

CHAPTER 70

AN ACT concerning mergers of a subsidiary into a financial institution.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.17:16X-1 Definitions regarding subsidiary mergers.

1. For purposes of this act:

"Commissioner" means the Commissioner of Banking and Insurance.

"Financial institution" means a bank, savings bank or savings and loan association.

"Subsidiary" means a corporation, limited liability company, partnership or other entity in which a financial institution owns not less than 80% of that entity's equity.

C.17:16X-2 Conditions of merger.

2. A financial institution may merge with any one or more of its subsidiaries, so long as the financial institution is the entity that survives the merger as the continuing entity, subject to the terms and conditions set forth in this act.

C.17:16X-3 Merger's legal compliance.

3. Mergers of a financial institution and a subsidiary of a financial institution pursuant to this act shall comply with and require the commissioner's approval pursuant to the provisions of law applicable to a merger of the surviving financial institution.

C.17:16X-4 Merger plan contents.

4. The governing board of the financial institution shall adopt a plan of merger for a merger pursuant to this act between the financial institution and a subsidiary other than a financial institution setting forth:

a. The name of the financial institution and the name and type of business entity of each subsidiary which proposes to merge into the financial institution which is to be the surviving entity;

b. The terms and conditions of the proposed merger, including a statement of any amendments in the certificate of incorporation of the financial institution;

c. The manner and basis of converting the shares or other interests in the subsidiary or subsidiaries into shares of the financial institution, or the basis for payment of interests which are not to be so converted; and

d. Such other provisions with respect to the proposed merger as are deemed necessary or desirable by the commissioner.

C.17:16X-5 Adoption of merger plan.

5. The governing board of a subsidiary shall adopt a plan of merger pursuant to the provisions of the law under which the subsidiary was created.

C.17:16X-6 Application for commissioner's approval.

6. A financial institution shall apply for the commissioner's approval to merge with a subsidiary other than a financial institution, and shall provide the information as required by this act and by rules and regulations adopted by the commissioner. An application shall be deemed approved on the 30th day after receipt by the commissioner, unless approved or disapproved earlier by the commissioner in writing.

C.17:16X-7 Merger deemed effective from filing of certification.

7. A merger between a financial institution and a subsidiary other than a financial institution shall be effective from the filing with the commissioner of a certification of the president or a vice president of the financial institution setting forth that all of the conditions and requirements of this act and the commissioner's approval, if applicable, have been satisfied. When the merger has become effective:

a. The parties to the merger shall be a single corporation, which shall be the financial institution.

b. The separate existence of the subsidiary or subsidiaries which are parties to the plan of merger shall cease.

c. The financial institution shall possess all the rights, privileges, powers, immunities, purposes and franchises of each merging subsidiary except for any power or authority of a subsidiary which is not permitted to the financial institution by law.

d. All the real property and personal properties, tangible and intangible, of every kind and description belonging to each of the parties merged, and any action existing or proceeding pending by or against any such party, may be enforced as if the merger had not taken place. Neither the rights of any creditors nor any liens upon, or security interest in, the property of any party to the merger shall be impaired by the merger.

C.17:16X-8 Dissention from the merger.

8. Any holder of an interest in a subsidiary to be merged, including a shareholder, partner or member, shall have the right to dissent from the merger as set forth in this section.

a. A holder of an interest may not dissent as to less than all of the holder's interest owned beneficially by the holder. A nominee or fiduciary may not dissent on behalf of any beneficial owner as to less than all of the interest of each such owner with respect to which the right of dissent exists.

b. If a subsidiary party to a plan of merger is a corporation subject to the provisions of N.J.S.14A:1-1 et seq., except as now or hereafter may be provided therein, the shareholder of the subsidiary shall have the rights of a dissenting shareholder, including the right to accept a fair value for the stock all as set forth in N.J.S.14A:11-1 et seq., and the procedure to obtain fair value as set forth therein shall be followed. Holders of interests in other entities which are subsidiaries shall have the same dissenter's rights, if any, as provided in the statutes governing those entities. If the applicable statutes do not provide a right to dissent and obtain fair value, nothing in this act shall be deemed to provide such a remedy.

9. This act shall take effect immediately.

Approved July 13, 2000.