

**INDEPENDENT REGULATORY REVIEW COMMISSION
DISAPPROVAL ORDER**

Commissioners Voting:

Public Meeting Held February 27, 2014

John F. Mizner, Esq., Chairman
George D. Bedwick, Vice Chairman
Russell W. Faber
Lawrence J. Tabas, Esq.
Dennis A. Watson, Esq.

Order Issued March 5, 2014
Regulation No. 3-51 (#3021)
Department of Banking and Securities
Assessments

On September 10, 2013, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Banking and Securities (Department). This rulemaking adds Chapter 5 to 10 Pa. Code. The proposed regulation was published in the September 14, 2013 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on January 8, 2014.

This final-form rulemaking establishes an assessment schedule for the Commonwealth's state-chartered institutions. Section 5.5(a) of the rulemaking sets forth criteria for the adjustment of assessments based upon an optional adjustment for inflation. We find that this section of the rulemaking is not in the public interest. We believe the inflation adjustment would be difficult to implement because the mechanism for determining what the adjustment should be is unclear. 71 P.S. § 745.5b(b)(3).

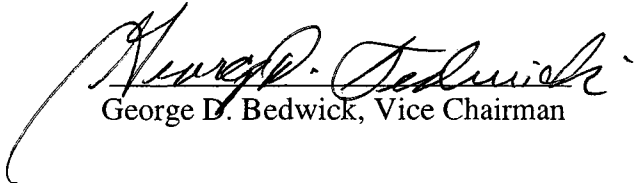
As explained by the Department at the Commission's meeting, if the Department determines that an adjustment is needed, it will be based on the June Consumer Price Index indicated by the "Consumer Price Index – All Urban Consumers: U.S. All Items 1982-1984 = 100" (CPI) published by the United States Department of Labor, Bureau of Labor Statistics, or other similar index published by the United States Department of Labor, Bureau of Labor Statistics of the prior year. The Department will determine the rate of adjustment by calculating the percentage change of the immediate prior June CPI to the June CPI issued twelve months prior. This percentage increase will be applied to the next two semi-annual assessments. While this method of implementing the inflation adjustment may be appropriate, Section 5.5(a) does not clearly set forth that this is the methodology that will be used in implementing the CPI. Therefore, we suggest that the methodology be clarified in the regulation. This will ensure a more stable and predictable regulatory environment as the assessment schedule and the inflation adjustment is implemented in the future.

We have determined that this regulation is consistent with the statutory authority of the Department (71 P.S. § 733-202.C) and the intention of the General Assembly. However, after considering all of the other criteria of the Regulatory Review Act discussed above, we find promulgation of this regulation is not in the public interest.

BY ORDER OF THE COMMISSION:

This regulation is disapproved.




George D. Bedwick, Vice Chairman