Regulatory Analysis For (Completed by Promulgating Agency)	INDEPENDENT RE REVIEW COMM				
(All Comments submitted on this regulation will appear on IRF	RC's website)		· · ·		
(1) Agency			нт ре на ве на 		
Department of Banking and Securities					
(2) Agency Number: 3	11144 I, BREAN LINE IEEE 18	,	···· · · ·		
Identification Number: 51		IRRC Number: 3021	· · · · · · · · · · · · · · · · · · ·		
(3) PA Code Cite:	,,,,,, · <u>.</u> ,	I			
10 Pa. Code Chapter 5					
(4) Short Title:					
Assessments					
(5) Agency Contacts (List Telephone Number and En	mail Address):				
Primary Contact: Sarah E. Sedlak, Assistant Counse Secondary Contact: Begene A. Bahl, Senior Deputy			gov		
(6) Type of Rulemaking (check applicable box):					
 Proposed Regulation X Final Regulation Final Omitted Regulation 	 Emergency Certification Regulation; Certification by the Governor Certification by the Attorney General 				
(7) Briefly explain the regulation in clear and nontecl	nnical language.	(100 words or less)			
The Department of Banking and Securities adds Ch of Section 503(a) of the Credit Union Code, 17 Department of Banking and Securities Code, 71 P form rulemaking is to implement an assessment adequate and sustainable funding for the Departm state-chartered institutions.	Pa.C.S. § 503 S.S. §§ 733-202 schedule for s	(a), and Sections 202.C as 2.C, 733-204.A. The purperstate-chartered institutions	nd 204.A of the ose of this final- which provides		
(8) State the statutory authority for the regulation. In	clude <u>specific</u> st	tatutory citation.			
Section 503(a) of the Credit Union Code (17 Department); and Sections 202.C and 204.A of the 733-202.C (promulgation of rules and regulations upon institutions)).	e Department o	f Banking and Securities (Code (71 P.S. §§		

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(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

The regulation is not mandated by any federal or state law or court order, or federal regulation. There are no relevant state or federal court decisions.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The final-form rulemaking is necessary to ensure the sustainability of the Banking Fund, a restricted special fund established under Section 1113-A of the Department of Banking and Securities Code, 71 P.S. § 733-1113-A, which provides that the expenses of the Department shall be covered by the state-chartered institutions and non-securities licensees within the Department's oversight. The current assessment methods are outdated and do not accurately reflect the Department's costs to regulate the state-chartered institutions under its jurisdiction across a full spectrum of economic cycles and conditions. The Banking Fund provides the majority of the funding for the Department, and due to antiquated assessment schedules last updated in the 1990s, coupled with the removal of approximately \$15 million from the fund by the legislature in FY 08-09 (denoted by the asterisk in Table 1 below), the Banking Fund has become unsustainable.

Table 1Comparative Financial Statement of Banking Fund from FY 2006-07 to 2011-12

	FY	FY	FY	FY	FY	FY
	2006-07	2007-08	2008-09*	2009-10	2010-11	2011-12
Beginning	28,648,000	30,461,000	28,785,000	9,842,000	8,681,000	10,951,000
Balance						
Total Receipts	19,817,000	17,084,000	17,979,000	19,898,000	23,108,000	21,388,000
Total Funds	48,465,000	47,545,000	46,764,000	29,740,000	31,789,000	32,339,000
Available						
Expenditures	18,004,000	18,760,000	36,922,000	21,059,000	20,838,000	21,354,000
Ending Balance	30,461,000	28,785,000	9,842,000	8,681,000	10,951,000	10,985,000

In Table 1, Beginning Balance is the actual balance of the Banking Fund at the beginning of a given fiscal year. Total Receipts is the receipts brought in to the Department for the given fiscal year. Total Funds Available reflects the sum of Beginning Balance and Total Receipts for the given fiscal year. The Expenditures row is the actual expenditures from the Banking Fund. Therefore, the Ending Balance for any given fiscal year is the Total Funds Available minus the Expenditures.

As shown in Table 1, the Banking Fund was relatively healthy, despite the current assessment rates, prior to FY 08-09. This was primarily due to the significant increase in licensing revenue during the housing bubble of the early 2000s, which brought in increased mortgage licensing fees from the booming mortgage industry. However, even in the early 2000s, the 1990s assessment schedules were proving to be a problem for the long-term sustainability of the Banking Fund, because the Department's costs to regulate the state-chartered institutions under its jurisdiction were increasing, causing the Banking Fund to begin to decline.

Then, in FY 08-09, due to severe budget restraints, the General Assembly appropriated \$15 million from the Banking Fund to the General Fund. The removal of this \$15 million from the Banking Fund, coupled with the antiquated 1990s assessment schedules, the collapse of the mortgage industry and its associated licensing revenue and the overall decline in bank assets as a result of the financial crisis and recession, immediately accelerated the decline in the sustainability of the Banking Fund. The Department worked diligently to address this issue, initially by reducing costs where appropriate and "right-sizing" the agency. However, the final-form rulemaking updates the assessment schedules to more accurately reflect the cost of regulation of the Department's state-chartered institutions and stabilizes the Banking Fund in preparation for future economic stress periods.

Table 2 shows the pattern of substantial losses which would have continued without the addition of the finalform regulation, resulting in a negative balance for the Banking Fund as early as FY 15-16. The Department utilized the same calculation method in Table 2 as it did in Table 1. Prior to the final-form regulation, the Department assessed each state-chartered institution semi-annually for a portion of the Department's expenses. The Department then direct billed each state-chartered credit union and state-chartered trust company for the costs of any examinations performed during the fiscal year (examination-based billing). The values in Table 2 assume a continuation of the prior assessment rates of each state-chartered institution, but did not factor in examination-based billing because that number fluctuated each fiscal year. The examinationbased billing cost is impossible to accurately project because the Department did not examine every statechartered credit union and state-chartered trust company every fiscal year.

Table 2
Comparative Financial Statement of Banking Fund without Final-Form Rulemaking

	FY	FY	FY	FY	FY	FY
	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Beginning	10,951,000	10,985,000	11,044,000	6,601,000	2,158,000	(2,285,000)
Balance						
Total	21,388,000	21,408,000	18,269,000	18,269,000	18,269,000	18,269,000
Receipts						
Total Funds	32,339,000	32,393,000	29,313,000	24,870,000	20,427,000	15,984,000
Available						
Expenditures	21,354,000	21,349,000	22,712.000	22,712,000	22,712,000	22,712,000
Ending	10,985,000	11,044,000	6,601,000	2,158,000	(2,285,000)	(6,728,000)
Balance						

As shown in the Ending Balance row in Table 2, without the adequate and sustainable funding provided by the final-form regulation, the Department would have been unable to meet its statutory mandates to oversee the state-chartered institutions under its jurisdiction as early as FY 15-16. If the Banking Fund became insolvent by FY 15-16, the Department would have been required to seek funding from other sources, such as the General Fund, and to make cuts in operations. Because of the depth of the deficit, those cuts in operation would have been so drastic that as a result the Department could have failed to meet statutory mandates to regulate its state-chartered institutions.

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The final-form rulemaking incorporates a long overdue increase in assessments on state-chartered institutions. The Department last changed its rate of assessment of state-chartered credit unions in April 1990, state-chartered banking institutions in January 1994 and state-chartered trust companies in January 1997. Given the increase in supervisory mandates over the years, it costs more to regulate then it did in the 1990s. The

regulation also eliminated examination-based billing for state-chartered credit unions and state-chartered trust companies. Examination-based billing created an unpredictable cost for each state-chartered credit union and state-chartered trust company every year, because these institutions could not reasonably budget for their regulatory costs since the examination schedule fluctuated. The regulation provides adequate resources to the Department to engage in thorough examinations or investigations when necessary and restores the financial health of the Banking Fund.

As shown in Table 3, the projected financial statement of the Banking Fund for the next 5 years with the addition of the final-form rulemaking reflects adequate and sustainable funding. The Department utilized the same calculation method in Table 3 as it did in Table 1 and 2. Adequate and sustainable funding ensures that the Department's regulatory functions related to its state-chartered institutions remain self-funded and that the Department's statutory oversight mandates are met.

	FY	FY	FY	FY	FY	FY
	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Beginning	10,951,000	10,985,000	11,044,000	6,601,000	4,937,000	5,286,000
Balance						
Total	21,388,000	21,408,000	18,269,000	21,843,000	24,679,000	27,517,000
Receipts						
Total Funds	32,339,000	32,393,000	29,313,000	28,444,000	29,616,000	32,803,000
Available						
Expenditures	21,354,000	21,349,000	22,712,000	23,507,000	24,330,000	25,182,000
Ending	10,985,000	11,044,000	6,601,000	4,937,000	5,286,000	7,621,000
Balance						

 Table 3

 Comparative Financial Statement of Banking Fund with Final-Form Rulemaking

Table 3 demonstrates the effect of the final-form rulemaking with a three-fiscal-year phase in for statechartered trust companies and state-chartered banking institutions and immediate implementation for statechartered credit unions. Table 3 does not factor in examination-based billing because it is eliminated.

As demonstrated by Table 3, the final-form rulemaking adequately sustains the Banking Fund in a manner which accurately reflects the increases in the oversight costs for the state-chartered institutions. The projected revenues from the assessments permits the Department to continue to adjust to changing economic climates as well as to heightening and emerging risks, such as cyber-attacks on institutions. Despite the increased assessments, for almost all the effected state-chartered banking institutions, the actual costs to those institutions remains significantly less as state-chartered institutions than the cost of oversight would be to them if they chose to convert to a federally-chartered institution. As an additional longer-term sustainability feature, should circumstances arise where the assessment schedules are not providing appropriate current and expected future funding, the regulation provides that the Department may adjust the assessments to reflect any increase in the Consumer Price Index indicated by the "Consumer Price Index- All Urban Consumers: U.S. All Items 1982-84=100" published by the United States Department of Labor Bureau of Labor Statistics. The "Consumer Price Index- All Urban Consumers: U.S. All Items 1982-84=100" published by the United States Department of Labor Bureau of Labor Statistics. The "Consumer Price Index- All Urban Consumers: U.S. All Items 1982-84=100" published by the United States Department of Labor Bureau of Labor Statistics. The "Consumer Price Index- All Urban Consumers: U.S. All Items 1982-84=100" published by the United States Department of Labor Bureau of Labor Statistics. The "Consumer Price Index- All Urban Consumers: U.S. All Items 1982-84=100" published by the United States Department of Labor Bureau of Labor Statistics. The "Consumer Price Index- All Urban Consumers: U.S. All Items 1982-84=100" published by the United States Department of Labor Bureau of Labor Statistics. The "Consumer Price Index- All Urban Consumers: U.S. All Items 1982-84=100" published by

Although the final-form regulation funds the Department, it also provides a benefit to the regulated community. The final-form regulation simplifies the assessment process, reduces the burden of compliance and provides an element of financial certainty to the Department's 221 state-chartered institutions. Because many of the Department's state-chartered institutions are community-based institutions, the Department attempted to reduce oversight costs where possible in order for those institutions to continue to serve the needs of their customers.

It is in the public interest that state-chartered institutions, used daily by consumers and businesses, encounter a minimal amount of unknown expenses as those institutions work to adhere to the Department's overarching financial safety and soundness requirements. The Department, the state-chartered institutions and the public will benefit because the regulation will prevent a state-chartered institution from unexpectedly declining into an unsafe or unsound position due to an inability to budget for the costs of oversight by the Department.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no provisions in the regulation that are more stringent than federal standards.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

Comparison to Other States

Each state uses its own method to recover the costs associated with overseeing state-chartered institutions. Typically, states recover these costs in one of two ways, through: (1) assessments, which can be billed annually, semi-annually or quarterly or (2) examination-based billing, which reflects the costs incurred while examining a state-chartered institution. Some states only assess state-chartered institutions, other states bill based on examination costs and some states do a combination of both depending on the specific state law. The below chart reflects how many states use each of these methods.

	Assessment	Examination-based	Combination	Other
Credit Unions	29	3	12	6
Trust Companies	12	14	24	0
Banking Institutions	21	0	29	0

Of the 6 states in the "Other" column, 4 states rely, in pertinent part, on general tax revenue to supervise credit unions and the remaining 2 states have no state-chartered credit unions. Prior to the final-form regulation, Pennsylvania was counted in the "Combination" column for state-chartered credit unions and state-chartered trust companies and in the "Assessment" column for state-chartered banking institutions. With the addition of the final-form rulemaking, Pennsylvania is now solely counted in the "Assessment" column for all three types of state-chartered institutions. From a national accreditation "best practices" perspective, it is generally recommended that state regulators use an assessment-only approach, as it provides the best level of transparency and predictability of assessment amounts for both the regulator and the regulated entities.

Ability to Compete

The regulation does not affect Pennsylvania's ability to compete with other states. A Pennsylvania statechartered institution covered under this regulation rarely converts its charter to an out-of-state charter. The Department competes more directly with federal regulatory authorities, the Office of the Comptroller of the Currency (OCC) for banking institutions and trust companies and the National Credit Union Administration (NCUA) for credit unions, for chartered institutions than it does with other state regulators.

In the past 10 years, only 3 state-chartered institutions converted from an out-of-state charter to a Pennsylvania charter or from a Pennsylvania charter to an out-of-state charter. These three conversions involved (a) a banking institution converting from a New Jersey charter to a Pennsylvania charter, (b) a trust company converting from a New Jersey charter to a Pennsylvania charter and (c) a banking institution converting from a New Jersey charter. All three institutions chose to convert charters because of factors related to the institutions' geographical bases of operations, executive management, employees, branches, assets and customer bases. In the past 10 years, no Pennsylvania state-chartered credit unions converted charters to an out-of-state charter nor have any out-of-state chartered credit unions converted charter. Departmental history reflects that the method of assessment by state regulators has not caused any Pennsylvania state-chartered institutions to convert to an out-of-state charter.

In contrast, there have been 44 charter conversions involving either a state charter to a federal charter or a federal charter to a state charter in the past 10 years. These types of conversions are more common because they can occur without the institution changing its name, physical location or customer base. During the past 10 years, 6 banking institutions; 2 credit unions (one additional conversion is pending as of the date of this submission); and no trust companies have converted from a Pennsylvania charter to a federal charter. Conversely, 35 banking institutions (one additional conversion is pending as of the date of this submission); 1 credit union; and no trust companies converted from a federal charter to a Pennsylvania charter during that same time period.

The Department considered its ability to compete with the federal regulatory authorities when drafting this regulation. This regulation assesses Pennsylvania state-chartered institutions based on similar time and manner criteria as the OCC 2013 Assessment Schedules and NCUA 2013 Assessment Schedule. For almost all of the state-chartered institutions, the resulting financial obligation is less under this regulation than if a state-chartered institution converted to a federal charter. As an example, on average this regulation assesses state-chartered credit unions at a rate that is 95% of the NCUA's assessments and state-chartered trust companies and banking institutions at a rate that is 50-55% of the OCC assessments at full implementation.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The regulation does not affect any other regulations of the Department or other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The Department discussed the draft regulation extensively with the Pennsylvania Bankers Association, the Pennsylvania Association of Community Bankers and the Pennsylvania Credit Union Association pursuant to

Executive Order 1996-1. The Pennsylvania Bankers Association, the Pennsylvania Association of Community Bankers and the Pennsylvania Credit Union Association represent the interests of the small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) affected by this regulation, in their respective industries.

The Department invited the input of the 17 individual trust companies regulated by the Department, 8 of which are considered small businesses as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012. Currently, no trade association solely represents the interests of these 17 trust companies.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

The regulation does not affect any individual persons or organizations.

The regulation does affect all 221 Pennsylvania state-chartered institutions which consist of three groups: 59 state-chartered credit unions, 17 state-chartered trust companies and 145 state-chartered banking institutions. Section 3 of the Regulatory Review Act, Act 76 of 2012, defines a small business "in accordance with the size standards described by the Small Business Administration's small business size regulations under 13 CFR CH. 1 Part 121." See 71 P.S. § 745.3. The Small Business Administration's regulations reference the small business size standards established by the NAICS Industry Classification System ("System").

The System classifies banking institutions and credit unions as small businesses if the entities have less than \$175 million in assets. See 13 CFR § 121.201, NAICS Nos. 522110 & 522130. The assets of banking institutions and credit unions are determined "by averaging the assets reported on its four quarterly financial statements for the preceding year. 'Assets' for the purposes of this size standard means the assets defined according to the Federal Financial Institutions Examination Council 034 call report form." *Id.* at footnote 8. Applying this classification to Pennsylvania state-chartered banking institutions and credit unions, 38 state-chartered banking institutions and 51 state-chartered credit unions are considered small businesses, as they have less than \$175 million in average assets as of December 31, 2012.

The System classifies trust companies as small businesses if the companies have less than \$7 million in annual receipts. *Id.*, NAICS No 523991. Applying this classification to Pennsylvania state-chartered trust companies, 8 state-chartered trust companies are considered small businesses, as they have less than \$7 million in annual receipts as of December 31, 2012.

Because all state-chartered banking institutions, credit unions and trust companies are required to follow the assessment schedule set forth in the regulation, there is no adverse effect on the state-chartered institutions that are considered small businesses.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

In total, 221 state-chartered institutions, 97 of which are small businesses, will be required to comply with the regulation. Of those 221 state-chartered institutions, 59 are state-chartered credit unions, 51 of which qualify as small businesses; 17 are state-chartered trust companies, 8 of which qualify as small businesses; and 145 are state-chartered banking institutions, 38 of which qualify as small businesses.

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(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

There is no negative financial impact anticipated on individuals, labor communities and other public and private organizations as a result of this regulation. There will be a financial impact on businesses and small businesses, specifically the state-chartered banking institutions, credit unions and trust companies which are required to comply with the regulation. The regulation increased, for the first time since the 1990s, the monetary amount state-chartered institutions pay in assessments to compensate the Department for the full costs associated with its broad range of regulatory activities.

There is no negative economic impact anticipated on individuals, small businesses, business and labor communities and other public and private organizations as a result of this regulation.

There is no social impact anticipated on individuals, small businesses, business and labor communities and other public and private organizations as a result of this regulation.

Other than the necessary effects for the Department, the Department expects the following benefits as a result of the regulation. Specifically:

- a. Increased assessment certainty for state-chartered credit unions and state-chartered trust companies. The elimination of the obligation to pay for direct examination costs, coupled with the set assessment schedule in the regulation, simplifies the calculation of the monies state-chartered credit unions and state-chartered trust companies must budget to pay for Department oversight. Pennsylvania's state-chartered institutions navigated the financial crisis of 2008 relatively well, but current economic conditions require that Pennsylvania's state-chartered institutions incur as few unanticipated expenses as possible in order to continue to aid compliance with Department and federal "safety and soundness" standards. Because the assessments increased, the regulation incorporated a three-fiscal-year implementation schedule for state-chartered trust companies and state-chartered banking institutions so as to lessen the immediate impact on the budgets of those institutions. The Department is implementing the assessment changes immediately for its state-chartered credit unions because the collective impact on the budgets of the state-chartered credit unions will be modest.
 - b. *Equalization of the method of assessing all state-chartered institutions*. Prior to the final-form regulation, state-chartered credit unions and state-chartered trust companies paid an annual assessment and an examination bill. State-chartered banking institutions paid an annual assessment. The regulation eliminated examination-based billing for the state-chartered credit unions and the state-chartered trust companies, thereby assessing all state-chartered institutions in the same annual assessment manner.
 - c. Streamlining of reporting requirements and bill processes. The regulation uses a reporting method already required to be filed for federal purposes to calculate the assessments. In addition, the replacement of the examination-based billing eliminated billing paperwork for both the Department and the state-chartered institutions resulting in savings for both.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The benefit of the regulation is that the increased revenues to the Department ensures the continued sustainability of the Banking Fund and the ability of the Department to meet its statutory oversight mandates in its historical high-quality service manner. The benefit outweighs the increased cost to the regulated

community because even though the regulated community has not seen an increase in assessment from the Department since the 1990s, the Department incorporated a phase-in period and eliminated the burden of examination-based billing entirely. In addition, the Department was able to set its assessment schedule lower than the assessment schedule of federal regulators.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

This regulation does not require the regulated community to incur any additional costs associated with compliance. The state-chartered credit unions, state-chartered trust companies and state-chartered banking institutions already paid money to the Department to compensate it for the costs of oversight under a similar assessment model. This regulation increases the amount of that payment in the collective approximately by \$3,550,000 in FY 2014-15, \$6,386,000 in FY 2015-16, \$9,224,000 in FY 2016-17 and \$9,739,000 in FY 2017-18 over what will be collected in FY 2012-13.

There are no specific anticipated savings for the regulated community associated with compliance with the regulation. The elimination of examination-based billing will likely result in savings to the regulated community associated with compliance, but that savings cannot be properly estimated by the Department.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

This regulation does not affect local governments.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no anticipated costs or savings to the state government associated with the implementation of the regulation. The Department assessed state-chartered institutions prior to the addition of the final-form regulation. This regulation simply increased the amount of the assessment.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

No legal, accounting or consulting procedures or additional reporting, recordkeeping or other paperwork, including forms or reports, are required for the implementation of this regulation for the regulated community, the local governments or the state government.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY	FY +1	FY +2	FY +3	FY +4	FY +5
	Year	Year	Year	Year	Year	Year
	(12-13)	(13 - 14)	(14 - 15)	(15 - 16)	(16 - 17)	(17 -18)
SAVINGS:						
Regulated Community	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Local Government	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
State Government	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Total Savings	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
COSTS:						
Regulated Community	\$ 0.00	\$ 0.00	\$3,550,000	\$6,386,000	\$9,224,000	\$9,739,000
Local Government	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
State Government	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Total Costs	\$ 0.00	\$ 0.00	\$3,550,000	\$6,386,000	\$9,224,000	\$9,739,000
REVENUE LOSSES:					-	
Regulated Community	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Local Government	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
State Government	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Total Revenue Losses	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

(23a) Provide the past three year expenditure history for programs affected by the regulation.

This chart is not applicable because the final-form regulation does not affect a program of the Department.

Program	FY -3	FY -2	FY -1	Current FY
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(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

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- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

As stated above (under 15), the regulation does not adversely impact small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012).

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

The Department did not develop any special provisions because the affected state-chartered institutions which qualify as small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) do not have any particular needs different than those applicable to all of the affected state-chartered institutions.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

The Department is implementing the assessment schedule instead of the current method of assessments plus examination-based billing in fiscal year one so as to immediately simplify the process by which the Department receives monies from the regulated community.

The Department went with the least burdensome acceptable alternative by phasing in the assessment amount to the full amount due over a three-fiscal-year time frame instead of immediate implementation for statechartered trust companies and state-chartered banking institutions so as to lessen the immediate impact on the budgets of those institutions. The Department is implementing the assessment changes immediately for its state-chartered credit unions because the collective impact on the budgets of the state-chartered credit unions will be modest. This alternative achieves the Department's goal of implementing an appropriate assessment method while giving the regulated community time to budget for the resulting increase in the annual amount due to the Department.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

As stated above, the regulation does not have an adverse impact on small businesses. The regulation actually reduces the regulatory burden by simplifying the assessment process through the use of reports which the entire regulated community, including small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), are already required to file at the federal level.

(28) If data is the basis for this regulation, please provide a description of the data, explain <u>in detail</u> how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

All data used as a basis for this regulation is attached.

OCC 2012-40 is a notice from the Office of the Comptroller of the Currency regarding the 2013 assessment schedule for the federal trust companies and federal banking institutions that it regulates.

Letter no. 13-FCU-01 is a notice from the NCUA regarding the 2013 operating fee schedule ("assessment schedule") for the federal credit unions that it regulates.

The Department obtained both the OCC 2012-40 and the 13-FCU-01 from the internet because the federal assessment schedules are public. The Department used the tiers and the rates reflected in these documents as a reference point when determining the tiers and the rates set forth in the final-form rulemaking.

These documents reflect tiers and rates established by the OCC and the NCUA at their own discretion, therefore no empirical, replicable or testable data is available or necessary.

(29) Include a schedule for review of the regulation including:	
A. The date by which the agency must receive public comments:	<u>October 7, 2013</u>
 B. The date or dates on which public meetings or hearings will be held: 	No public meetings are anticipated at this time.
C. The expected date of promulgation of the proposed regulation as a final-form regulation:	March 2014
D. The expected effective date of the final-form regulation:	Immediately upon publication in the <i>Pennsylvania Bulletin</i> .
E. The date by which compliance with the final-form regulation will be required:	The compliance dates are set <u>forth in the regulation.</u>
F. The date by which required permits, licenses or other approvals must be obtained:	<u>N/A</u>

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

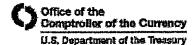
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The Department will periodically seek input from the regulated community and conduct internal evaluations of the regulation after its implementation.



OCC 2012-40

Subject: Notice of Comptroller of the Currency Fees for Year 2013 Date: November 30, 2012

To: Chief Executive Officers of All National Banks, Federal Savings Associations, Federal Branches and Agencies of Foreign Banks, Department and Division Heads, All Examining Personnel, and **Other Interested Parties**

Description: Calendar Year 2013 Fee Structure

The purpose of this issuance is to inform all national banks, federal savings associations, and federal branches and agencies of foreign banks of fees charged by the Office of the Comptroller of the Currency (OCC) for calendar year 2013. This bulletin is effective January 1, 2013

SEMIANNUAL ASSESSMENT

Reference.

12 CFR 8, "Assessment of Fees"

2013 Assessment Schedule

Effective date January 1, 2013:

- · Assessments are due March 29 and September 30, based on call report information as of December 31 and June 30, respectively. The assessments cover the six-month periods beginning January 1 and July 1, respectively. For example, the assessment due March 29 covers the period January 1 through June 30.
- The marginal rates of the OCC's general assessment schedule continue to be indexed to reflect inflation as measured by the Gross Domestic Product Implicit Proce Deflator (GDPIPD) for the previous June-to-June period. The GDPIPD adjustment is 1.7 percent for 2013. The indexation adjustment will apply to the first \$20 billion in assets of a national bank, federal savings association, or federal branch or agency of a foreign bank.
- Fees assessed on independent trust banks and on independent credit card banks have been adjusted for inflation as well.
- The OCC will calculate the assessment fee due and draft the fee amount on March 29 and September 30. The OCC will provide seven business days' notice of the amount that will be drafted from an institution's designated account. The institution is responsible for ensuring that the account is funded properly on the due dates.
- The OCC will continue to charge interest on all payments received after the due date. The Interest rate charged will be the U.S. Treasury Department's current value of funds rate published quarterly in the *Federal Register*. National banks, federal savings associations, and federal branches and agencies of foreign banks that are no longer subject to OCC supervision on or before December 31, 2012; or June 30, 2013, will not be subject to the semiannual assessment for the penod beginning here or the control to perform the control to perform the charge of the penod beginning here or the charge of the penod beginning the base of the penod beginning associations. January 1 or July 1, respectively. Only those institutions leaving the banking system before the close of business on those dates avoid paying the semiannual assessment for the period beginning January 1 or July 1, as applicable.

The OCC's assessment schedule continues to include a surcharge for national banks, federal savings associations, and federal branches and agencies of foreign banks that require increased supervisory resources. The surcharge ensures that fees reflect the increased cost of supervision that applies to those national banks, federal savings associations, and federal branches and agencies of foreign banks rated 3, 4, or 5 under the uniform financial institution rating system; or under the risk management, operational controls, compliance, and asset quality rating system as of the relevant call date (that is, December 31, 2012; or June 30, 2013). The surcharge is to be applied to all components of an institution's assessment, including book assets, assets under management (for independent trust banks), and receivables attributable (for independent credit card banks). National banks, federal savings associations, and federal branches and agencies of foreign banks subject to the surcharge calculate the surcharge by multiplying the sum of the general assessment (based on the institution's book assets up to \$20 billion) plus the independent trust bank assessment or the independent credit card bank assessment by 50 percent for 3-rated institutions and 100 percent for 4- and 5-rated institutions.

The OCC will continue to reduce the assessment of nonlead national banks, federal savings associations, and federal branches and agencies of foreign banks by 12 percent. A nonlead institution, for this purpose, is a national bank, federal savings association, or federal branch or agency of a foreign bank that is not the largest national bank, federal savings association, or federal branch or agency of a foreign bank, based on total assets, controlled by a company owning two or more national banks, federal savings associations, or federal branches or agencies of foreign banks, Nonlead national banks, federal savings associations, and federal branches and agencies of foreign banks within any company should multiply their calculated general assessment by 88 percent to recognize the nonlead discount. The 12 percent discount does not apply to the independent trust bank assessment or the independent credit card bank assessment, given that independent trust banks and independent credit card banks, by definition, are not affiliated with full-service national banks, federal savings associations, or federal branches or agencies of foreign banks.

Each national bank, federal savings association, and federal branch and agency of foreign banks pays the general assessment fee. Independent trust banks pay the general assessment fee and the independent trust bank assessment. Independent credit card banks pay the general assessment fee and the independent credit card bank assessment. Assessments will be calculated using the schedules below and then adjusted for the nonlead discount or condition surcharge.

5/21/2013

General Assessment Fee Schedule

If the amount of total balance domestic and foreign subsid	e-sheet assets (consolidated lianes) is (millions)	The semiannual assessment will be				
Over	But not over	This amount	Pius	Of excess over (millions)		
\$0	\$ 2	\$ 5,915	0.000000000	\$0		
2	20	5,915	0 000233457	2		
20	100	10,117	0.000186765	20		
100	200	25,058	0.000121393	100		
200	1,000	37,197	0.000102718	200		
1,000	2,000	119,371	0 000084042	1,000		
2,000	6,000	203,413	0 000074704	2,000		
6,000	20,000	502,229	0 000063565	6,000		
20,000	40,000	1,392,139	0.000047883	20,000		
40,000	250,000	2,349,799	0.000032675	40,000		
250,000		9,211,549	0.000032348	250,000		

Independent Trust Bank Semiannual Assessment Schedule

If the total amount of fiduciary and related assets is (millions)			The independent trust bank semiannual assessment will be					
Over	Over But not over This amount		But not over This amount Plus		Of excess over (millions)			
\$	0	\$	1,000	\$	22,486	0.00000000	\$	0
	1,000		10,000		22,486	0.000004481		1,000
	10,000		100,000		62,815	0.000000748		10,000
	100,000				130,135	0 000000475		100,000

Independent Credit Card Bank Semiannual Assessment Schedule

If the bank's total off-balance-sheet receiv	The independent credit card bank semiannual	-
Over	assessment will be	:

OCC: Notice of Comptroller of the Currency Fees for Year 2013: Calendar Year 2013 Fe... Page 3 of 4

\$0	\$ 100	\$ 47,939
100	1,000	71,625
1,000	5,000	95,884
. 5,000		· 119,589

HOURLY RATE FOR EXAMINATIONS AND INVESTIGATIONS

Reference: 12 CFR 8.6

Effective date: Examinations and investigations subject to the fee beginning after January 1, 2003.

Rate: \$110 per hour to recover the cost of conducting special examinations and investigations described in 12 CFR 8.6. Examinations of the fiduciary activities of national banks, federal savings associations, and federal branches and agencies of foreign banks and related entities under 12 CFR 8.6(a)(1) are generally not subject to hourly rates.

LICENSING FEES

Reference: 12 CFR 5.5

All licensing fees have been suspended for calendar year 2013. This change was effective January 1, 2008, for calendar year 2008 and will continue to be in effect through calendar year 2013.

PUBLICATIONS

The OCC no longer distributes paper-based publications. All publications are available electronically on the OCC's Web site. The list of available publications is attached.

Other items, including news releases, issuances (such as bulletins, advisories, and alerts), and other materials may be downloaded at no charge from the agency's Web site. For your convenience, the site contains a search engine to locate materials by subject.

MISCELLANEOUS FEES

Prepayment is required for bank histories and certifications.

Bank history for single bank:	
Less than 50 years	\$ 75.00
Fifty years or more	\$ 150.00

Bank histories are provided to determine the successor to inactive national banks, federal savings associations, and federal branches and agencies. They include corporate transactions such as name changes, mergers, closings, and the current address of the successor institution, if available.

Certificates relating to licensing bank activities:	\$ 100.	.00
Title changes		
• Mergers		
Articles of association		

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OCC: Notice of Comptroller of the Currency Fees for Year 2013: Calendar Year 2013 Fe... Page 4 of 4

Receivership Determination and Appointment of Receiver	
Charter	
Corporate existence	
Fiduciary powers	

Certificate of Authenticity (12 CFR 4)	\$ 100.00
Copies of certificates	\$ 10.00
Freedom of Information Act and Privacy Act requests:	
Search and review	\$ 35.00 an hour
Photocopying	\$ 0.20 a page
Examination reports:	
Initial copy	Free
Additional copies—each	\$ 10.00
Special requests—each	\$ 50,00

Thomas R. Bloom Senior Deputy Comptroller for the Office of Management and Chief Financial Officer

Related Links

- OCC Publications List
 Safety and Soundness
 Compliance

- Asset Management
 Comptroller's Licensing Manual
 Publication Order Form

NCUA LETTER TO FEDERAL CREDIT UNIONS

NATIONAL CREDIT UNION ADMINISTRATION 1775 Duke Street, Alexandria, VA 22314

DATE:January 2013LETTER NO.: 13-FCU-01TO:All Federal Credit Unions

SUBJ: Operating Fee Schedule for 2013

ENCL: Operating Fee Schedule for 2013

Dear Board of Directors and Chief Executive Officer:

The NCUA Board has voted to eliminate 2013 operating fees for federal credit unions with assets less than or equal to \$1 million.

For federal credit unions with assets over \$1 million, the 2013 operating fee rate will increase by only 0.24 percent over the 2012 rate.

How is the operating fee calculated?

Enclosed with this letter is a chart that will help you calculate the exact dollar amount of your credit union's operating fee. The chart also includes the NCUA web link to the online calculator.

The rest of this letter provides additional insight into the calculation method.

The two major factors that influence a change in the operating fee rate are the overhead transfer rate (OTR) and the growth of federal credit union assets. The OTR is calculated from the annual allocation of NCUA resources toward insurance-related functions. For 2013, the OTR decreased slightly to 59.1 percent from 59.3 percent to maintain NCUA's focus on risks to the National Credit Union Share Insurance Fund (NCUSIF). The combination of growth in federal credit union assets and the OTR reduction resulted in a minor increase to the 2013 operating fee scale.

Each year, in order to preserve the relationship of the scale to the federal credit unions within each asset tier, the asset range for each tier is adjusted by the projected growth of federal credit union assets. The 2013 asset ranges are increasing by 6.5 percent based on projected federal credit union asset growth. You will see the new asset ranges to the right of the adjusted fee rates on the chart enclosed with this letter.

When will the operating fee be billed?

In March, federal credit unions with assets over \$1 million will receive an invoice for their 2013 operating fee.

At the same time, all federally insured credit unions will receive notice of any amount needed to adjust their NCUSIF capitalization deposit to 1 percent of insured shares.

- Your operating fee will be based on assets you report as of December 31, 2012.
- Your capitalization deposit may adjust up or down based on the insured shares you report as of December 31, 2012.

When is the payment due?

NCUA will combine your operating fee and your capitalization deposit adjustment into a single payment that will be due in April 2013.

For federal credit unions signed up to pay via Pay.Gov, no further action is required, and you can expect payment to occur by April 30.

All other federal credit unions will need to send payment according to the instructions included with the invoice.

If you have any questions regarding this letter, please contact NCUA's Office of the Chief Financial Officer at <u>ocfomail@ncua.gov</u>.

Sincerely,

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/s/ Debbie Matz Chairman

Enclosure

ENCLOSURE

OPERATING FEE SCHEDULE FOR 2013

Your operating fee is based upon the total assets of your credit union as of December 31, 2012.

FOR NATURAL PERSON FEDERAL CREDIT UNIONS

If total assets are <u>more</u> than \$1,000,000, the operating fee assessment is:

0.00022610	on the first	\$1,115,871,488	of assets, plus
0.00006590	on the next	\$2,260,738,869	of assets, plus
0.00002200	on assets over	\$3,376,610,357	

Examples:	A credit union with \$1,000,000 in total assets has an operating fee of: \$0.
	A credit union with $1,250,000$ in total assets has an operating fee of: ($1,250,000 \ge 0.00022610$) = 282.63 .
	A credit union with \$2,400,000,000 in assets has an operating fee of: (\$1,115,871,488 x 0.00022610) + ((\$2,400,000,000 - \$1,115,871,488) x 0.00006590) = \$336,922.61.
	A credit union with \$5,000,000,000 in total assets has an operating fee of: (\$1,115,871,488 x 0.00022610) + ((\$3,376,610,357 - \$1,115,871,488) x 0.00006590) + ((\$5,000,000,000 - \$3,376,610,357) x 0.00002200) = \$436,995.80.

	FOR CO	PRPORATE CREDIT UNIONS
If total assets are over	But not over -	The operating fee assessment is:
\$5,000,000	\$ 20,000,000	\$ 1,130.50 plus 0.02234% of the total assets over \$5,000,000
\$20,000,000	\$ 50,000,000	\$ 4,481.50 plus 0.02111% of the total assets over \$20,000,000
\$50,000,000	\$100,000,000	\$10,814.50 plus 0.01987% of the total assets over \$50,000,000
\$100,000,000	no limit	\$20,749.50 plus 0.00123% of the total assets over \$100,000,000

Operating Fee Calculator at <u>http://opfee.ncua.gov/</u>

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			WRITE IN THIS SPACE
Copy below is hereby approved form and legality. Attorney Gen Y:	Department of Banking a	or promulgated by:	Copy below is hereby approved as to form and egamy. Executive or independent Agencies. SHAWN E SMITH
	DOCUMENT/FISCAL NOTE NO. 3-51		•
DATE OF APPROVAL	BY: Memo Moyn/		JAN 06 2014
Check if applicable Copy not approved. Objections attached.	() TITLE: <u>Secretary of Banking and S</u> (EXECUTIVE OFFICER, CHAIRMAN ()	ecurities DR SECRETARY)	Chief Counsel, Independent Ageneral (Chief Counsel, Independent Ageneral) (Strike inapplicable title) Check if applicable. No Attorney General approval or objection within 30 days after submission.

NOTICE OF FINAL RULEMAKING

DEPARTMENT OF BANKING AND SECURITIES

10 Pa. Code Chapter 5 §5.1 - 5.6

ASSESSMENTS

FINAL-FORM RULEMAKING DEPARTMENT OF BANKING AND SECURITIES [10 PA. CODE CH. 5]

Preamble

The Department of Banking and Securities (Department) adds Chapter 5 (relating to assessments) under the authority of 17 Pa.C.S. § 503(a) (relating to regulation by Department) and sections 202(C) and 204(A) of the Department of Banking and Securities Code (71 P.S. §§ 733-202(C) and 733-204(A)).

Purpose

The purpose of this final-form rulemaking is to implement an assessment schedule for State-chartered institutions which provides adequate and sustainable funding for the Department and streamlines reporting and billing requirements on State-chartered institutions through the elimination of examination-based billing for State-chartered credit unions and State-chartered trust companies.

Comments and Responses

Notice of the proposed rulemaking was published at 43 Pa.B. 5455 (September 14, 2013) with a 30-day comment period. The Department received comments from the Pennsylvania Bankers Association, the Pennsylvania Association of Community Bankers, the Pennsylvania Credit Union Association and Vanguard Fiduciary Trust Company.

Comments from the Trade Associations

The Department received comments from three trade associations representing the interests of the State-chartered banking institutions and State-chartered credit unions. Currently, there is no trade association that solely represents the interests of State-chartered trust companies in Pennsylvania.

Pennsylvania Bankers Association

The Pennsylvania Bankers Association (PBA) represents banking institutions of all sizes located within Pennsylvania, including Federally-chartered and State-chartered banks, bank and trust companies, trust companies, savings institutions and their subsidiaries and affiliates. The PBA appreciated that the Department discussed the regulation with them during the developmental stages. The PBA expressed the desire that the General Assembly allow the Banking Fund to remain in place for the Department's use only so that the Department maintains adequate funds to regulate its State-chartered institutions.

During the developmental stages, the PBA requested that the Department send written explanatory materials to each State-chartered banking institution affected by the rulemaking. The PBA commented that the Department appropriately communicated to those State-chartered banking institutions the cost-reducing steps already taken by the Department since 2011. The PBA concluded that although it is unable to comment on the impact of the regulation on individual State-chartered banking institution members, it believes that the final-form regulation provides the Department with adequate funding for the future.

Pennsylvania Association of Community Bankers

The Pennsylvania Association of Community Bankers (PACB) represents community banking institutions located within Pennsylvania, including both State and Federallychartered banking institutions. The PACB appreciated the opportunity to comment on the rulemaking. Like the PBA, the PACB expressed the desire that the General Assembly allow the Banking Fund to remain in place for the Department's use only so that the Department maintains adequate funds to regulate its State-chartered institutions.

The PACB explained its concerns regarding the financial impact of the final-form regulation on some smaller State-chartered banking institutions because those institutions already face additional federal mandates and regulatory burden. However, the PACB commented that it appreciated the Department's incorporation of a three-fiscal-year phase in for State-chartered banking institutions. The three-fiscal-year phase-in makes the possible financial strain on the PACB members much more manageable than immediate full implementation. The PACB also expressed support for the complete elimination of examination-based billing for State-chartered credit unions and State-chartered trust companies included in the final-form regulation.

Response: The PACB explained its concerns to the Department during the drafting process. The Department determined that the assessments must increase and the increase does create some fiscal impact. The Department as the regulator of the State-chartered banking institutions is aware of the financial condition of its regulated community and took every measure to ensure that the regulation will not create a financial impact which cannot be borne by the regulated community. Because of the feedback from the PACB and others, the Department attempted to implement the increases in the least burdensome manner to the regulated community by including the three-fiscal-year phase-in and using already-existing Federal reporting requirements.

The Pennsylvania Credit Union Association

The Pennsylvania Credit Union Association (PCUA) represents a majority of the approximately 500 credit unions located within Pennsylvania including State and Federally-chartered credit unions. The PCUA stated its appreciation for the complete elimination of examination-based billing for State-chartered credit unions. PCUA also commented that it understands that the Department needs to obtain sustainable funding to prevent regulatory uncertainty.

The PCUA commented that the assessment and factors contained in the rulemaking are more desirable than the current formula for assessment. However, the PCUA expressed concern that some of the larger asset sized State-chartered credit unions might realize an increase from the rulemaking. The PCUA suggested that in order to better accommodate those larger asset sized State-chartered credit unions, the Department consider implementing a three-fiscal-year phase-in for State-chartered credit unions instead of immediate full implementation.

Response: The Department considered the concerns and financial status of all of its State-chartered financial institutions in drafting the rulemaking. The Department acknowledges that, in adopting the assessment schedule best suited for credit unions, an increase will occur for some State-chartered credit unions, including larger-asset ones. However, due to this assessment schedule approach, the Department is unable to provide a phase-in for any credit unions.

The Department last changed the assessment rates for State-chartered credit unions over 23 years ago. Even though State-chartered credit unions experienced no change in assessment rates over the last 23 years, the Department still attempted to mitigate the fiscal impact of this rulemaking. To the extent possible from a revenue standpoint, and in order to maintain the competitiveness of the Pennsylvania state-charter, the Department kept the assessment rates at roughly 95% of the National Credit Union Administration's (NCUA) assessment rates for Federally-chartered credit unions. In addition, the Department completely eliminated examination-based billing to avoid unpredictable costs for the State-chartered credit unions, despite the fact that the elimination of this billing method coupled with the new assessment schedules results initially in a moderate loss of revenue to the Department from credit unions. For example, in Fiscal Year 2012-2013, the Department received \$1,880,788 in revenue from the current assessments and examination-based billing of State-chartered credit unions. In comparison, if the Department applied the assessment rates to be implemented by this regulation to the most recent call reports of the State-chartered credit unions, the Department would receive \$1,733,000 in revenue. Thus, the switch from examination-based billing to the proposed assessment-only approach initially represents a loss of \$147,000 in revenue to the Department from credit unions.

Regardless of the size of the credit union, as shown above, even if the regulation took full effect in 2013, the regulation actually results in a decrease in revenue to the Department from this institution type overall. At full implementation, the Department expects the revenue for the State-chartered credit unions to increase at least to the level that the assessment rates will result in a revenue-neutral outcome from State-chartered credit unions. Therefore, any incremental implementation of the assessment schedule for any size of credit union is impractical because it would cause a further loss of revenue to the Department, since the Department designed the assessment schedules for credit unions to result a revenue-neutral outcome in order to maintain assessment competitiveness with the NCUA.

Comment from the Regulated Community

The Department received one comment from the regulated community from Vanguard Fiduciary Trust Company (VFTC). VFTC is a State-chartered trust company that is a wholly owned subsidiary of The Vanguard Group, Inc. VFTC expressed its appreciation for the Department's discussion of the proposed regulation during the drafting process.

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VFTC also stated that without endorsing the content of the rulemaking, it understands that the Department undertook cost-reducing measures. Despite those measures, the outstanding financial need remains the reason for the regulation.

VFTC commented that without supporting the assessment rates, it agreed that the complete elimination of examination-based billing and the establishment of assessment rates at a level substantially below the federal assessment structure are beneficial. VFTC stated it preferred a longer phase-in period, but understood that the three-fiscal-year time period is an acceptable compromise to enable the Department to achieve sustainable funding while attempting to lessen the immediate impact on the budgets of the regulated community. VFTC stated that it acknowledges that the Department needed to increase the assessment rates and agrees with the language contained in § 5.5(a) and (b). VFTC agreed that the Department should tie its discretion to increase assessment rates to the Bureau of Labor Statistics as an independent benchmark.

Comments from the Independent Regulatory Review Commission

The Department received four comments from the Independent Regulatory Review Commission (Commission).

First Comment

The Commission questioned how the Department determined that the surpluses resulting from the implementation of the rulemaking are appropriate.

Response: The ending balances reflected in Table 3 on the Regulatory Analysis Form do appear to show a "surplus" to the Department. However, those ending balances do not reflect "surpluses;" rather, the ending balances are a necessary reserve that supports three different needs of the Department.

First, the Conference of State Bank Supervisors (CSBS), which provides national accreditation of the Department's Banking Fund programs, recommends as a best practice maintaining a minimum of three months of operating expenses in a regulator's budgetary accounts at all times. The CSBS recommends this because, like with any business, it is impossible for the Department to exactly time the receipt and expenditure of funds. Using the criteria set by CSBS and the projected Departmental expenses, the Department should maintain an operating reserve of approximately \$6.3 million in the Banking Fund.

Second, the Department must maintain an operational balance higher than the approximately \$6.3 million the CSBS recommends in case of the loss of one or more of the larger State-chartered financial institutions to a charter conversion or a merger. As explained in the Regulatory Analysis Form, the assessment schedule uses the assets of each regulated State-chartered financial institution to calculate the amount due to the Department. Therefore, the larger asset State-chartered financial institutions provide a larger portion of the assessments. Although the Department strives to maintain favorable conditions for its State-chartered financial institutions, conversions and mergers still

occur. The loss of a larger State-chartered financial institution through conversion to a federal charter or merger could drastically reduce the Department's revenue and the balance of the Banking Fund

Third, the Department needs to adequately fund the legislatively-created Institution Resolution Account (IRA). The IRA is a restricted account within the Banking Fund created in 2012 under Section 1113-A(g) of the Department of Banking and Securities Code, 71 P.S. § 733-1113-A(g), for use primarily in resolving a failed State-chartered trust company. The failure of a State-chartered trust company impacts the Department in a different manner than the failure of a State-chartered banking institution or a State-chartered credit union because the Department actually bears the financial burden of a trust company failure as explained below.

If a State-chartered banking institution or a State-chartered credit union fails, federal regulators act as receivers for these failed financial institutions and federal deposit insurance funds resolve the accounts. The Office of the Comptroller of the Currency (OCC) decides whether a Federally-chartered banking institution must be closed. The NCUA decides whether a Federally-chartered credit union must be closed. The Department decides whether a State-chartered banking institution or State-chartered credit union must be closed. For banking institutions, either the OCC or the Department appoints the Federal Deposit Insurance Corporation (FDIC) as the receiver of these financial institutions. For credit unions, the NCUA and the Department appoint the NCUA as the receiver of these financial institutions. The FDIC and the NCUA insure depositors in all banks and credit unions, including State-chartered banking institutions and State-chartered credit unions, for up to \$250,000 per depositor when a failure occurs.

However, if a State-chartered trust company fails, no federal regulator exists to be appointed receiver of failed State-chartered trust companies and no federal deposit insurance funds exist to resolve the fiduciary accounts because the FDIC and NCUA do not regulate trust companies or insure fiduciary accounts. In the event that a Statechartered trust company fails, the Department is the receiver and must resolve the trust company with Department funds generated from the regulated industries. Otherwise, the Department would need to seek an appropriation from General Fund taxpayer monies to resolve a trust company. The costs to resolve trust companies varies greatly based on the sizes and types of fiduciary accounts, but recent resolutions by other state regulators demonstrate that such resolutions take several years, with costs consistently reaching above \$20 million.

As the receiver of a State-chartered trust company, the Department must run the trust company until a resolution is reached. While running the trust company, the Department must pay ongoing operational and overhead expenses, such as the salaries and benefits of all employees, the real estate and utility costs for the offices of the trust company, the data processing/information technology fees and business-related professional expenditures. In addition to the normal costs of running the trust company, the Department will need to hire and pay outside consultants. These outside consultants may include forensic accountants, outside bankruptcy counsel, executive management to replace previous management and investment bankers to market all or portions of the trust company's assets. The resolution of failed State-chartered trust companies creates a significant financial burden on the Department not only because of the above costs, but because of the countless hours of personnel resources the Department must commit to the resolution during the years it takes to resolve a failed State-chartered trust company.

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In order to prevent the depletion of the Department's funds through a State-chartered trust company failure, the Department must maintain the IRA to cover the costs associated with the resolution of a trust company and its fiduciary accounts. Prior to the establishment of the IRA, the Department was building an adequate reserve in the Banking Fund to prepare for such costs. However, such funds could be appropriated by the General Assembly for other uses. In Fiscal Year 2008-2009, the General Assembly appropriated \$15 million from the Banking Fund for other uses. As a result of that appropriation, the Department must gradually recoup the funds lost to that appropriation and adequately fund the IRA.

Second Comment

The Commission requested that the Department explain how it currently collects fees from institutions and how it plans to transition to the assessment schedule in the rulemaking. Included in that question, the Commission asked whether the Department will discontinue its current assessment system and assuming that the rulemaking is adopted, how and when the Department will notify the regulated community of the change in the Department's assessment method.

Response: Currently, the Department assesses State-chartered banking institutions, Statechartered credit unions and State-chartered trust companies according to a similar assessment system based upon assessment schedules set in the 1990s by a series of Secretary's Letters. While the Department bills State-chartered banking institutions on this assessment basis only, it assesses State-chartered credit unions and State-chartered trust companies and additionally separately bills for examination costs. The examinationbased billing could vary widely due to the length and complexity of the examination.

The Department collects assessments from State-chartered financial institutions according to these assessment schedules through a billing system based upon the amount of assets reported in the institution's federal quarterly Report of Condition and Income (Call Report). For State-chartered banking institutions and State-chartered credit unions, the Department issues invoices on December 31 and June 30. The Department calculates the December 31 invoice amount based on the asset information in the September Call Report for each State-chartered financial institution and the June 30 invoice amount based on the asset information in the March Call Report for each State-chartered financial institution. The invoice reflects the amount due to the Department with a payment term of 30 days. For State-chartered trust companies, the Department issues invoices on December 31, based upon the September Call Reports.

The Department will implement the assessment schedule in the final-form rulemaking in the same manner, with one exception. In keeping with the billing format of the Statechartered banking institutions and State-chartered credit unions, the Department will also bill the State-chartered trust companies on December 31, based upon the asset information in the September Call Reports and June 30, based on the asset information in the March Call Reports. The assessment schedule invoices will be the only invoices issued to any State-chartered financial institution because the final-form rulemaking eliminates the examination-based billing for State-chartered credit unions and Statechartered trust companies.

The adoption of this regulation will automatically replace the current assessment schedules and eliminate separate examination-based billing for State-chartered credit unions and State-chartered trust companies. Upon the addition of the final-form regulation, the Department will send a letter from the Secretary of Banking and Securities to each affected State-chartered financial institution explaining the regulation and how it will be implemented. The letter will also reference the estimated assessment calculator located on the Department's website, which was established prior to the public comment period in order to allow institutions to generate their estimated assessment as a result of the regulation. The estimated assessment calculator will remain on the Department's website following the promulgation of the regulation and will allow each State-chartered financial institution to obtain assessment information specific to that institution prior to receiving the Department's invoice. The Department does not anticipate any confusion regarding the implementation of the assessment schedule in the final-form rulemaking because the Secretary and the Department communicated extensively with the regulated community on this topic.

Third Comment

The Commission posed questions to the Department regarding subsections (a) and (b) of § 5.5 of the rulemaking.

Subsection (a): The Commission set forth five groups of questions regarding the inflation index set forth in subsection (a) and asked that the Department respond to the questions and adjust the final-form rulemaking as it deems appropriate:

(a) What safeguards are in place to ensure that the need for additional funding is based on inflation? Do the Pennsylvania General Assembly and the budgetary process have any input or oversight on whether an adjustment is needed?

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Response: The safeguards that exist to ensure the Department will only use the provisions of this section to adjust the assessment based upon inflation are the budget review processes of the Governor's Budget Office and Pennsylvania General Assembly. Both the Governor's Budget Office and the General Assembly have input and oversight into whether an adjustment is needed because both must approve the Department's budget each fiscal year. Therefore, the normal budget process ensures that the Governor's Budget Office and the General Assembly are able to review the appropriateness of the Department's revenue streams and expenditures overall, including whether an adjustment is needed.

As reflected in the public comments, the Department strives to oversee its Statechartered financial institutions in a cooperative manner. If the Department attempted to use this provision without a true need, the regulated community would, and should, bring the Department's actions to the attention of the General Assembly. In addition, the regulated community is familiar with optional inflation adjustments based upon changes in pricing because the Federal regulator of national banks and national trust companies, the OCC, also includes one in its assessment schedules. *See, e.g.*, 12 C.F.R. § 8.2(a)(4) (use of "Gross Domestic Product Implicit Price Deflator" as index for optional inflation adjustment).

(b) Will the Department notify the regulated community in advance about the imposition of the inflation adjustment? How and when would the regulated community be notified of the inflation adjustment?

Response: Yes, the Department will notify the regulated community in advance about the imposition of the inflation adjustment. If the Department determines during the budget review process that an inflation adjustment is necessary, the Department will send a general letter in July after the budget process is complete to the regulated community notifying them that the Department will be instituting an inflation adjustment in the upcoming fiscal year assessments (*i.e.* the December 31 and June 30 invoices). The Department will note the actual amount of adjustment on the invoices issued to each State-chartered financial institution.

(c) How often are the cited inflation indices updated? Do the inflation indices correlate to the semiannual assessment notices of this rulemaking?

Response: The United States Department of Labor Bureau of Labor Statistics (USDOL) adjusts the Consumer Price Index (CPI) each month. The Department will use the inflation rate announced in June during the budgetary process in order to correlate the adjustment to the semiannual assessment fiscal-year schedule. If needed, the Department will then apply the June inflation rate to the December 31 and June 30 invoices.

(d) How did the Department determine that the cited inflation indices are most appropriate for all Pennsylvania State-chartered institutions?

Response: The Department determined that the inflation index cited in the regulation is the most appropriate because the Department uses the CPI in conjunction with other statutes it oversees. For example, the CPI is already used by the Department to annually calculate the inflation adjustment to the "base figure" under the Loan Interest and Protection Law (LIPL). The LIPL applies to every entity that engages in mortgage lending in Pennsylvania, including the State-chartered banking institutions and State-chartered credit unions subject to this regulation. State-chartered trust companies are not authorized to engage in mortgage lending. The Department has been using the CPI in conjunction with the LIPL since 2009 and has determined that the CPI is a reliable basis for inflation adjustment.

(e) What criteria will the Department use when deciding which inflation index to use?

Response: The Department intends to only use the CPI. Although the Department does not anticipate using a different index than the CPI, it included the option to use an additional USDOL index should the CPI be discontinued by the USDOL for any reason. Were the CPI to be discontinued, the Department will likely use the USDOL index that the OCC uses, found under 12 C.F.R. § 8.2(a)(4), the "Gross Domestic Product Implicit Price Deflator."

Subsection (b): The Commission posed several questions regarding the optional adjustment the Department intends to apply to specific institutions based upon their Uniform Financial Institutions Rating System or Uniform Interagency Rating System composite rating in subsection (b). The Commission questioned:

(a) What is the need for the optional adjustment?

Response: The Department needs the optional adjustment to enable the Department to cover the increased costs of heightened supervision that arise when a State-chartered financial institution is in less-than-satisfactory condition. Such an institution requires: more frequent examinations, which occur every six months instead of every twelve to eighteen months; thorough reviews of the paperwork associated with increased reporting requirements; close monitoring of compliance with the requirements of enforcement actions and other Departmental efforts to assist problem institutions which result in increased costs. In conjunction with this increased supervision, the Department may also need to hire outside specialists, such as forensic accountants.

(b) Why does the Department believe the surcharge is the most reasonable approach to assessing certain institutions?

Response: The Department determined that using an assessment surcharge, rather than billing for unpredictable special examination costs, provides a more transparent way for State-chartered financial institutions to calculate the regulatory costs of being in less-than-satisfactory condition.

(c) How did the Department determine that a 30 percent surcharge is appropriate for an institution with a composite rating of four and that a 50 percent surcharge is appropriate for an institution with a composite rating of five?

Response: The Department determined that the surcharges were appropriate by using the OCC surcharge rates as a starting point and then reviewing the regulatory costs the Department incurred in the past related to State-chartered institutions in less-than-satisfactory condition. For example, the OCC assesses a 50% surcharge to an institution with a composite rating of three and a 100% surcharge to an institution with a composite rating of either a four or a five. See

12 C.F.R. § 8.2(d). However, based on the Department's review of its regulatory costs, the Department ruled out the need for a surcharge on an institution with a composite rating of three. The Department also determined that a 30% surcharge on an institution with a composite rating of four and a 50% surcharge on an institution with a composite rating of five sufficiently covered the increased supervision costs to the Department.

(d) What criteria will guide the Department in its determination that this surcharge is appropriate?

Response: The initial criteria to guide the Department are set forth clearly within the composite rating. If a State-chartered financial institution has a composite rating of four or five, the Department will monitor the cost of the resources it expends to supervise that institution. The Department will assess the surcharge once the cost begins to draw on the resources that would otherwise be devoted to the normal supervision of other State-chartered financial institutions or if the Department expends funds to hire outside specialists.

(e) Will the surcharge be imposed to close a budgetary gap or will it be imposed to encourage institutions to improve their composite ratings?

Response: The Department will not use an assessment surcharge to "close a budgetary gap" because any funds received through the surcharge will be extremely minor in relation to all other assessments combined. Instead, the reserve in the Banking Fund (addressed under the First Comment above) is intended to cover any budgetary gaps.

The Department does intend that if a State-chartered financial institution is subject to the surcharge, that the surcharge would provide more encouragement to the institution to work its way out of the less-than-satisfactory condition.

Fourth Comment

The Commission requested that the Department consider the public comment that it received wherein the commentator requested that the Department include a phase-in of the implementation of the assessment schedule for not only the State-chartered banking institutions and State-chartered trust companies, but also for the larger State-chartered credit unions affected by the final-form rulemaking in order to lessen the immediate fiscal impact on those larger State-chartered credit unions.

Response: As addressed above in response to the PCUA's public comment, the Department considered the concerns and financial status of all of its State-chartered financial institutions in drafting the rulemaking. The Department acknowledges that, in adopting the assessment schedule best suited for credit unions, an increase will occur for some State-chartered credit unions, including larger-asset ones. However, due to this assessment schedule approach, the Department is unable to provide a phase-in for any credit unions.

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The Department last changed the assessment rates for State-chartered credit unions over 23 years ago. Even though State-chartered credit unions experienced no change in assessment rates over the last 23 years, the Department still attempted to mitigate the fiscal impact of this rulemaking. To the extent possible from a revenue standpoint, and in order to maintain the competitiveness of the Pennsylvania state-charter, the Department kept the assessment rates at roughly 95% of the NCUA's assessment rates for Federallychartered credit unions. In addition, the Department completely eliminated examinationbased billing to avoid unpredictable costs for the State-chartered credit unions, despite the fact that the elimination of this billing method coupled with the new assessment schedules results initially in a moderate loss of revenue to the Department from credit unions. For example, in Fiscal Year 2012-2013, the Department received \$1,880,788 in revenue from the current assessments and examination-based billing of State-chartered credit unions. In comparison, if the Department applied the assessment rates to be implemented by this regulation to the most recent call reports of the State-chartered credit unions, the Department would receive \$1,733,000 in revenue. Thus, the switch from examination-based billing to the proposed assessment-only approach initially represents a loss of \$147,000 in revenue to the Department from credit unions.

Regardless of the size of the credit union, as shown above, even if the regulation took full effect in 2013, the regulation actually results in a decrease in revenue to the Department from this institution type overall. At full implementation, the Department expects the revenue for the State-chartered credit unions to increase at least to the level that the assessment rates will result in a revenue-neutral outcome from State-chartered credit unions. Therefore, any incremental implementation of the assessment schedule for any size of credit union is impractical because it would cause a further loss of revenue to the Department, since the Department designed the assessment schedules for credit unions to result a revenue-neutral outcome in order to maintain assessment competitiveness with the NCUA.

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Fiscal Impact

State Government

The final-form rulemaking provides appropriate and sustainable funding for the Department.

Regulated Community

The final-form rulemaking increases the assessments paid by the regulated community to the Department for the first time since the 1990s. Upon full implementation, the assessments paid by nearly all State-chartered institutions will still be significantly lower than current assessments paid by similar Federally-chartered institutions operating in the Commonwealth.

Paperwork

The final-form rulemaking eliminates the paperwork associated with examination-based billing for the Department, State-chartered credit unions and State-chartered trust companies. The final-form regulation does not impose additional paperwork on the Department, State-chartered banking institutions, credit unions or trust companies.

Effectiveness / Sunset Date

Chapter 5 will be effective upon final-form publication in the *Pennsylvania Bulletin*. The first payments due under the final-form regulation would be billed in December 2014, based upon the September 30, 2014, Call Reports. The regulation does not have a sunset date because the Department will periodically review the effectiveness of the regulation.

Regulatory Review

Pursuant to Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 10, 2013, the Department submitted a copy of the notice of proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Commerce Committee and the Senate Banking and Insurance Committee. The Legislative Reference Bureau published the notice of proposed rulemaking at 43 Pa.B. 5455 on September 14, 2013.

Under Section 5(c) of the Regulatory Review Act, IRRC and the Committees received copies of all the comments the Department received during the public comment period. In preparing the final-form rulemaking, the Department considered all comments from IRRC and the public.

Under Section 5.a(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on ____

_____, the final-form rulemaking was deemed approved by the House and Senate Committees. Under Section 5.a(e) of the Regulatory Review Act, IRRC met on ______, and approved the final-form rulemaking.

Findings

The Department finds that:

(1) Public notice of the proposed rulemaking was given under section 201 and 202 of the Act of July 31, 1968 (P.L. 769, No. 240)(45 P.S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law, and all comments received during the public comment period were considered.

(3) The regulation does not enlarge the purpose of the proposed rulemaking published in the Pennsylvania Bulletin on September 14, 2013.

(4) The final-form rulemaking is necessary and appropriate for the administration and enforcement of the Department of Banking and Securities Code.

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Order

The Department, acting under 17 Pa.C.S. § 503(a) (relating to regulation by Department) and sections 202(C) and 204(A) of the Department of Banking and Securities Code (71 P.S. §§ 733-202(C) and 733-204(A)) orders that:

(a) The regulation of the Department, 10 Pa. Code Chapter 5, is adopted.

(b) The Secretary of Banking and Securities shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.

(c) The Secretary of Banking and Securities shall submit this order and Annex A to the IRRC and the Senate and House Committees as required by the Regulatory Review Act.

(d) The Secretary of Banking and Securities shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(e) This order shall take effect immediately upon publication in the Pennsylvania Bulletin.

BY:

GLENN E. MOYER Secretary of Banking and Securities ş

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Annex A.

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TITLE 10. BANKING AND SECURITIES PART I. GENERAL PROVISIONS CHAPTER 5. ASSESSMENTS

Sec.

- 5.1. Definitions.
- 5.2. Semiannual assessment for banks, bank and trust companies, savings banks and savings associations.
- 5.3. Semiannual assessment for trust companies.

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- 5.4. Semiannual assessment for credit unions.
- 5.5. Adjustments to assessments, invoicing.
- 5.6. Implementation schedule.

Authority

The provisions of this Chapter 5 issued under section 503(a) of the Credit Union Code (17 Pa.C.S. § 503(a)) and sections 202.C and 204.A of the Department of Banking and Securities Code (71 P.S. §§ 733-202.C, 733-204.A), unless otherwise noted.

Source

The provisions of this Chapter 5 adopted _____, 2013, effective, ____, 2013, ___ Pa.B. ___, unless otherwise noted.

§ 5.1. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

Bank - As defined in section 102(f) of the Banking Code (7 P.S. § 102(f)).

Bank and trust company - As defined in section 102(g) of the Banking Code.

Consolidated total assets - The total assets as reflected in the FFIEC Call Report's "Schedule RC – Balance Sheet of the Consolidated Reports of Condition and Income for a Bank with Domestic Offices Only – FFIEC 041" or "Schedule RC – Balance Sheet of the Consolidated Report of Condition and Income for a Bank with Domestic and Foreign Offices – FFIEC 031," as applicable.

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Credit union - As defined in 17 Pa.C.S. § 102 (relating to application of title).

FFIEC Call Report - A report promulgated by the Federal Financial Institutions Examinations Council that sets forth consolidated total assets and fiduciary assets.

Fiduciary assets - The sum of the total fiduciary assets in the FFIEC Call Report's "Schedule RC – T Fiduciary and Related Services of the Consolidated Report of Condition and Income for a Bank with Domestic Offices Only – FFIEC 041."

NCUA Call Report - A report promulgated by the National Credit Union Administration that sets forth total assets.

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Savings association – An association as defined in section 102(3) of the Savings Association Code of 1967 (7 P.S. § 6020-2(3)).

Savings bank - A savings bank as defined in section 102(x) of the Banking Code.

Total assets - The total assets as reflected on the "Statement of Financial Condition" contained in the NCUA Call Report.

Trust company - A trust company as defined in section 102(dd) of the Banking Code.

UFIRS - The Uniform Financial Institutions Rating System.

UITRS - The Uniform Interagency Trust Rating System.

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§ 5.2. Semiannual assessment for banks, bank and trust companies, savings banks and savings associations.

(a) Banks, bank and trust companies, savings banks and savings associations shall pay a semiannual assessment to the Department.

(b) The semiannual assessment on banks, bank and trust companies, savings banks and savings associations will be calculated as follows:

If the amount of the consolidated total assets is:		The semiannual assessment will be:				
Over:	But not over:	Base amount:		The excess over:	Times (x):	
0	\$20,000,000	\$6,070	+	0	0	
\$20,000,000	\$100,000,000	\$6,070	+	\$20,000,000	0.000112059	
\$100,000,000	\$200,000,000	\$15,035	+	\$100,000,000	0.000072836	
\$200,000,000	\$1,000,000,000	\$22,319	+	\$200,000,000	0.000061631	
\$1,000,000,000	\$2,000,000,000	\$71,623	+	\$1,000,000,000	0 000050425	
\$2,000,000,000	\$6,000,000,000	\$122,048	+	\$2,000,000,000	0.000044822	
\$6,000,000,000	\$20,000,000,000	\$301,338	+	\$6,000,000,000	0.000038139	
\$20,000,000,000		\$835,284	+	\$20,000,000,000	0 000019409	

(c) Banks, bank and trust companies, savings banks and savings associations will be billed semiannually in December and June based upon the consolidated total assets reported in the immediately preceding FFIEC Call Report.

§ 5.3. Semiannual assessment for trust companies.

(a) Trust companies shall pay a semiannual assessment to the Department.

(b) The semiannual assessment on trust companies will be calculated on consolidated total assets plus fiduciary assets as follows:

If the amount of the consolidated total assets is:		The semiannual assessment will be:				
Over:	But not over:	Base amount:	, , , <u>, ,</u> , , , , , , , , , , , , , ,	The excess over:	Times (x):	
0	\$20,000,000	\$6,070	+	0	0	
\$20,000,000	\$100,000,000	\$6,070	+	\$20,000,000	0.000112059	
\$100,000,000	\$200,000,000	\$15,035	+	\$100,000,000	0.000072836	
\$200,000,000	\$1,000,000,000	\$22,319	+	\$200,000,000	0.000061631	
\$1,000,000,000	\$2,000,000,000	\$71,623	+	\$1,000,000,000	0.000050425	
\$2,000,000,000	\$6,000,000,000	\$122,048	+	\$2,000,000,000	0.000044822	
\$6,000,000,000	\$20,000,000,000	\$301,338	+	\$6,000,000,000	0.000038139	
\$20,000,000,000		\$835,284	+	\$20,000,000,000	0.000019409	

plus

If the amount of the	fiduciary assets is:	The semiannu	al assessn	nent will be:	•
Over:	But not over:	Base amount:		The excess over:	Times (x):
0	\$500,000,000	\$6,746	+	\$0	0
\$500,000,000	\$1,000,000,000	\$13,492	+	\$500,000,000	0
\$1,000,000,000	\$10,000,000,000	\$13,492	+	\$1,000,000,000	0.000002689
\$10,000,000,000	\$100,000,000,000	\$37,689	+	\$10,000,000,000	0.000000449
\$100,000,000,000		\$78,081	+	\$100,000,000,000	0.0000001425

(c) Trust companies will be billed in December and June based upon the consolidated total assets and fiduciary assets reported in the immediately preceding FFIEC Call Report.

§ 5.4. Semiannual assessment for credit unions.

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- (a) Credit unions shall pay a semiannual assessment to the Department.
- (b) The semiannual assessment on credit unions will be calculated as follows:

If the amount of the total assets is:		The semiannual assessment will be:				
Over:	But not over:	This amount:		The excess over:	Times (x):	
0	\$24,503,168	\$2,500	+	\$0	0	
\$24,503,168	\$1,115,871,488	\$2,500	+	\$24,503,168	0.00010739750	
\$1,115,871,488	\$3,376,610,357	\$119,842	+	\$1,115,871,488	0.00003130250	
\$3,376,610,357		\$190,609	+	\$3,376,610,357	0.00001045000	

(c) Credit unions will be billed in December and June based upon the total assets reported in the immediately preceding NCUA Call Report.

§ 5.5 Adjustments to assessments; invoicing.

(a) Inflation adjustment to assessments. The Department may increase the amount of assessments generated by the calculations in §§ 5.2-5.4 (relating to semiannual assessment for banks, bank and trust companies, savings banks and savings association; semiannual assessment for trust companies; and semiannual assessment for credit unions) in an amount up to the increase in the Consumer Price Index indicated by the "Consumer Price Index- All Urban Consumers: U.S. All Items 1982-84=100" 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, if the projected assessments are insufficient to provide for the Department's budget due to inflation.

(b) Surcharge based on condition. The Department may increase the amount of a specific assessment generated by the calculations in §§ 5.2-5.4 by:

(1) Thirty percent for a bank, bank and trust company, savings bank, savings association, trust company or credit union with a UFIRS or UITRS composite rating of 4; and

(2) Fifty percent for a bank, bank and trust company, savings bank, savings association, trust company or credit union with a UFIRS or UITRS composite rating of 5.

(c) Assessment invoicing. The Department will round all assessments calculated under this chapter to the nearest dollar on the semiannual assessment invoice issued to each assessed entity.

§ 5.6. Implementation schedule.

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(a) *General rule*. The Department will provide an implementation schedule for banks, bank and trust companies, savings banks, savings associations and trust companies to adjust to the assessments generated by this chapter.

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(b) *Implementation schedule*. Banks, bank and trust companies, savings banks, savings associations and trust companies shall pay assessments according to the following implementation schedule:

(1) Seventy percent of the total assessment calculated by §§ 5.2, 5.3 and 5.5 (relating to semiannual assessment for banks, bank and trust companies, savings banks and savings associations; semiannual assessment for trust companies; and adjustments to assessments; invoicing) for the first 12 months after ______.

(2) Eighty-five percent of the total assessment calculated by §§ 5.2, 5.3 and 5.5 for the second 12 months after _____.

(3) One hundred percent of the total assessment calculated by §§ 5.2, 5.3 and 5.5 for the third 12 months after _____ .

Department of Banking and Securities Commentator Address List Regulation 3-51 Assessments

The Department has provided notice of the submission of the final-form regulation to the following parties:

- Daniel J. Reisteter
 Vice President of Government Relations
 Pennsylvania Bankers Association
 3897 N. Front St.
 Harrisburg, PA 17110
- 2. Tim Arthun Director of Government Relations Pennsylvania Association of Community Bankers 2405 N. Front St. P.O. Box 5319 Harrisburg, PA 17110
- James J. McCormack President/CEO Pennsylvania Credit Union Association 4309 N. Front St. Harrisburg, PA 17110-1618
- 4. Richard D. Carpenter Chief Financial Officer Vanguard P.O. Box 2600 Valley Forge, PA 19482-2600

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P.O. Box 2600 Valley Forge, PA 19482-2600

www.vanguard.com

October 14, 2013

VIA ELECTRONIC SUBMISSION Office of Chief Counsel Department of Banking and Securities Attention: Public Comment on Regulation 3-51 17 N. Second Street, Suite 1300 Harrisburg, PA 17101-2290

Dear Sir/Madam:

We appreciate the opportunity to provide our comments to the Pennsylvania Department of Banking and Securities (the "Department") on the proposed new assessment methodology under 10 Pa. Code Chapter 5, which would establish new assessment schedules for state-chartered institutions in Pennsylvania (the "Proposal"). Vanguard Fiduciary Trust Company ("VFTC") is a Pennsylvania-chartered trust company and a wholly owned subsidiary of The Vanguard Group, Inc., which is one of the largest and lowest-cost providers of retirement and investment services in the United States and the only mutual fund firm that is truly owned by its shareholders. VFTC provides trust and custodial services to over 4.9 million retail retirement accounts and 2,600 institutional retirement plans that invest in Vanguard mutual funds.

We applaud the Department's efforts to streamline its operations before taking this step to markedly increase assessments for Pennsylvania institutions. While not endorsing the increased assessments that will result if the Proposal is adopted, we likewise acknowledge the financial need that is driving the Proposal. We also appreciate the efforts of Secretary Moyer and other Department officials to reach out to Pennsylvania institutions to have a constructive dialogue on the Proposal before releasing it.

Section 5.3 – Assessment levels and methodology

The proposed assessment methodology would have the advantage of simplicity and predictability compared with the current system of a modest annual assessment combined with unpredictable variable costs of examination-based fees. We also appreciate that the Department has set the proposed assessments at a level that is substantially below the assessments charged to federally chartered institutions by the Office of the Comptroller of the Currency (OCC). It is essential the assessments be maintained at a level substantially below those charged by the OCC so that Pennsylvania-chartered institutions, particularly larger institutions like VFTC, are able to avoid the business disruption that would ensue if they were forced to consider conversion to a federal charter simply to limit costs compared with remaining a state-chartered institution. Accordingly, while not commenting on the amount of the proposed assessments, we do agree that a single streamlined semiannual assessment that

encompasses all fees to be paid by Pennsylvania institutions is a preferable methodology relative to the current system.

Section 5.5 – Assessment adjustments and inflation indexing

We understand that one of the Department's primary motivations in proposing the new assessment methodology was to avoid a repeat of its current situation in which annual assessments have failed to keep pace with the Department's costs due to inflation. At the same time, we believe that the Department should not have unfettered discretion to increase assessments, which would complicate budget forecasting by Pennsylvania institutions. Tying the Department's discretion to increase assessments to an independent benchmark published by the Bureau of Labor Statistics strikes an appropriate balance between the Department's desire to avoid a repeat of the financial difficulties created by its prior assessment methodology and financial institutions' need for certainty about the possible range of future assessments. Accordingly, Section 5.5(a) should be retained in its current form and any more significant change in assessments in the future should require another formal rulemaking.

In light of the size of the proposed increase in most institutions' assessments, it is appropriate that a poorly run institution (based on its CAMELS rating) be subject to a potentially increased assessment under Section 5.5(b). These institutions represent the greatest potential risk to the Banking Fund and, ultimately, taxpayers, and should face the risk of an increased assessment as an incentive to improve their ratings. Accordingly, Section 5.5(b) should be retained in its current form.

Section 5.6 – Phase-in Period

Because the proposed new assessment methodology would represent a substantial increase in most or all institutions' annual assessments, a gradual phase-in is essential to minimizing the financial disruption that the new assessments may cause Pennsylvania institutions. While a longer phase-in period (e.g., five years) would be ideal, the proposed three-year implementation schedule still represents, in our view, an acceptable compromise between the Department's immediate need for secure funding and the need to limit the immediate financial impact on Pennsylvania institutions. Accordingly, we recommend that the three-year phase-in be retained.

We commend the Department for its thoughtful Proposal, and we appreciate the opportunity to provide our thoughts and concerns on this important issue. If you have any questions about VFTC's comments or would like any additional information, please contact me at (610) 669-1905 or James Delaplane, Principal, at (610) 669-9321.

Sincerely,

Ush P. Compton

Richard D. Carpenter Chief Financial Officer



P E N N S Y L VA N I A BANKERS ASSOCIATION DANIEL J. REISTETER Vice President of Government Relations Tel. (717) 255-6933 FAX: (717) 233-5937 E-mail: dreisteter@pabanker.com

October 7, 2013

Office of Chief Counsel Department of Banking and Securities Attention: Public Comment on Regulation 3-51, 17 N. Second Street, Suite 1300 Harrisburg, PA 17101-2290

Dear Sirs:

The Pennsylvania Bankers Association (PBA) appreciates the opportunity to provide comments on the PA Department of Banking and Securities proposed rulemaking #3-51 "Assessments" (IRRC #3021) as published in the Pennsylvania Bulletin on September 14, 2013.

The Pennsylvania Bankers Association is the statewide trade association representing approximately 150 financial institutions of all sizes located throughout the Commonwealth including national and state banks, bank and trust companies, trust companies, savings institutions, and their subsidiaries and affiliates.

As noted in the proposal, the Department seeks to "implement an assessment schedule for Statechartered institutions which would provide adequate and sustainable funding for the Department and streamline reporting and billing requirements on State-chartered institutions by eliminating examination-based billing for State-chartered credit unions and State-chartered trust companies."

Further, the Department indicates that "the proposed rulemaking would increase the assessments paid by the regulated community to the Department for the first time since the 1990s. Upon full implementation, the assessments paid by nearly all State-chartered institutions will still be significantly lower than current assessments paid by similar Federally-chartered institutions operating in this Commonwealth."

PBA appreciated the opportunity to be informed of this proposal during its development by the Secretary of Banking and Securities and his staff. During PBA's discussions with the Department we suggested that the proposal and accompanying explanatory materials highlight the efficiencies the Department has achieved since 2011 and that these be communicated directly to all state chartered institutions. The Secretary has since communicated directly with all state chartered institutions affected by this proposal and has provided a well reasoned rationale for it.

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The importance of maintaining the integrity and independence of the Banking Department Fund from the rest of the Commonwealth's General Fund budget is strongly supported by the PBA and we will continue to urge the Administration and General Assembly to do so.

While we cannot comment on the impact this proposal will have on individual state chartered member institutions, PBA does believe this proposal will ensure that the Department will receive adequate funding into the future.

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Thank you again for the opportunity to provide these comments.

Sincerely,

Daniel J. Risteter

Daniel J. Reisteter Vice President Government Relations



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www.pacb.org

Office of Chief Counsel, Department of Banking and Securities Attention: Public Comment on Regulation 3-51 17 North Second Street, Suite 1300 Harrisburg, PA 17101-2290

RE: IRCC # 3021 - Department of Banking and Securities Regulation #3-51: Assessments

The Pennsylvania Association of Community Banks (PACB) welcomes the opportunity to provide commentary on the proposed regulation (Regulation #3 - 51: Assessments) by the Pennsylvania Department of Banking and Securities (the Department) to implement an assessment schedule for state-chartered institutions and streamline reporting and billing requirements.

The Department has communicated to PACB and state-chartered community banks the need to ensure the viability of the banking fund based upon forecasting that predicts a deficit in FY 2015-16 despite the efforts of the department to maximize efficiency and reduce expenditures. This deficit is a direct result of, "antiquated assessment schedules last updated in the 1990s, coupled with the removal of approximately \$15 million from the fund by the legislature in FY 08-09," as is stated in the proposed regulation.

PACB appreciates the sensitivity of the Department by proposing a phase-in approach with regard to implementation of the assessment. The phase-in would see a gradual three-year phase in for state-chartered banks and trust companies with 75% of the total assessment being due in the first year, 85% in the second year, and full implementation in the third year. Any increase in a financial institution's state assessment has the very real potential to put additional strain on its' ability to continue to offer consumers affordable financial products and services and will remain a concern of this association and its members. The gradual phase-in that has been proposed is a much more manageable method and reasonable approach for community banks than a plan that would see full implementation of an assessment increase in the first year.

It is essential that the banking fund remain a restricted special fund, dedicated solely for the purpose of sustaining a safe and sound banking regulatory department and which preserves the state-charter option. PACB is opposed to any efforts to remove funds from the banking fund in order to satisfy any government debts or alleviate budget shortfalls and will continue to communicate this position to members of the General Assembly and Administration. The proposal seeks to clarify and simplify the measures by which state chartered institutions must predict their costs for examinations that are currently fee-based. As explicitly stated in the proposal, "the regulation...eliminates examination-based billing for state-chartered credit unions and state-chartered trust companies". This modification will better allow institutions to more accurately budget and predict actual costs and fees. PACB applauds and supports the Department's move to eliminate the examination based billing in favor of a singular assessment for each institution.

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PACB remains concerned about the increased assessment as that will impact several smaller institutions that operate with little margin given the substantial increase in federal mandates and regulatory burden. That this proposed assessment could further consolidate the financial services industry by way of mergers and acquisitions is a potential unintended consequence and may result in a decline in small business lending by institutions. However, PACB remains supportive of the intentions of the Department to recommend necessary policy adjustments and requirements that ensure a healthy and sustainable banking fund for state chartered institutions.

The Pennsylvania Association of Community Bankers is a trade association that represents the interests of nearly 200 community banks across the state and aims to promote the ideals of community banking by addressing the educational, legislative and networking needs of our members.

Respectfully submitted,

Tim Arthun Director of Government Relations

Pennsylvania Association of Community Bankers



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October 11, 2013

OCT 1 5 2013 OCT 1 5 2013 DEPT OF BANKING AND SECURITIES OFFICE OF CHIEF COUNSEL

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Office of Chief Counsel Pennsylvania Department of Banking and Securities Attention: Public Comment on Regulation 3-51 17 North Second Street Harrisburg, PA 17101-2290.

The Pennsylvania Credit Union Association (PCUA) is a state-wide trade association that represents a majority of the nearly 500 credit unions located within the Commonwealth of Pennsylvania. PCUA appreciates this opportunity to comment on Regulation 3-51 whereby the Department of Banking and Securities (Department) proposes to add Chapter 5 to Title 10 of the Pennsylvania Code (10 PA. Code) relating to assessments.

Approximately sixty (60) of Pennsylvania's credit unions are incorporated pursuant to the Credit Union Code, 17 Pa.C.S. 101 *et. seq.* PCUA and its member credit unions support a healthy dual chartering system. It provides a meaningful option to credit unions in terms of choosing a prudential regulator. Historically, the significant enhancements to the credit union charter such as share drafts or small business lending were incubated or adopted at the state level. Therefore, as a matter of sound public policy, PCUA works to ensure the viability of the dual chartering system. PCUA is also a member of the National Association of State Credit Union Supervisors (NASCUS) and we find that relationship extremely valuable. We appreciate that the Department is NASCUS accredited, an important indicator of the Department's commitment to statechartered credit unions.

PCUA understands the Department's objective of realizing sustainable funding. The Department operates independent of the Commonwealth's general fund. That aspect of the Department's function insulates credit unions and other stakeholders from uncertainties that can arise during the budget process. The proposed assessment seeks to eliminate examination-based billing. This, too, is a desirable feature. Credit unions will be able to plan with a larger degree of accuracy the annual expense. In some cases, the examination-based billing resulted in a budget surprise for some state-chartered credit unions.

State-chartered credit unions with total assets up to \$24,503,163 will be assessed \$2,500 semiannually. In many cases, the proposed assessment formula will result in reduced expenses for that peer group of credit unions. Larger asset-sized credit unions, however, might realize an increase over the examination-based formula. While the assessment and factors are more desirable than the current formula, we suggest that the Department examine the merits of instituting the new assessment model on a more incremental basis, affording larger asset-sized credit unions to adjust to the new formula over an additional year. Such an approach would be more consistent with the implementation schedule proposed in section 5.6.

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PCUA would be happy to address any questions the Department might have regarding this comment letter at the Department's convenience.

Sincerely, James J Me Connot

James J. McCormack President/CEO

JJM:RTW:llb

cc: PCUA Board of Directors State Credit Union Advisory Committee Mary Martha Fortney, NASCUS



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Date: January 8, 2014

To: Independent Regulatory Review Commission

From: Paul H. Wentzel, Jr. Senior Legislative and Policy Liaison

Subject: Final-Form Regulation #3-51 (IRRC #: 3021); Assessments

Attached please find the Final-Form Regulation Packet for the Department of Banking and Securities' Assessments Regulation.

The Final-Form Regulation Packet includes the:

- 1. Legislative Reference Bureau Face Sheet
- 2. Preamble
- 3. Annex A Final-Form Regulation
- 4. Regulatory Analysis Form
- 5. Fully signed IRRC Transmittal Sheet

Attachments

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE REGULATORY REVIEW ACT

I.

I.D. NUMI	BER: 3-51		
SUBJECT	ASSESSMENTS		
AGENCY:	DEPARTMENT OF BANKING AND SECURITIES	3	,
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	TYPE OF REGULATION		
	Proposed Regulation		() · '
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	Final Regulation with Notice of Proposed Rulemaking Omitted	ů.	
	120-day Emergency Certification of the Attorney General		
	120-day Emergency Certification of the Governor		
	Delivery of Tolled Regulation a. With Revisions b. Without Revisions		
	FILING OF REGULATION		
<u>DATE</u>	SIGNATURE DESIGNATION		
. 1	HOUSE COMMITTEE ON COMMERCE		
18/14	MAJORITY CHAIR Honorable Chris Ross		
1/8/14	MINORITY CHAIR		
	SENATE COMMITTEE ON BANKING & INSURANCE		
1-8-14 6	- altofeze MAJORITY CHAIR Honorable Donald C. White		
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1/8/14 0	K COPH INDEPENDENT REGULATORY REVIEW COMMISSION		
N/A	N/A ATTORNEY GENERAL (for Final Omitted only)		
<u>N/A</u>	N/A LEGISLATIVE REFERENCE BUREAU (for Proposed only)		
January 8, 2	2014		i