delivered to such person or until sold, destroyed or otherwise disposed of as provided in this section. Such package may, pending final disposition of its contents, be opened by the commissioner, a deputy commissioner, special deputy commissioner or examiner, from time to time for inspection or appraisal, or to enable the commissioner to exercise any of the powers conferred or duties imposed upon the commissioner by this section. Whenever such package is opened, the commissioner, deputy commissioner, special deputy commissioner or examiner, shall endorse on the outside of the package the date of opening and re-sealing, and shall prepare an affidavit which shall be attached thereto, showing the reason for opening and the articles, if any, removed therefrom, or placed or replaced therein.

(b) At any time prior to the sale, destruction or other disposition of the contents thereof, the person in whose name such package appears on the books of such foreign bank may require the delivery thereof upon payment of all rental or storage charges accrued, and all other charges or expenses paid or incurred to the date of delivery with respect to such package or the contents thereof, including the cost of inventorying or of opening and inventorying, the fees of the notary public, the cost of preparing and mailing the notice, and advertising, if any. If the principal of, or interest, income, or dividends on any bonds, stock certificates, promissory notes, choses in action or other securities contained in such package, is or becomes due and payable while it is in the possession of the commissioner, the commissioner may at his election collect such principal, interest, income or dividends, and from the proceeds thereof shall deduct all such sums due for rental and other charges, until

the time of such collection. The balance, if any, of the amount or amounts so collected shall be disposed of by the commissioner as provided in subsection (c) of this section.

(c) From the proceeds of any sale, the commissioner shall deduct all rental or storage charges accrued, and all other charges and expenses paid or incurred to the date of sale, including the charges and expenses described in subsection (b) of this section, and the expenses of sale. The balance of such proceeds, if any, shall be credited to the person in whose name such package appeared on the books of such foreign bank and shall be paid over to such person, such person's assignee or legal representative on satisfactory evidence of identity.

(Adopted effective December 23, 1997)

Agency
Department of Banking

Subject
Share Accounts with an Agreed Maturity in Connecticut Credit Unions

Inclusive Sections
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(Transferred from § 36-200)

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Sec. 36a-446-5. Share insurance

Share Accounts with an Agreed Maturity in Connecticut Credit Unions

(Transferred from § 36-200)

Sec. 36a-446-1. Definitions

As used in sections 36a-446-1 to 36a-446-5, inclusive, of the Regulations of Connecticut State agencies: (1) "Term share account" means any share certificate account, interest-bearing certificate of deposit account, dividend-bearing certificate account or other account with a maturity of at least seven days in which the member generally does not have a right to make withdrawals for six days after the account is opened, unless the account is subject to a premature withdrawal penalty of at least seven days' dividends on amounts withdrawn, offered by a Connecticut credit union to a member for payments received on term shares; and (2) "term share" means any share having an agreed maturity authorized pursuant to subsection (g) of section 36a-446 of the Connecticut General Statutes.

(Effective June 15, 1982; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-446-2. Term shares and term share accounts

A Connecticut credit union may offer to its members term share accounts subject to such terms, rates and conditions as may be established by the governing board. The governing board may prescribe penalties for the premature withdrawal of term shares except where such withdrawal occurs upon the member's death or disability, or upon the liquidation of the Connecticut credit union, and except as provided in subdivision (2) of section 36a-446-4 of the Regulations of Connecticut State Agencies. The governing board may declare dividends on term shares in the manner provided in subsection (a) of section 36a-459 of the Connecticut General Statutes.

(Effective June 15, 1982; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-446-3. Term share account agreements

All term share accounts shall be evidenced by A written agreement between the member and the Connecticut credit union. Any such agreement shall include, but not be limited to: (1) Any penalty for the premature withdrawal of term shares; (2) the maturity date; (3) the Connecticut credit union's renewal policy; (4) the dividend rate and the method of determining and paying dividends on term shares; and (5) a statement as to the availability of life savings insurance. Any such agreement may be incorporated with the disclosures required pursuant to 12 C.F.R. Part 707, as from time to time amended.

(Effective September 21, 1976; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-446-4. Term share account procedures

The following procedures shall be implemented by Connecticut credit unions offering term shares:

(1) Each member having a term share account shall be given notice before maturity of the member's term share account in accordance with 12 C.F.R. section 707.5, as from time

to time amended.

(2) Dividends on term share accounts may be withdrawn at any time without penalty.

(3) Life savings insurance shall not be provided on term share accounts unless the written agreement with the member specifies that such insurance coverage is provided.

(Effective June 25, 1986; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-446-5. Share insurance

All term share accounts shall be considered share accounts for the purposes of share insurance.

(Effective July 26, 1990; Transferred April 24, 1995; Amended January 30, 1996)

Agency
Department of Banking

Subject
Payment of Interest Refunds by Connecticut Credit Unions

Inclusive Sections
§§ 36a-456-1—36a-456-6

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(Transferred from § 36-206)

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Payment of Interest Refunds by Connecticut Credit Unions

(Transferred from § 36-206)

Sec. 36a-456-1. Definitions

As used in Sections 36a-456-1 to 36a-456-6, inclusive, of the Regulations of Connecticut State Agencies:

(1) "Commissioner" means the commissioner of banking. With respect to any function of the commissioner, "commissioner" includes any person authorized or designated by the commissioner to carry out that function;

(2) "Delinquency rate" means the total dollar value of loans which are more than SIXTY days delinquent divided by the total dollar value of loans outstanding at the end of any annual, semi-annual or quarterly accounting period from income earned and received during such period; and

(3) "Reserves" means the total of the reserve against losses on loans and any special reserve accounts.

(Effective July 2, 1979; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-456-2. Authorization of payment of interest refunds

The governing board of a Connecticut credit union may authorize the payment of interest refunds to members following the end of any annual, semi-annual or quarterly accounting period; provided (1) the Connecticut credit union has declared a dividend during such period, (2) the delinquency rate at the end of such period is less than five percent, and (3) reserves are sufficient to meet the following formula: $R - D_1(.1) + D_2(.2) + D_3(.8)$ where R = reserves, D_1 = loans 2 to less than 6 months delinquent, D_2 = loans 6 months to less than 12 months delinquent, and D_3 = loans 12 or more months delinquent.

(Effective July 2, 1979; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-456-3. Refund to be paid from income received during period

Interest refunds shall be paid by a Connecticut Credit Union to members from income earned and received during any annual, semi-annual or quarterly accounting period, in proportion to the interest paid by members during such accounting period on reasonable, objective classes of loans established by the governing board and under such conditions as the governing board may prescribe, but in no event shall interest refunds be paid to members whose loans are delinquent more than sixty days at the time of such interest refund.

(Effective July 2, 1979; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-456-4. Payment of interest refunds

A Connecticut credit union may pay interest refunds either into a member's share account or by disbursement directly to the member.

(Effective July 2, 1979; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-456-5. Accounting

Interest refunds shall be paid by a Connecticut credit union only after payment of expenses, distribution of dividends and required allocations to reserves have been made. Such refunds shall be charged to interest income.

(Effective July 2, 1979; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-456-6. Application for approval

A Connecticut credit union which does not meet the requirements of Section 36a-456-2 of the Regulations of Connecticut State Agencies may apply, in writing, to the commissioner for approval to pay an interest refund. Such application shall state the proposed rate or rates of the interest refund, the delinquency rate, the reserves, the dividend rate, and the Connecticut credit union's reasons for payment of an interest refund. The commissioner shall approve or disapprove such application, in writing, within forty-five days of receipt of such application.

(Effective July 2, 1979; Transferred April 24, 1995; Amended January 30, 1996)

Agency
Department of Banking

Subject
Risk Assets of Connecticut Credit Unions

Section
§ 36a-458-1

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(Transferred from § 36-209)

Sec. 36a-458-1. Risk assets defined

Risk Assets of Connecticut Credit Unions

(Transferred from § 36-209)

Sec. 36a-458-1. Risk assets defined

For purposes of section 36a-458 of the Connecticut General Statutes, "risk assets" shall have the same meaning as provided in 12 C.F.R. Section 700.1(i) of the National Credit Union Administration rules and regulations, as from time to time amended.

(Effective March 19, 1992; Transferred April 24, 1995; Amended January 30, 1996)

Agency
Department of Banking

Subject
Small Loan Licensees

Inclusive Sections
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Small Loan Licensees

(Transferred from § 36-239)

Sec. 36a-570-1. Definitions

As used in sections 36a-570-1 to 36a-570-17, inclusive, of these regulations:

(a) "Affiliated entity" means any person, partnership, association or corporation authorized by the commissioner under section 36a-561 of the Connecticut General Statutes to solicit or conduct business in association or conjunction with a licensee or within any office or room where a licensee conducts the business of making loans under the provisions of part III of chapter 668 of the Connecticut General Statutes.

(b) "Commissioner" means the commissioner of banking.

(c) "Department" means the department of banking.

(d) "Electronic equivalent" means any system whereby information or records required to be maintained may be displayed in readily understandable form on a computer screen or similar device.

(e) "Licensee" means a person, partnership, association or corporation licensed under part III of chapter 668 of the Connecticut General Statutes.

(Effective August 25, 1992; Transferred April 24, 1995)

Sec. 36a-570-2. Advertising and solicitation

(a) The advertising of each licensee and affiliated entity shall conform with the provisions of part III of chapter 669 of the Connecticut General Statutes and any regulations issued thereunder.

(b) It may be indicated in advertising that the licensee is "Licensed under the Laws Relating to Small Loans," but no other reference to licensing or supervision by the commissioner or State of Connecticut may be made.

(c) No licensee or affiliated entity shall advertise in any manner that may tend to confuse the identity of the licensee or affiliated entity with any other unrelated business.

(d) No licensee or affiliated entity shall cause or permit any advertising of its services to be placed before the public in any manner if it contains any statements or claims which are deceptive or false.

(e) Each licensee and affiliated entity shall make readily available to the commissioner a copy of all advertising for a period of one year from the date of its use.

(Effective August 25, 1992; Transferred April 24, 1995)

Sec. 36a-570-3. Deferral charges

No deferral charge shall be collected without the specific authorization of the borrower.

(Effective August 25, 1992; Transferred April 24, 1995)

Sec. 36a-570-4. Extended first payments, interest after maturity, rebates of unearned charges, and renewals

(a) **Extended first payments.** To determine the due date for loans under which the first payment is extended for a charge, the actual number of days in the extension period shall be counted from the date of the loan and a month, as determined under subsection (b) of section 36a-563 of the Connecticut General Statutes, added to the date so obtained.

(b) **Interest after maturity.** Interest after maturity shall be computed from the maturity date or deferred maturity date as applicable and shall be computed at a rate no higher than twelve per cent per year computed on a daily basis on the respective unpaid balances.

(c) **Rebates of unearned charges.**

(1) Where prepayment in full occurs on or before the fifteenth day following an instalment period due date, the rebate shall be calculated as of the due date immediately preceding the date of prepayment.

(2) Where prepayment in full occurs on or after the sixteenth day following an instalment period due date, the rebate shall be calculated as of the due date immediately following the date of prepayment.

(3) In the event prepayment occurs before the first instalment period due date, the entire first month's charges shall be earned, except where prepayment occurs during any paid first payment extension period, in which case only the first month's charge shall be earned and the extension charge shall be refunded.

(4) In the event prepayment occurs after any paid first payment extension period, but before the first instalment period due date, both the extension charge and the first month's charges shall be earned.

(d) **Renewals or refinances.** No loan shall be renewed or refinanced unless a distinct advantage to the borrower results therefrom. Restoration to a contractually up-to-date condition shall not, in itself, constitute a distinct advantage to the borrower.

(Effective August 25, 1992; Transferred April 24, 1995)

Sec. 36a-570-5. Collection practices

(a) Each licensee shall maintain a record of all contacts or attempted contacts with the debtor or others regarding an alleged debt, whether such contacts or attempted contacts be by telephone, in writing, in person, or any other method. Such record shall indicate the date, nature of the contact, name of the collector, the person contacted, and a brief summary of any conversation. Form letters shall be identified by number or title. Copies of all collection communications, except form notices and form letters of collection, shall be kept for a year from the date thereof. A sample copy of each form notice or letter shall be kept on file.

(b) The ledger card or its electronic equivalent shall indicate when any account has been placed for collection or legal action taken as well as the fact that any judgment has been obtained, together with the date and details of the judgment.

(c) Sections 36a-645 through 36a-647, inclusive, of the Connecticut General Statutes and regulations adopted thereunder shall govern all collection practices by licensees and

affiliated entities.

(d) Unless specific written permission is given by the commissioner, all collections of, or attempts to collect, any amounts due a licensee or an affiliated entity shall be made in this state only by the licensee, the affiliated entity, or an attorney at law.

(Effective August 25, 1992; Transferred April 24, 1995)

Sec. 36a-570-6. General conduct of business

(a) No licensee shall conduct the loan business at any place of business other than that named in the license. Where a loan results from a recommendation of a merchant or dealer for the purpose of financing the purchase price of goods or services to be purchased from that merchant or dealer, the borrower or, if a joint loan contract, at least one of the borrowers, must sign the note in the office of the licensee.

(b) No licensee shall, by any representation or device, offer money or other articles or consideration of value to any person for the purpose of inducing that person or any other person to borrow from such licensee.

(Effective August 25, 1992; Transferred April 24, 1995)

Sec. 36a-570-7. Office and office hours

(a) Unless specific written permission is given by the commissioner, the place of business, as designated in the license, shall be open for business at least three consecutive hours each day, Monday through Friday, except when one of those days is designated by law as a legal holiday. A licensee may close its place of business on a day other than a legal holiday if it requests and receives permission from the commissioner to do so. Except in the case of a bona fide emergency, such permission shall be in writing. Unless otherwise prohibited by law, a licensee may remain open for business on a legal holiday.

(b) The licensee shall file with the commissioner a schedule of days and hours during which the office will be open. Any restrictive change in such schedule shall be reported to the commissioner and appropriate notice given to borrowers before such change is to become effective.

(Effective August 25, 1992; Transferred April 24, 1995)

Sec. 36a-570-8. Books and records

(a) All records and supporting papers prescribed by subsection (b) of this section, and all expense vouchers, shall be maintained by a licensee for a minimum period of two years after making the final entry therein and, unless specifically authorized in writing by the commissioner, shall be maintained at the place of business of the licensee and shall be made available to the commissioner or his representative for examination at any time without prior notice. All accounting records shall be maintained in accordance with generally accepted accounting standards and in a manner satisfactory to the commissioner. The records prescribed by subsection (b) of this section may be maintained via an electronic equivalent, provided the required information is readily viewable by the commissioner or his

representative in the office of the licensee on a computer screen or similar device and can be printed on paper at the commissioner's or his representative's request. If the licensee maintains an electronic equivalent of any record prescribed by subsection (b) of this section, the commissioner or his representative shall have unlimited access to the equipment necessary to view and print the required information, and shall be provided with reasonable instruction in the use of such equipment.

(b) The following records shall be maintained by the licensee:

(1) Loan register. The loan register or its electronic equivalent shall list all loans made in chronological order, indicating loan number, name of maker, amount of loan, type of loan, and date of loan.

(2) Original papers on loans made. A file of original papers on loans made or its electronic equivalent shall be maintained for each borrower and shall contain complete information concerning all loans to such borrower. The account card and note or their electronic equivalent shall bear the loan number.

(3) Alphabetical index file. Each licensee shall maintain an alphabetical index file or its electronic equivalent of all persons obligated on the loan contracts, indicating loan number and original amount of each loan. The alphabetical index file shall be completely cross-referenced as to maker and co-maker.

(4) Contract cards. (A) An individual contract card or its electronic equivalent shall be kept for each loan contract. If the contract card or its electronic equivalent is for a contract where the charge is in terms of dollars and added to the principal amount, it shall clearly and separately show each payment, default charge, deferment charge, and the respective dates, and the unpaid balance of the contract at all times. (B) If the contract card or its electronic equivalent is for a contract where the charge is computed on an interest basis, it shall clearly and separately show the payments on principal and interest, and the unpaid balance at all times. (C) The contract card or its electronic equivalent shall clearly indicate the date to which the contract is contractually paid at all times. (D) No erasures shall be made upon that portion of the contract card where payments are entered. When an electronic equivalent of the contract card is maintained, corrective entries may be made where necessary but no entries shall be deleted.

(c) Upon the repayment of any loan in full, the licensee: (1) Shall mark indelibly each paper signed by the borrower with the word "paid" or "cancelled" and cancel and return any note; or (2) Unless otherwise required by the terms of any agreement between the licensee and the borrower entered into before October 1, 1994, shall transmit or deliver to the borrower a duplicate of the original document that clearly identifies the loan and shows that the loan has been paid in full and the note has been cancelled.

(Effective August 25, 1992; Transferred and Amended April 24, 1995)

Sec. 36a-570-9. Miscellaneous

(a) On the first page of the statement delivered to the borrower at the time a loan is made, the following sentence shall appear in bold and easily readable type:

This Office is Licensed by The
Commissioner of Banking,
260 Constitution Plaza,
Hartford, Connecticut 06103

(b) No licensee shall sell, transfer, hypothecate, assign or otherwise dispose of any loan to any individual, partnership, corporation or association not having a small loan license issued by the commissioner, unless prior written approval is obtained from the commissioner.

(c) Capital investment, as referred to by statute, shall consist of cash on hand, cash in banks, collectible small loans, marketable securities or furniture and fixtures of a fair value. Deferred charges, advances to any other company including the parent, any subsidiary or any related company, and organization expenses are not allowable in computing required capital investment.

(d) If any other business is conducted by the licensee, separate records of assets, liabilities, income and expenses shall be maintained to the extent required by the commissioner.

(Effective August 25, 1992; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-570-10. Other businesses on licensed premises

If any other business is permitted by the commissioner to be operated on the premises occupied by a licensee, such business shall be conducted by a separate entity. When more than one other business is authorized to operate on the premises occupied by a licensee, such other authorized businesses may be operated by one separate entity.

Sec. 36a-570-11. Records and accounts of affiliated entities

(a) Each affiliated entity shall maintain separate books and records in the form and manner prescribed by subsection (a) of section 36a-570-8 of these regulations.

(b) The account ledger cards or their electronic equivalent relating to each type of business conducted on the same premises shall be filed in such a manner as to be readily distinguished one from the other. The same shall apply to ledger cards or their electronic equivalent of accounts paid in full, renewed or refinanced, which shall be filed separate from open accounts.

(c) An alphabetical index or its electronic equivalent shall be maintained for all persons indebted to any affiliated entity. The index shall show the following information:

(1) The name of the obligor;

(2) the account number or numbers assigned to the obligor;

(3) the total indebtedness of the obligor when liable on more than one contract of any type;

(4) the type of indebtedness.

(Effective August 25, 1992; Transferred April 24, 1995)

Sec. 36a-570-12. Restrictions on loans by affiliated entities

(a) A loan shall not be made for a downpayment on an automobile, other merchandise or service where the retail instalment contract in the transaction is purchased or to be purchased and held by an affiliated entity.

(b) A loan shall not be made coincident with the purchasing of a retail instalment contract or the entering into any other type of contract by an affiliated entity when the proceeds of both are for the same purpose.

(Effective September 26, 1967; Transferred April 24, 1995)

Sec. 36a-570-13. Refinancing loans

A loan shall not be made to refinance a retail instalment contract or any other obligation held by an affiliated entity unless a refund credit, as required by law for prepayment in full, is first given and, in addition, one of the following conditions shall prevail:

(1) The contract being refinanced has been in existence for at least ninety days, or

(2) the amount of each instalment on the loan being made is less than the instalment on the contract being refinanced by ten per cent or five dollars, whichever is greater, or

(3) the principal amount of the loan being made exceeds the net amount owing on the obligation held by the affiliated entity by at least seventy-five dollars. A loan shall not be made where the proceeds are for the sole purpose of making payments on an obligation of any affiliated entity.

(Effective August 25, 1992; Transferred April 24, 1995)

Sec. 36a-570-14. Restrictions on affiliated entities

(a) Commissions, gratuities, or broker's fees shall not be paid by a licensee or an affiliated entity to dealers, salesmen or any other parties for the referral of loans to be made under part III of chapter 668 of the Connecticut General Statutes. No licensee shall make a loan under said chapter if the licensee knows that the borrower has paid or has contracted to pay such commissions, gratuities or broker's fees.

(b) An affiliated entity granting mortgage loans in excess of five thousand dollars under section 36a-570-17 of these regulations may pay commissions, gratuities, or broker's fees for the referral of such loans. Any such commissions, gratuities, or broker's fees may be charged to or paid by the borrower, provided: (1) if a nonrefundable prepaid finance charge is assessed against the borrower, such commissions, gratuities, or broker's fees shall be subject to the limitation set forth in subparagraph (A) of subdivision (2) of subsection (a) of section 36a-570-17 of these regulations; and (2) if a nonrefundable prepaid finance charge is not assessed against the borrower, such commissions, gratuities, or broker's fees shall not exceed eight per cent of the loan amount in the case of a closed-end loan or eight per cent of the initial cash advance in the case of an open-end loan.

(c) An affiliated entity engaging in the sales finance business may pay a portion of the finance charge permitted under section 36a-772 of the Connecticut General Statutes to the seller originating a retail instalment contract under an arrangement commonly known as "dealer participation."

(Effective July 22, 1994; Transferred April 24, 1995)

Sec. 36a-570-15. Revocation of authorization

Any authorization granted by the commissioner pursuant to section 36-231 of the Connecticut General Statutes shall be subject to revocation for any violation of sections 36a-570-10 to 36a-570-17, inclusive, of these regulations.

(Effective August 25, 1992; Transferred April 24, 1995)

Sec. 36a-570-16. Investigations and examinations

The commissioner or his duly appointed representative shall have the authority to investigate and examine at any time the books and records of any affiliated entity, licensed or unlicensed, for the purpose of determining if it is operating in a manner consistent with the provisions of section 36a-561 of the Connecticut General Statutes. The cost of any such investigation or examination shall be paid by the licensee.

(Effective August 25, 1992; Transferred April 24, 1995)

Sec. 36a-570-17. Mortgage loans in excess of five thousand dollars

(a) (1) **Approval of Commissioner.** Any licensee in this state may apply to the commissioner, in a manner prescribed by the commissioner, for permission to allow an affiliated entity on the same premises to make loans in excess of five thousand dollars which are secured by real estate. Upon receipt of written permission from the commissioner, the affiliated entity shall conduct its business in accordance with the requirements of this section.

(2) **Calculation of finance charge.** (A) The total finance charge assessed against the borrower on any mortgage loan made pursuant this section may be composed of interest and a nonrefundable prepaid finance charge, provided, any such nonrefundable prepaid finance charge, when added to any commissions, gratuities, or broker's fees for which the borrower may be obligated, shall not exceed, in the aggregate, eight per cent of the loan amount in the case of a closed-end loan or eight per cent of the initial cash advance in the case of an open-end loan. (B) When computed in accordance with part III of chapter 669 of the Connecticut General Statutes, but without the tolerances contained therein, the total finance charge, expressed as an annual percentage rate, shall not exceed twenty-four per cent for the original term of the loan. (C) In the case of a closed-end loan, the interest portion of the total finance charge may be assessed on a daily basis on the actual unpaid loan amount at the simple interest rate contained in the mortgage note, or at the lender's option it may be precomputed at the same rate in accordance with the disclosed schedule of payments. In the case of an open-end loan, the interest portion of the total finance charge shall be

computed in accordance with subsection (e) of section 36a-565 of the Connecticut General Statutes.

(b) **Other charges.** In addition to the finance charge permitted under subdivision (2) of subsection (a) of this section, the commissions, gratuities, or broker's fees permitted under subsection (b) of section 36a-570-14 of these regulations, the prepayment penalty permitted under subsection (e) of this section and the costs or charges permitted under subsections (c), (i), and (k) to (n), inclusive, of this section, no other charges of any kind shall be assessed against the borrower on any mortgage loan made pursuant to this section except the actual and reasonable costs of the following:

(1) Fees or premiums for title examination, abstract of title, title insurance, surveys or similar purposes.

(2) Preparation of deeds, settlement statements or other documents.

(3) Fees for notarizing deeds or other documents.

(4) Fees paid to public officials for the filing of deeds and other documents.

(5) Appraisal fees.

The borrower shall not be charged for any of the services listed in subdivisions (1) to (5), inclusive, of this subsection when performed by a salaried employee of the licensee.

(c) **Insurance.**

(1) Credit life insurance on the life of one borrower or on the lives of the borrower and the borrower's spouse if both are to be obligors on the loan may be sold in connection with a mortgage loan made pursuant to this section, if requested by any such borrower whose life is to be insured, in accordance with part III of chapter 669 of the Connecticut General Statutes. The cost of such insurance may be in addition to the finance charge and other charges permitted by this section.

(2) If requested by any borrower who will be insured, as required under part III of chapter 669 of the Connecticut General Statutes, credit accident and health insurance covering one borrower may be sold in connection with the mortgage loan, providing indemnity against the risk of a borrower becoming disabled for a period of not less than fourteen days, except that such insurance may provide for retroactive coverage if the disability continues for the period stated in the policy. The cost of such insurance may be in addition to the finance charge and other charges permitted by this section.

(3) If a borrower obtains credit accident and health insurance, the borrower shall have the right for a period of fifteen days after loan is made to cancel the entire insurance coverage. Notification of this right shall be made in the borrower's insurance election. All persons obligated on the loan must agree in writing to the cancellation and return all certificates upon cancellation. The lender shall, at the lender's option, either refund the insurance charges to the borrower or apply them to the unpaid balance of the loan.

(4) The lender may require evidence that the mortgaged property is adequately insured against loss from physical damage, provided, no such insurance may be sold by the lender to the borrower.

(d) **Security.** No collateral, other than a lien on real property owned by the borrower and

the insurances described under subsection (c) of this section, shall be taken in connection with any mortgage loan made pursuant to this section.

(e) **Prepayment.** In the event of prepayment in full or in part of a mortgage loan upon which the interest portion of the finance charge is assessed on a daily basis on the unpaid loan amount, the interest portion of the finance charge shall be assessed only to the date of prepayment at a simple interest rate contained in the mortgage note. In the event of prepayment in full of a mortgage loan upon which the interest portion of the finance charge is precomputed, a rebate of the unearned interest portion of the finance charge shall be credited to the borrower. Such unearned interest portion of the finance charge shall be computed by the actuarial method at the simple interest rate contained in the mortgage note on the declining principal balances scheduled to follow the date of prepayment, as originally scheduled or as deferred in accordance with subsection (*l*) of this section. No portion of any prepaid finance charge is required to be refunded in the event of prepayment. Except as otherwise provided in this subsection, no penalty for prepayment shall exceed five per cent of the principal balance prepaid, provided, no such penalty shall be imposed for any prepayment occurring more than three years after the date of the loan.

(f) **Multiple loans.** A borrower may be indebted to affiliated entities for a mortgage loan made pursuant to this section and an unsecured loan made under part III of chapter 668 of the Connecticut General Statutes at the same time, provided, such loans shall not be split or divided for the purpose of obtaining a higher finance charge than would be received if a single loan had been granted. A borrower may not be indebted to affiliated entities for a mortgage loan made pursuant to this section and a mortgage loan made under part III of chapter 668 of the Connecticut General Statutes at the same time.

(g) **Loan amounts—repayment periods.** All mortgage loans made pursuant to this section shall be for amounts in excess of five thousand dollars. The repayment period shall be determined by the borrower's ability to repay, but there shall be no maximum maturity.

(h) **Advertising and collection practices.** All advertising and collection practices with respect to mortgage loan made pursuant to this section shall comply with sections 36a-570-2 and 36a-570-5 of these regulations.

(i) **Foreclosure costs.** No mortgage documents prepared in connection with a mortgage loan made pursuant to this section shall provide for payment by the borrower of other than the reasonable costs of any foreclosure action, including reasonable attorney's fees, as may be determined by the court.

(j) **Termination of permission.** The commissioner may suspend or revoke any permission granted under the provisions of section 36a-561 of the Connecticut General Statutes and this section for any violation or evasion of the provisions of section 36a-561, this section or sections 36a-570-1 to 36a-570-16, inclusive, of these regulations.

(k) **Late charge.** If any instalment on a loan made pursuant to this section remains unpaid for ten or more consecutive days, including Sundays and holidays, after it is due, the lender may assess and collect a late charge not exceeding the lesser of ten dollars or five per cent of the amount of such scheduled instalment.

(*l*) **Deferment charge.** If the lender and the borrower agree to the deferment of one or more instalments on a loan made pursuant to this section upon which the interest portion of the finance charge is precomputed, the lender may make an additional charge for such deferment. The deferment charge shall be computed on a daily basis at a rate not to exceed the simple interest rate contained in the mortgage note for the actual number of days in the deferment period. No deferment charge shall be assessed or collected without the permission of the borrower.

(m) **Dishonored check service charge**. If the agreement between the lender and the borrower so provides, the lender may assess and collect a dishonored check service charge in accordance with the provisions of Section 52-565a of the Connecticut General Statutes.

(n) **Open-end loan annual fee**. In the case of an open-end loan made pursuant to this section, if the agreement between the lender and the borrower so provides, the lender may assess and collect an annual fee not to exceed fifty dollars for the privileges made available to the borrower under the open-end loan agreement.

(Effective July 22, 1994; Transferred April 24, 1995; Amended April 7, 2000; Amended August 16, 2000)

Agency
Department of Banking

Subject
Maximum Check Cashing Fees

Section
§ 36a-585-1

CONTENTS

(Transferred from § 36-569)

Sec. 36a-585-1. Check cashing fees

Maximum Check Cashing Fees

(Transferred from § 36-569)

Sec. 36a-585-1. Check cashing fees

(a) No check cashing service licensed under Section 36a-581 of the Connecticut General Statutes shall charge or collect in fees, charges or otherwise for cashing a check, draft or money order drawn on a depository institution, a sum exceeding two percent of the item.

(b) Each licensee shall give to the individual cashing a check, draft or money order a receipt which shall, at minimum, include the following:

(1) Date on which the check, draft or money order is cashed;

(2) Name of the payee of the check, draft or money order;

(3) Face amount of the check, draft or money order; and

(4) The fee collected for cashing the check, draft or money order.

(Effective May 17, 1990; Transferred April 24, 1995)

Agency
Department of Banking

Subject
Licensing of Check Cashing Services

Inclusive Sections
§§ 36a-588-1—36a-588-4

CONTENTS

(Transferred from § 36-572)

Sec. 36a-588-1. Definitions
Sec. 36a-588-2. Repealed
Sec. 36a-588-3. Books, records and accounts
Sec. 36a-588-4. Reports

Licensing of Check Cashing Services

(Transferred from § 36-572)

Sec. 36a-588-1. Definitions

As used in sections 36a-588-1 to 36a-588-4, inclusive, of these regulations, the term:

(a) "Commissioner" means the commissioner of banking; and

(b) "Licensee" means a licensed casher of checks, drafts, and/or money orders.

(Effective March 19, 1992; Transferred April 24, 1995)

Sec. 36a-588-2. Repealed

Repealed May 4, 1998.

Sec. 36a-588-3. Books, records and accounts

(a) Each licensee shall maintain the following or similar books, records and accounts, which shall be kept in ink or typewritten, preserved for at least three years after the date of final entry, and kept readily available for inspection by representatives of the commissioner:

(1) (A) A "Daily Record of Checks Cashed," in which shall be clearly recorded all cash transactions occurring each day. This record shall include the following information:

(i) Date on which the check, draft, or money order is cashed;

(ii) Date of the check, draft, or money order;

(iii) Number of the check, draft, or money order;

(iv) Name and location, or American Bankers Association number, or clearinghouse number, of the banking institution on which the check, draft, or money order is drawn;

(v) Name of the drawer of such check, draft, or money order which is cashed;

(vi) Name and home or business address of the individual or entity for which such check, draft, or money order is cashed;

(vii) Face amount of the check, draft, or money order;

(viii) The fee collected by the licensee for cashing each such check, draft, or money order;

(B) A licensee may substitute a viewable photographic record of checks, drafts, or money orders cashed, which sets forth all the information pertaining to said checks, drafts, or money orders required by subdivision (1) (A) of this subsection in lieu of a record kept in ink or typewritten.

(2) A "Summary of Business" in which the number of checks, drafts, or money orders cashed, their total face amount, and the aggregate fees received, shall be shown for each business day and totaled for each calendar month.

(3) A "Daily and Summary Record of Returned Items" in sufficient detail to identify the date on which the check, draft, or money order was returned, the reason for return, the disposition, and the information required to be recorded pursuant to subsection (1) of this section.

(4) A "Daily Cash Reconcilement," in sufficient detail to identify:

(A) Cash on hand at the opening of business;

(B) Checks, drafts, or money orders cashed and on hand at opening of business;
(C) Cash received during the day, showing the source of such funds;
(D) Total amount of fees received during the day;
(E) The total deposits made during the day showing to whom made;
(F) Other cash paid out during the day, showing the nature of the disbursement;
(G) The total of cash on hand, the total of undeposited checks, drafts, or money orders cashed during the day and the total of all checks, drafts, or money orders cashed and on hand;

(5) A "General Ledger" containing all assets, liability, capital, income, and expense accounts.

(6) A "Journal" in sufficient detail to identify all opening, closing and adjusting entries.

(b) Any licensee who operates two or more locations may maintain a combined or consolidated set of books, provided that such books reflect separate figures on activity, income and expense for each location.

(Effective March 19, 1992; Transferred April 24, 1995)

Sec. 36a-588-4. Reports

Each licensee shall annually file with the commissioner, an unaudited unconsolidated financial statement, including the licensee's balance sheet and receipts and disbursements for the preceding year, prepared by an independent certified public accountant. The statement shall be in a form of compilation or review and contain information satisfactory to the commissioner. The commissioner may also require additional reports as deemed necessary, including an audited unconsolidated financial statement.

(Effective March 19, 1992; Transferred April 24, 1995)

Agency
Department of Banking

Subject
Collection Practices of Creditors

Inclusive Sections
§§ 36a-647-1—36a-647-7

CONTENTS

(Transferred from § 36-243c)

Sec. 36a-647-1. Repealed
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Sec. 36a-647-3. Location information
Sec. 36a-647-4. Communications
Sec. 36a-647-5. Conduct
Sec. 36a-647-6. Representations, devices, practices
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Collection Practices of Creditors

(Transferred from § 36-243c)

Sec. 36a-647-1. Repealed

Repealed October 2, 2006.

Sec. 36a-647-2. Definitions

As used in sections 36a-647-2 to 36a-647-7, inclusive, of the Regulations of Connecticut State Agencies:

(1) "Commissioner" means "commissioner" as defined in section 36a-2 of the Connecticut General Statutes;

(2) "Communication" means any communication directly or indirectly to any person through any medium and includes the conveyance of debt information;

(3) "Consumer debtor" means "consumer debtor" as defined in section 36a-645 of the Connecticut General Statutes;

(4) "Consumer debtor agent" means a consumer debtor's guardian, executor, administrator, spouse if such spouse resides with the consumer debtor or parent if the consumer debtor is a minor, as defined in section 1-1d of the Connecticut General Statutes;

(5) "Creditor" means "creditor" as defined in section 36a-645 of the Connecticut General Statutes;

(6) "Debt" means "debt" as defined in section 36a-645 of the Connecticut General Statutes;

(7) "Location information" means information identifying the residence or place of employment of a consumer debtor or consumer debtor agent or any other identifying information that facilitates direct contact with a consumer debtor or a consumer debtor agent, such as a telephone number, cellular telephone number or e-mail address; and

(8) "Person" means an individual, partnership, limited liability company, trust, association, corporation or other legal entity.

(Effective July 6, 1979; Transferred April 24, 1995; Amended January 30, 1996; Amended August 16, 2000; Amended October 2, 2006)

Sec. 36a-647-3. Location information

(a) Any creditor who communicates with any person other than the consumer debtor or consumer debtor agent for the purpose of acquiring location information about the consumer debtor or consumer debtor agent shall disclose the name of the person making such communication and state that the communication is for the purpose of confirming or correcting location information concerning the consumer debtor or consumer debtor agent and, at the creditor's option, identify the creditor. No such identification of creditor shall include the phrase "collection department" or any other phrase that would convey or suggest the existence of a debt.

(b) Any creditor described in subsection (a) of this section shall not:

(1) State that such consumer debtor owes any debt nor in any other manner communicate debt information;

(2) Communicate with any such person more than once with regard to a particular consumer debtor or consumer debtor agent unless requested to do so by such person or unless the creditor reasonably believes that the earlier response of such person was erroneous or incomplete or is no longer applicable and that such person now has correct, complete or current location information;

(3) Communicate by post card;

(4) Use any language or symbol on any envelope or in the contents of any written communication effected by the mails, telegram or electronic device that indicates that the communication relates to the collection of a debt; and

(5) Communicate with any person other than the attorney for the consumer debtor or consumer debtor agent after the creditor knows the consumer debtor or consumer debtor agent is represented by an attorney with regard to the subject debt and has knowledge of such attorney's name and address, unless the attorney fails to respond within a reasonable period of time not to exceed thirty days after such communication from the creditor, or unless the attorney cannot or will not provide location information to such creditor.

(c) The provisions of subsection (a) and subdivisions (1), (2) and (5) of subsection (b) of this section shall not apply to any communication permitted under subsection (b) of section 36a-647-4 of the Regulations of Connecticut State Agencies.

(Effective July 6, 1979; Transferred April 24, 1995; Amended October 2, 2006)

Sec. 36a-647-4. Communications

(a) **Communication with the consumer debtor or consumer debtor agent generally.** Without the prior consent of the consumer debtor or consumer debtor agent given directly to the creditor or the express permission of a court of competent jurisdiction, a creditor shall not communicate with a consumer debtor or consumer debtor agent in connection with the collection of any debt:

(1) At any unusual time or place or a time or place known or that should be known to be inconvenient or embarrassing to the consumer debtor or consumer debtor agent. In the absence of knowledge of circumstances to the contrary, a creditor shall assume that the convenient time for communicating with a consumer debtor or consumer debtor agent is after 8:00 a.m. and before 9:00 p.m., local time at the consumer debtor's or consumer debtor agent's location;

(2) If the creditor knows the consumer debtor or consumer debtor agent is represented by an attorney with respect to such debt and has knowledge of such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the creditor, not to exceed thirty days after such communication, unless the attorney consents to direct communication with the consumer debtor or consumer debtor agent, provided that a creditor may send to a consumer debtor or consumer debtor agent normal periodic billing statements which do not contain any message that violates the

provisions of section 36a-647-5 or 36a-647-6 of the Regulations of Connecticut State Agencies; or

(3) At the place of employment of the consumer debtor or consumer debtor agent if the creditor knows or has reason to know that the employer of the consumer debtor or consumer debtor agent prohibits such debtor or agent from receiving such communication.

(b) **Communication with Third Parties.**

(1) Except as provided in section 36a-647-3 of the Regulations of Connecticut State Agencies and subdivision (2) of this subsection, without the prior consent of the consumer debtor or consumer debtor agent given directly to the creditor, the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a prejudgment or post-judgment judicial remedy, a creditor shall not communicate in connection with the collection of any debt with any person other than:

(A) The consumer debtor or consumer debtor agent;

(B) The consumer debtor's attorney or consumer debtor agent's attorney;

(C) A consumer reporting agency, if otherwise permitted by law;

(D) The creditor's attorney;

(E) The creditor's accountant;

(F) A consumer collection agency;

(G) A creditor, past creditor or prospective creditor of the consumer debtor that is not also the employer of such consumer debtor, provided that any such communication is not for the purpose or with the intent of harassing or embarrassing the consumer debtor into paying such debt;

(H) A corporation that owns more than twenty-five per cent of the stock, if any, of the creditor;

(I) A person who is consultant to the creditor on matters relating to consumer debts, who supervises or manages the creditor or who services debts owed to the creditor;

(J) A person who is not the consumer debtor or consumer debtor agent but who has paid or is paying all or part of the consumer debtor's debt; provided that the creditor shall not demand or otherwise attempt to collect the debt from such person who is not the consumer debtor without the consent of such person;

(K) The commissioner and an employee of any federal or state agency which regulates such creditor or which is otherwise legally permitted to obtain information about a consumer debtor; or

(L) A person who is not a natural person and who is obligated to pay a consumer debtor's debt, whether as a guarantor, endorser or otherwise.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a creditor may communicate with any person if such communication is necessary:

(A) For the creditor, consumer debtor or consumer debtor agent to claim or receive benefits under any insurance policy or other insurance coverage, including Medicare and Medicaid; or

(B) For the creditor to effect or negotiate an assignment, sale or purchase of the debt.

(c) **Prior consent of the consumer debtor or consumer debtor agent.** For purposes of this section, "prior consent of the consumer debtor or consumer debtor agent" does not include consent obtained by virtue of any provision in any writing evidencing the debt or executed at the time the debt was incurred.

(Effective July 6, 1979; Transferred April 24, 1995; Amended January 30, 1996; Amended October 2, 2006)

Sec. 36a-647-5. Conduct

A creditor shall not engage in any conduct the natural consequence of which to a reasonable person would be to harass or abuse such person in connection with the collection of a debt. A creditor shall not intentionally engage in any conduct which the creditor knows would harass or abuse any person. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(1) Using or threatening to use violence or other criminal means to harm the physical person, reputation or property of any person;

(2) Using obscene or profane language or language the natural consequence of which to a reasonable person is to abuse the hearer or reader;

(3) Publicly disseminating or displaying a list of, pictures of or other information about consumer debtors or consumer debtor agents who allegedly refuse to pay debts which could identify any consumer debtor or consumer debtor agent to the general public. As used in this subdivision, "publicly disseminating" and "general public" do not include dissemination to any commercial enterprise directly or through a consumer reporting agency in the ordinary and reasonable course of such creditor's business;

(4) Advertising for sale any debt to coerce payment of the debt;

(5) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously if the natural consequence of such action to a reasonable person is annoyance, abuse or harassment;

(6) Except as provided in section 36a-647-3 of the Regulations of Connecticut State Agencies, placing telephone calls without meaningful disclosure of the caller's identity;

(7) Soliciting any amount, including any interest, fee, charge or expense incidental to the principal obligation, unless such amount is authorized by the agreement creating the debt or permitted by law;

(8) Soliciting a postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution;

(9) Depositing or threatening to deposit a postdated check or other postdated payment instrument prior to the date on such check or instrument;

(10) Causing charges to be made to or expenses to be incurred by any person in connection with communications concerning the consumer debtor or the consumer debtor's debt by misrepresenting the true purpose of the communication or by misrepresenting or concealing the identity of the person making the communication. Such charges and expenses include, but are not limited to, collect telephone calls and telegram fees;

(11) Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property unless:

(A) There is a present right to possession of the property claimed as collateral through an enforceable security interest;

(B) There is a present intention to take possession of the property; and

(C) The property is not exempt by law from such dispossession or disablement;

(12) Communicating with a consumer debtor or consumer debtor agent regarding a debt by post card;

(13) Using any language or symbol on any envelope when communicating with a consumer debtor or consumer debtor agent by use of the mails or by telegram that would convey the impression that the communication concerns collection of a debt;

(14) Refusing to make a reasonable effort to determine the validity of a debt the consumer debtor disputes unless such a verification has already been made;

(15) Instituting or threatening to institute a civil action in any court location which the creditor or its attorney knows is not proper venue for such action; or

(16) Sending any written communication to a consumer debtor which recites the time period within which a debt must be paid to avoid further action but which does not recite the date on which such time period commences.

(Effective July 6, 1979; Transferred April 24, 1995; Amended October 2, 2006)

Sec. 36a-647-6. Representations, devices, practices

A creditor shall not use any fraudulent, deceptive or misleading representation, device or practice in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(1) The false representation or implication that the creditor is vouched for, bonded by or affiliated with the United States, any state or any political subdivision thereof, including the use of any title or any badge, uniform or facsimile thereof.

(2) The false representation of:

(A) The character, amount or legal status of any debt; or

(B) Any services rendered or compensation which may be lawfully received by any attorney or consumer collection agency that may be employed for the collection of a debt.

(3) The false representation or implication that any individual is an attorney or that any communication is from an attorney.

(4) The representation or implication that nonpayment of any debt will or may result in the seizure, garnishment, attachment or sale of any property or wages of any person unless such action is lawful and the creditor intends to take such action.

(5) The representation or implication that nonpayment of any debt will or may result in the arrest, imprisonment or criminal prosecution of any person.

(6) The threat to take any action that cannot legally be taken or that is not intended to be taken.

(7) The false representation or implication that a sale, referral or other transfer of any

interest in a debt shall cause the consumer debtor or consumer debtor agent to:

(A) Lose any claim or defense to payment of the debt; or

(B) Become subject to any practice prohibited by the provisions of sections 36a-647-2 to 36a-647-7, inclusive, of the Regulations of Connecticut State Agencies.

(8) The false representation or implication that the consumer debtor committed any crime or engaged in any shameful or disgraceful act.

(9) Communicating or threatening to communicate to any person debt information that is known or that should be known to be false, including the failure to communicate that a disputed debt is disputed.

(10) The use or distribution of any written communication that simulates or is falsely represented to be a document authorized, issued or approved by any court, official or agency of the United States or of any state or which creates a false impression as to its source, authorization or approval.

(11) The use of any other false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer debtor or consumer debtor agent.

(12) The failure to disclose clearly in all communications made to collect a debt or to obtain information about a consumer debtor or consumer debtor agent that the creditor is attempting to collect a debt. This subsection shall not apply to any creditor communications for the purpose of acquiring location information permitted by section 36a-647-3 of the Regulations of Connecticut State Agencies.

(13) The false representation or implication that accounts have been turned over to innocent purchasers for value.

(14) The false representation or implication that documents are legal process.

(15) The use of any business, company or organization name other than the true name of the creditor's business, company or organization.

(16) The false representation or implication that documents are not legal process forms or do not require action by the consumer debtor or consumer debtor agent.

(17) The false representation or implication that a creditor operates or is employed by a consumer reporting agency.

(Effective July 6, 1979; Transferred April 24, 1995; Amended October 2, 2006)

Sec. 36a-647-7. Violation of provisions

A creditor shall not be found to violate any provision of sections 36a-647-2 to 36a-647-6, inclusive, of the Regulations of Connecticut State Agencies if the creditor proves by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid such error. As to any violation by an employee of the creditor, the commissioner shall consider, without limitation, the extent of the creditor's education program for its employees in determining whether the creditor maintains procedures reasonably adapted to avoid such

error.

(Effective July 6, 1979; Transferred April 24, 1995; Amended January 30, 1996; Amended October 2, 2006)

Agency
Department of Banking

Subject
Home Mortgage Disclosure Act

Inclusive Sections
§§ 36a-744-1—36a-744-8

CONTENTS

(Transferred from § 36-455)

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Home Mortgage Disclosure Act

(Transferred from § 36-455)

Sec. 36a-744-1. Authority, scope, purpose

(a) Sections 36a-744-1 to 36a-744-8, inclusive, comprise the regulations adopted by the commissioner pursuant to the Home Mortgage Disclosure Act, Part IX of Chapter 669 of the Connecticut General Statutes.

(b) Sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies apply to all financial institutions except as otherwise provided in sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies. Sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies require a financial institution that makes home purchase loans, home improvement loans or other mortgage loans to disclose loan data at certain of its offices and to report the data to the commissioner.

(c) The purpose of sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies is (1) to prohibit the arbitrary denial of home purchase loans, home improvement loans or other mortgage loans on the basis of the location of the property to be mortgaged; (2) to encourage an increase in the availability of mortgage capital to neighborhoods to which such investment capital has generally been denied; (3) to provide the citizens and public officials of the state with sufficient information to enable them to determine which financial institutions are fulfilling their obligations to serve the housing needs of the communities and neighborhoods in which they are located; and (4) to assist public officials at both state and local levels in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment and to aid state and local interests and priorities.

(d) Nothing in sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies is intended to, nor shall those sections be construed to, encourage unsound lending practices or the allocation of credit.

(Effective December 19, 1990; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-744-2. Definitions

As used in sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies, unless the context otherwise requires:

(1) "Act" means the Home Mortgage Disclosure Act (Part IX of Chapter 669 of the Connecticut General Statutes).

(2) "Applicant" means any person who applies for a home purchase loan, home improvement loan or other mortgage loan whether or not the loan is granted.

(3) "Application" means an oral or written request for a home purchase loan, home improvement loan or other mortgage loan that is made in accordance with procedures established by a financial institution.

(4) "Branch office" means any office approved as a branch of A financial institution by

the commissioner, and any office of a majority-owned for-profit mortgage-lending subsidiary of a financial institution which comes within the definition of "branch office" under the federal Home Mortgage Disclosure Act, but shall not include free-standing electronic terminals such as satellite devices.

(5) "Commissioner" means the commissioner of banking. With respect to any function of the commissioner, "commissioner" includes any person authorized or designated by the commissioner to carry out that function.

(6) "Dwelling" shall have the same meaning as provided in the federal Home Mortgage Disclosure Act.

(7) "Federal Home Mortgage Disclosure Act" means the Home Mortgage Disclosure Act of 1975, 12 U.S.C. Section 2801 et seq., as from time to time amended, and any regulations promulgated by the Federal Reserve Board pursuant to that act, as from time to time amended, except, for purposes of Part IX of Chapter 669 of the Connecticut General Statutes and sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies, the supervisory agency shall be the commissioner.

(8) "Fair market value" means the highest price in terms of money which a residential real property will bring in a competitive and open market, the buyer and seller each acting prudently and knowledgeably.

(9) "Financial institution" means any Connecticut bank or Connecticut credit union which makes home purchase loans or home improvement loans or any for-profit mortgage lending institution other than a Connecticut bank or Connecticut credit union, whose home purchase loan originations equaled or exceeded ten per cent of its loan origination volume, measured in dollars, in the preceding calendar year, if such mortgage lending institution is licensed under sections 36a-485 to 36a-498, inclusive, or 36a-510 to 36a-524, inclusive, of the Connecticut General Statutes. Any majority-owned for-profit mortgage-lending subsidiary of a financial institution which subsidiary is not itself a financial institution is deemed to be part of its parent financial institution.

However, for purposes of complying with the compilation of data and disclosure requirements of Sections 36a-744-4 and 36a-744-5 of the Regulations of Connecticut State Agencies, any such subsidiary shall be treated as a distinct entity.

(10) "Home improvement loan" shall have the same meaning as provided in the federal Home Mortgage Disclosure Act.

(11) "Home purchase loan" shall have the same meaning as provided in the Federal Home Mortgage Disclosure Act.

(12) "Mortgage loan" means a loan which is secured by residential real property.

(13) "Residential real property" means improved real property used or to be used for residential purposes, including single-family homes, dwellings for from two to four families, multi-family dwellings, and individual units of condominiums and cooperatives.

(Effective December 19, 1990; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-744-3. Prohibited practices

(a) No financial institution and no federal bank shall discriminate, on a basis that is arbitrary or unsupported by a reasonable analysis of the lending risks associated with the applicant for a given loan or the condition of the property to secure it, in the granting, withholding, extending, modifying, renewing or in the fixing of the rates, terms, conditions or provisions of any home purchase loan, home improvement loan or other mortgage loan on one to four family owner-occupied residential real property, solely because such property is located in a low-income or moderate-income neighborhood or geographical area. The following factors shall be included in the determination of the disposition of the application: (1) The willingness and the financial ability of the applicant to repay the loan, and (2) the fair market value and condition of any residential real property proposed as security for the loan.

(b) It shall be a discriminatory practice for a financial institution or a federal bank to make any oral or written statement, in advertising or otherwise, to applicants or prospective applicants that would discourage a reasonable person from making or pursuing an application on one to four family owner-occupied residential real property solely because the secured property is located in a low-income or moderate-income neighborhood or geographical area. Any such statement constitutes a prohibited practice under Section 36a-737 of the act. Written or oral statements of underwriting criteria that are used which do not conflict with the Connecticut General Statutes shall not be construed to be a violation of this subsection.

(c) No financial institution and no federal bank shall utilize arbitrary policies which are discriminatory in effect with regard to any home purchase loan, home improvement loan or other mortgage loan on one to four family owner-occupied residential real property unless the financial institution or federal bank can demonstrate that such policies are necessary to avoid unsafe or unsound lending practices. Such arbitrary policies include, but are not limited to, the refusal to lend on two, three or four family owner-occupied dwellings, and the refusal to lend on dwellings on the basis of age. Such policies represent underwriting criteria that do not conform to the requirements of Section 36a-737 of the act.

(d) No financial institution and no federal bank shall discriminate on the basis of arbitrary or unsupported assertions or assumptions regarding the effect of a trend in the neighborhood or geographic area on the present or future value of secured property consisting of one to four family owner-occupied residential real property so as to avoid contributing to the deterioration of the neighborhood unless the financial institution or federal bank can demonstrate that such considerations in the particular case are necessary to avoid unsafe or unsound lending practices.

(e) No financial institution and no federal bank shall discriminate on the basis of racial or ethnic composition of a neighborhood, or trends in the racial or ethnic composition of a neighborhood. Such considerations do not constitute a reasonable analysis of the lending risks associated with the applicant for a given loan, or the condition of secured property consisting of one to four family owner-occupied residential real property.

(f) As used in this section, "federal bank" shall have the same meaning as set forth in section 36a-2 of the Connecticut General Statutes.

(Effective December 19, 1990; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-744-4. Compilation of mortgage loan data

(a) Unless exempt under Section 36a-744-6 of the Regulations of Connecticut State Agencies, financial institutions shall compile the loan data required under the federal Home Mortgage Disclosure Act.

(b) Unless exempt under section 36a-744-6 of the Regulations of Connecticut State Agencies, each financial institution shall report on the federal home mortgage disclosure act loan application register the reason for denial in connection with each application subject to federal reporting that is denied by the financial institution.

(Effective December 19, 1990; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-744-5. Disclosure requirements

(a) A financial institution which becomes subject to the requirements of Sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies, shall compile loan data beginning with the calendar year following the year in which it becomes no longer exempt.

(b) A financial institution shall make its mortgage loan disclosure statements prepared by the Federal Financial Institutions Examination Council available to the public, as required by the federal Home Mortgage Disclosure Act, and shall submit such statements to the commissioner pursuant to Section 36a-738 of the act not later than thirty calendar days after the financial institution receives such statements.

(Effective December 19, 1990; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-744-6. Exemptions

A financial institution is exempt from the compilation of data and disclosure requirements contained in Sections 36a-744-4 and 36a-744-5 of the Regulations of Connecticut State Agencies if the financial institution meets the requirements for exemption based on asset size or location contained in Regulation C (12 C.F.R. Part 203) of the Board of Governors of the Federal Reserve System, Section 203.3(a).

(Effective December 19, 1990; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-744-7. Compliance and investigation

(a) In order to provide for adequate records by which to monitor compliance with the provisions of the act, each financial institution shall retain all applications subject to the act and sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies, and other materials made part of such applications or which are used to evaluate such loans whether or not the applications are approved, for a period of twenty-five months after the date on which action is taken on the applications. Included in the retained materials

shall be the notification of action taken and the statement of specific reasons for adverse action, as required by Regulation B (12 C.F.R. Part 202) of the Board of Governors of the Federal Reserve System, Section 202.9. Such information may be retained in original form or a copy thereof, and shall, in accordance with the provisions of Section 36a-21 of the Connecticut General Statutes and Section 36a-742 of the act, be made available to the commissioner and to appropriate federal authorities for the purpose of monitoring compliance with provisions of the act, and remain otherwise confidential.

(b) When adverse action is taken on applications, financial institutions shall inform the applicants of their right: (1) To know the reasons for denial or adjustment in the terms of a loan and (2) to register complaints with the commissioner. A financial institution satisfies the requirements of this subsection if the notification of action taken as required by Regulation B (12 C.F.R. PART 202) of the Board of Governors of the Federal Reserve System, Section 202.9, includes the following statement:

THE CONNECTICUT HOME MORTGAGE DISCLOSURE ACT PROHIBITS DISCRIMINATION AGAINST HOME PURCHASE LOAN, HOME IMPROVEMENT LOAN OR OTHER MORTGAGE LOAN APPLICANTS SOLELY ON THE BASIS OF THE LOCATION OF THE PROPERTY TO BE USED AS SECURITY. THE AGENCY WHICH ENFORCES COMPLIANCE WITH THIS LAW IS:

DEPARTMENT OF BANKING
260 CONSTITUTION PLAZA
HARTFORD, CONNECTICUT 06103

IF YOU BELIEVE YOU HAVE BEEN UNFAIRLY DISCRIMINATED AGAINST, YOU MAY FILE A WRITTEN COMPLAINT WITH THE COMMISSIONER OF BANKING AT THE ABOVE ADDRESS.

(c) The commissioner shall conduct an investigation as provided for by section 36a-17 of the Connecticut General Statutes, upon receipt of a written complaint alleging specific violations of the provisions of the act or of sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies.

(d) The commissioner shall analyze the practices and actions of the financial institutions in the home financing area in relationship to its customers and to the housing needs and condition of the state. A report of the commissioner's findings shall be made annually to the governor pursuant to section 36a-14 of the Connecticut General Statutes.

(Effective December 19, 1990; Transferred April 24, 1995; Amended January 30, 1996)

Sec. 36a-744-8. Violations and sanctions

(a) Any applicant who has been discriminated against as a result of a violation of Section 36a-737 of the act and Section 36a-744-3 of the Regulations of Connecticut State Agencies may bring an action in a court of competent jurisdiction pursuant to section 36a-740 of the act.

(b) A violation of the act or sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies is subject to sanctions as provided in the act.

(c) It shall not be a violation of Section 36a-737 of the act if the home purchase loan, home improvement loan or other mortgage loan is made pursuant to a specific public or private program, the purpose of which is to increase the availability of home purchase loans, home improvement loans or other mortgage loans within a low-income or moderate-income neighborhood or geographical area in which such investment capital has generally been denied.

(d) An error in compiling or reporting required loan data shall not be deemed to be a violation of the act or sections 36a-744-1 to 36a-744-8, inclusive, of the Regulations of Connecticut State Agencies if the error was unintentional and resulted from a bona fide mistake notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.

(Effective December 19, 1990; Transferred April 24, 1995; Amended January 30, 1996)

Agency
Department of Banking

Subject
Consumer Collection Agencies

Inclusive Sections
§§ 36a-809-1—36a-809-17

CONTENTS

(Transferred from § 42-131d)

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Consumer Collection Agencies

(Transferred from § 42-131d)

Sec. 36a-809-1—36a-809-5. Repealed

Repealed July 29, 2008.

Sec. 36a-809-6. Definitions

As used in Sections 36a-809-6 to 36-809-17, inclusive, of the Regulations of Connecticut State Agencies:

(1) "Commissioner" means "commissioner" as defined in Section 36a-2 of the Connecticut General Statutes;

(2) "Communication" means the conveying of information regarding a debt directly or indirectly to any person through any medium;

(3) "Consumer collection agency" means "consumer collection agency" as defined in Section 36a-800 of the Connecticut General Statutes;

(4) "Consumer debtor" means "consumer debtor" as defined in Section 36a-800 of the Connecticut General Statutes;

(5) "Creditor" means "creditor" as defined in Section 36a-800 of the Connecticut General Statutes;

(6) "Debt" means any obligation or alleged obligation of a consumer debtor to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family or household purposes, including current or past child support, or arising out of a levy of a personal property tax by a municipality, whether or not such obligation has been reduced to judgment, or any obligation or alleged obligation of a property tax debtor to pay money arising out of a levy of a property tax;

(7) "Debtor" means a consumer debtor or a property tax debtor;

(8) "Location information" means information identifying a debtor's place of abode or the debtor's telephone number at such place, or a debtor's place of employment;

(9) "Municipality" means "municipality" as defined in Section 36a-800 of the Connecticut General Statutes;

(10) "Property tax" means "property tax" as defined in Section 36a-800 of the Connecticut General Statutes; and

(11) "Property tax debtor" means "property tax debtor" as defined in Section 36a-800 of the Connecticut General Statutes.

(Adopted effective July 29, 2008)

Sec. 36a-809-7. Books and records

(a) Each consumer collection agency shall maintain its debtor and creditor records so as to clearly identify the amounts and dates of all payments received from debtors and all remittances made to creditors. Debtor and creditor records shall be kept so as to be readily

available to the commissioner and retained for a period of not less than two years after the date of final entry thereon. All accounting records shall be maintained in accordance with generally accepted accounting practices. Each consumer collection agency engaged in the business of collecting child support shall maintain originals or copies of the written agreements entered into with the creditors to whom the child support is owed for a period of not less than two years after the date of the last payment made by the debtor to the consumer collection agency.

(b) Each consumer collection agency shall deposit funds received from debtors in a separate account which shall not be commingled with funds of the consumer collection agency or used in the conduct of the consumer collection agency's business. Such account shall not be used for any purpose other than (1) the deposit of funds received from debtors, (2) the payment of such funds to creditors, and (3) the payment of earned fees to the consumer collection agency. Except for payments authorized by subdivisions (2) and (3) of this subsection, any withdrawal from such account, including, but not limited to, any service charge or other fee imposed against such account by a depository institution, shall be reimbursed by the consumer collection agency to such account not more than thirty days after the withdrawal. Funds received from debtors shall be posted to their respective accounts in accordance with generally accepted accounting practices.

(Adopted effective July 29, 2008)

Sec. 36a-809-8. Record keeping of information regarding collectors

Each consumer collection agency shall maintain a record of each collector employed or retained by the consumer collection agency including such collector's place of abode, title or official capacity of such collector, and any change in such information.

(Adopted effective July 29, 2008)

Sec. 36a-809-9. Record keeping methods and consumer collection agency communications

(a) **Method of keeping records.** Each consumer collection agency shall maintain a record of all contacts or attempted contacts with the debtor or others regarding an alleged debt, whether such contacts or attempted contacts are made by telephone, in writing, in person or by any other method. Such record shall indicate the date, the nature of the contact, the name of the collector making the contact, the name of the person contacted and a brief summary of any conversation or individually composed correspondence. Form letters shall be identified by number or title.

(b) **Disclosures regarding acquisition of location information.** Any consumer collection agency that communicates with any person other than the debtor for the purposes of acquiring location information about the debtor shall disclose the name of the person making the communication on behalf of the consumer collection agency and state that the communication is for the purpose of confirming or correcting location information concerning the debtor and, only if expressly requested, identify the consumer collection

agency.

(c) **Restrictions regarding acquisition of location information.** Any consumer collection agency described in subsection (b) of this section shall not:

(1) State that such debtor owes any debt;

(2) Communicate with any such person more than once unless requested to do so by such person or unless the consumer collection agency reasonably believes that the earlier response of such person is erroneous or incomplete and that such person now has correct or complete location information;

(3) Communicate by post card;

(4) Use any language or symbol on any envelope or in the contents of any written communication effected by the mails, telegram or electronic device that indicates that the consumer collection agency is in the debt collection business or that the communication relates to the collection of a debt; and

(5) Communicate with any person other than the attorney for the debtor after the consumer collection agency knows the debtor is represented by an attorney with regard to the subject debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the consumer collection agency.

(d) **Communication in connection with debt collection.**

(1) Without the prior consent of the debtor given directly to the consumer collection agency or the express permission of a court of competent jurisdiction, a consumer collection agency shall not communicate with a debtor in connection with the collection of any debt:

(A) At any unusual time or place or a time or place known or which should be known to be inconvenient to the debtor. In the absence of knowledge of circumstances to the contrary, a consumer collection agency shall assume that the convenient time for communicating with a debtor is after 8:00 a.m. and before 9:00 p.m., local time at the debtor's location;

(B) If the consumer collection agency knows the debtor is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the consumer collection agency or unless the attorney consents to direct communication with the debtor, provided that this subparagraph shall not apply to a consumer collection agency in connection with the collection of property taxes if such communication complies with the applicable provisions of title 12 of the Connecticut General Statutes; or

(C) At the consumer debtor's place of employment, if the debtor is a natural person and the consumer collection agency knows or has reason to know that the debtor's employer prohibits the debtor from receiving such communication.

(2) Except as provided in subsection (b) of this section, without the prior consent of the debtor given directly to the consumer collection agency, or the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a post-judgment judicial remedy, a consumer collection agency shall not communicate, in connection with the

collection of any debt with any person other than the debtor, the attorney of the debtor, a credit rating agency if otherwise permitted by law, the creditor, the attorney of the creditor or the attorney of the consumer collection agency. This subdivision shall not apply to a consumer collection agency in connection with the collection of property taxes.

(3) If a debtor other than a property tax debtor notifies a consumer collection agency in writing that the debtor refuses to pay a debt or that the debtor wishes the consumer collection agency to cease further communication with the debtor, the consumer collection agency shall not communicate further with the debtor with respect to such debt, except:

(A) To advise the debtor that the consumer collection agency's further efforts are being terminated;

(B) To notify the debtor that the consumer collection agency or creditor may invoke specified remedies which are ordinarily invoked by such consumer collection agency or creditor; or

(C) Where applicable, to notify the debtor that the consumer collection agency or creditor intends to invoke a specified remedy. If such notice from the debtor is made by mail, notification shall be complete upon receipt.

(Adopted effective July 29, 2008)

Sec. 36a-809-10. Harassment or abuse

A consumer collection agency shall not engage in any conduct the natural consequence of which is to harass, oppress or abuse any person in connection with the collection of a debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(1) Using or threatening to use violence or other criminal means to harm the physical person, reputation or property of any person.

(2) Using obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

(3) Publicly disseminating or displaying a list of debtors who allegedly refuse to pay debts, except to a credit rating agency, as defined in Section 36a-695 of the Connecticut General Statutes, provided that this subdivision shall not apply to publicly disseminating or displaying a list of property tax debtors.

(4) Advertising for sale any debt to coerce payment of the debt.

(5) Causing a telephone to ring, engaging any person in telephone conversation or contacting any person via electronic device repeatedly or continuously with intent to annoy, abuse or harass any person receiving the communication being contacted.

(6) Except as provided in subsection (b) of section 36a-809-9 of the Regulations of Connecticut State Agencies, the placement of telephone calls without meaningful disclosure of the caller's identity.

(Adopted effective July 29, 2008)

Sec. 36a-809-11. False or misleading representations

A consumer collection agency shall not use any false, deceptive or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(1) The false representation or implication that the consumer collection agency is vouched for, bonded by or affiliated with the United States or any state, including the use of any badge, uniform or facsimile thereof.

(2) The false representation of:

(A) The character, amount or legal status of any debt; or

(B) Any services rendered or compensation which may be lawfully received by any consumer collection agency for the collection of a debt.

(3) The false representation or implication that any individual is an attorney or that any communication is from an attorney.

(4) The representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment or sale of any property or wages of any person unless such action is lawful and the consumer collection agency or creditor intends to take such action.

(5) The threat to take any action that cannot legally be taken or that is not intended to be taken.

(6) The false representation or implication that a sale, referral or other transfer of any interest in a debt shall cause the debtor to:

(A) Lose any claim or defense to payment of the debt; or

(B) Become subject to any practice prohibited by Sections 36a-809-6 to 36a-809-17, inclusive, of the Regulations of Connecticut State Agencies.

(7) The false representation or implication, made in order to disgrace the debtor, that the debtor committed a crime or engaged in other conduct.

(8) Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.

(9) The use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued or approved by any court, official or agency of the United States or any state or which creates a false impression as to its source, authorization or approval.

(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a debtor.

(11) The failure to disclose clearly, in all communications made to collect a debt or to obtain information about a debtor, that the consumer collection agency is attempting to collect a debt and that any information obtained will be used for that purpose. This subdivision shall not apply to any consumer collection agency communicating for the purposes of acquiring location information permitted by subsection (b) of section 36a-809-9 of the Regulations of Connecticut State Agencies.

(12) The false representation or implication that accounts have been turned over to innocent purchasers for value.

(13) The false representation or implication that documents are legal process.

(14) The use of any business, company or organization name other than the true name of the consumer collection agency's business, company or organization.

(15) The false representation or implication that documents are not legal process or do not require action by the debtor.

(16) The false representation or implication that a consumer collection agency operates or is employed by a credit rating agency, as defined in section 36a-695 of the Connecticut General Statutes.

(Adopted effective July 29, 2008)

Sec. 36a-809-12. Unfair practices

A consumer collection agency shall not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(1) The collection of any amount, including any interest, fee, charge or expense incidental to the principal obligation, that is not expressly authorized by the agreement creating the debt or permitted by law.

(2) The acceptance by a consumer collection agency from any person of a check or other payment instrument postdated by more than five days unless such person is notified in writing of the consumer collection agency's intent to deposit such check or instrument not more than ten nor less than three business days prior to such deposit.

(3) The solicitation by a consumer collection agency of any postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution.

(4) Depositing or threatening to deposit any postdated check or other postdated payment instrument prior to the date on such check or instrument.

(5) Causing charges for communications to be made to any person by concealment of the true purpose of the communication. Such charges include, but are not limited to, collect telephone calls and telegram fees.

(6) Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if:

(A) There is no present right to possession of the property claimed as collateral through an enforceable security interest;

(B) There is no present intention to take possession of the property; or

(C) The property is exempt by law from such dispossession or disablement.

(7) Communicating with a debtor regarding a debt by post card.

(8) Using any language or symbol, other than the consumer collection agency's address, on any envelope when communicating with a debtor by use of the mails or by telegram, except that a consumer collection agency may use its business name if such name does not

indicate that it is in the debt collection business.

(Adopted effective July 29, 2008)

Sec. 36a-809-13. Validation of debts

(a) Not more than five days after the initial communication with a debtor in connection with the collection of any debt, a consumer collection agency shall, unless the following information is contained in the initial communication or the debtor has paid the debt, send the debtor a written notice containing:

(1) The amount of the debt;

(2) The name of the creditor to whom the debt is owed;

(3) A statement that unless the debtor, not more than thirty days after receipt of the notice, disputes the validity of the debt or any portion thereof, the debt will be assumed to be valid by the consumer collection agency;

(4) A statement that if the debtor notifies the consumer collection agency in writing within the thirty-day period that the debt or any portion thereof is disputed, the consumer collection agency will obtain verification of the debt or a copy of a judgment against the debtor and a copy of such verification or judgment will be mailed to the debtor by the consumer collection agency; and

(5) A statement that, upon the debtor's written request, not more than thirty days after receipt of the notice, the consumer collection agency will provide the debtor with the name and address of the original creditor, if different from the current creditor.

(b) If the debtor notifies the consumer collection agency in writing not more than thirty days after the time prescribed in subsection (a) of this section that the debt or any portion thereof is disputed, or that the debtor requests the name and address of the original creditor, the consumer collection agency shall cease collection of the debt or any disputed portion thereof until the consumer collection agency obtains verification of the debt or a copy of a judgment or the name and address of the original creditor and a copy of such verification or judgment, or the name and address of the original creditor is mailed to the debtor by the consumer collection agency.

(c) The failure of a debtor to dispute the validity of a debt under this section shall not be deemed an admission of liability by the debtor.

(d) This section shall not apply to the collection of property taxes.

(Adopted effective July 29, 2008)

Sec. 36a-809-14. Multiple debts

If any debtor owes multiple debts and makes any single payment to a consumer collection agency with respect to such debts, the consumer collection agency shall not apply such payment to any debt which is disputed by the debtor and, where applicable, shall apply such payment in accordance with the debtor's directions. This section shall not apply to the payment of property taxes.

(Adopted effective July 29, 2008)

Sec. 36a-809-15. Furnishing certain deceptive forms

(a) No person shall design, compile or furnish any form knowing that such form would be used to create the false belief in a debtor that a person other than the creditor of such debtor is participating in the collection of or in an attempt to collect a debt such debtor allegedly owes such creditor, when in fact such person is not so participating.

(b) Any person who violates this section shall be liable to the same extent and in the same manner as a consumer collection agency is liable under Sections 36a-804, 36a-807 and 36a-808 of the Connecticut General Statutes for failure to comply with the provisions of this section.

(Adopted effective July 29, 2008)

Sec. 36a-809-16. Consumer collection agencies desiring to terminate business

(a) No consumer collection agency shall terminate its business unless the following conditions have been met:

(1) The commissioner has received written notice of the proposed termination at least thirty days prior to its effective date.

(2) All clients of the consumer collection agency are notified in writing of the proposed termination and its date at least thirty days prior to that date.

(3) All clients of the consumer collection agency are provided with detailed final accountings of all debtor accounts.

(4) All money held in escrow by the consumer collection agency, sole and exclusive of earned fees, is remitted to each respective client of the consumer collection agency.

(5) All papers, documents and other property of clients turned over to the consumer collection agency in connection with its collection efforts are returned to each respective client of the consumer collection agency.

(6) The consumer collection agency license is returned to the commissioner for cancellation.

(b) No consumer collection agency, when terminating a consumer collection agency business, shall transfer a debtor's account to another consumer collection agency without securing the written permission of the client.

(Adopted effective July 29, 2008)

Sec. 36a-809-17. Process of collection

For purposes of subdivision (7) of subsection (a) of Section 36a-805 of the Connecticut General Statutes, unless otherwise provided in a written contract between a consumer collection agency and its client, a claim shall be in the process of collection at any time (1) not more than sixty days after the initial receipt of the claim by the consumer collection agency, and (2) not more than sixty days after the receipt by the consumer collection agency of any payment made by a debtor with respect to the claim.

(Adopted effective July 29, 2008)