



JOHN R. MCGINLEY, JR., ESQ., CHAIRMAN  
ALVIN C. BUSH, VICE CHAIRMAN  
ARTHUR COCCODRILLI  
ROBERT J. HARRISON, III  
MURRAY UFBERG, ESQ.  
ROBERT E. NYCE, EXECUTIVE DIRECTOR  
MARY S. WYATTE, CHIEF COUNSEL

**INDEPENDENT REGULATORY REVIEW COMMISSION  
COMMONWEALTH OF PENNSYLVANIA  
333 MARKET STREET  
14TH FLOOR  
HARRISBURG, PA 17101**

[irrc@irrc.state.pa.us](mailto:irrc@irrc.state.pa.us)  
<http://www.irrc.state.pa.us>  
**(717) 783-5417**  
**Fax (717) 783-2664**

April 17, 2003

Honorable Robert M. Lam, Chairman  
Pennsylvania Securities Commission  
Eastgate Office Building, 2nd Floor  
1010 North Seventh Street  
Harrisburg, PA 17102

Re: Regulation #50-118 (IRRC #2321)  
Pennsylvania Securities Commission  
Banking and Savings and Loan Institutions

Dear Chairman Lam:

Enclosed are the Commission's Comments for consideration when you prepare the final version of this regulation. These Comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The Comments will be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). If you would like to discuss them, please contact my office at 783-5417.

Sincerely,

Robert E. Nyce  
Executive Director  
sfh

Enclosure

cc: Honorable George C. Hasay, Majority Chairman, House Commerce Committee  
Honorable Thomas R. Caltagirone, Democratic Chairman, House Commerce Committee  
Honorable Gibson E. Armstrong, Chairman, Senate Banking and Insurance Committee  
Honorable Jack Wagner, Minority Chairman, Senate Banking and Insurance Committee

# **Comments of the Independent Regulatory Review Commission**

**on**

## **Pennsylvania Securities Commission Regulation No. 50-118**

### **Banking and Savings and Loan Institutions**

**April 17, 2003**

We submit for your consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) which have not been met. The Pennsylvania Securities Commission (PSC) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

**1. Section 102.041. Bank holding companies; banks in organization. – Clarity and lack of ambiguity.**

Subsection (b)(2) includes, the following; “Whether an entity is a ‘bank’ or ‘bank-in-organization’ *should* be determined in accordance with the interpretation of the primary regulatory authority responsible for administration of the banking laws...” (Emphasis added) The term “should” is nonregulatory language and indicates that this provision is optional. Regulations establish binding norms of general applicability and future effect. The PSC could clarify this subsection by replacing the word “should” with the word “shall.”

**2. Section 102.112. SEPs, IRAs and KEOUGHS as institutional investors. – Clarity and lack of ambiguity.**

Paragraph (2) includes the phrase, “a person knowledgeable and experienced in financial and business matters.” This phrase is ambiguous. The PSC should clarify this paragraph by listing acceptable credentials a person must possess to be considered knowledgeable and experienced in financial and business matters.

**3. Section 202.030. Commercial paper. – Clarity and lack of ambiguity.**

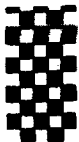
Subsection (b) states that “prime quality” means that the commercial paper has been rated in one of the top three rating categories by a nationally recognized statistical rating organization. How will it be determined if a statistical rating organization is nationally recognized? It is our understanding that the Securities and Exchange Commission (SEC) designates statistical ratings organizations as nationally recognized. To improve clarity, we recommend that the final-form regulation either list the specific statistical rating organizations or reference statistical rating organizations that are approved by the SEC.

**4. Section 203.161. Debt securities of nonprofit organizations. - Clarity and lack of ambiguity.**

Subsection (b) includes the following; “In preparing an offering document to meet the requirements of this section, the Commission *suggests* that issuers include information that is elicited by Part VII of the Statement of Policy regarding Church Bonds adopted April 14, 2002, by the North American Securities Administrators Association, Inc. and any successor policy thereto (“NASAA Guidelines”) and in the format *suggested* therein.” (Emphasis added) The terms “suggests” and “suggested” are not binding regulatory language. The PSC should clarify this provision by either making the inclusion of the information a requirement or by deleting the suggestion.

**5. Section 305.011. Supervision of agents, investment adviser representatives and employees. – Clarity and lack of ambiguity.**

Subsection (c)(10) includes the following; “The obligation of diligent supervision required by this section *may require* that one or more locations of a broker-dealer or investment adviser in this Commonwealth receive more inspections or be on a periodic inspection cycle different than other locations of the broker-dealer or investment adviser in the Commonwealth and that inspections be unannounced.” (Emphasis added) Under what circumstances would more frequent inspections be required?



---

# INDEPENDENT REGULATORY REVIEW COMMISSION

**To:** G. Philip Rutledge  
**Agency:** Securities Commission  
**Phone:** 3-5130  
**Fax:** 3-5122

**From:** Kristine M. Shomper  
Administrative Officer  
**Company:** Independent Regulatory Review  
Commission  
**Phone:** (717) 783-5419 or (717) 783-5417  
**Fax:** (717) 783-2664

**Date:** April 17, 2003  
**# of Pages:** 4

**Comments:** We are submitting the Independent Regulatory Review Commission's comments on the Securities Commission's regulation # 50-118 (#2321). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

*Received*

Accepted by:

*G. Philip Rutledge*

Date:

*4/17/03*