

# A First Look at New Hampshire's Depository Banking Laws

By W. John Funk

September 2015

**New Hampshire has completely re-written the laws governing New Hampshire-chartered depository banks in 2015. Chapter 272 was signed into law on July 27, 2015. Effective October 1, 2015, a new regulatory scheme will be in place. The purpose of this article is to explain its provisions as they apply to depository banks.**

New Hampshire-chartered banks are regulated by the New Hampshire Bank Commissioner, who heads the New Hampshire Banking Department located in Concord, New Hampshire.

Under the new law, depository banks are distinguished from trust companies, including family trust companies. All are still classified as “banks.” Depository banks and bank holding companies are subject (i) to certain general provisions that apply to all banks and holding companies in a

new chapter RSA 383-A and (ii) to specific provisions that apply only to depository banks and holding companies in a new chapter RSA 383-B.



[W. John Funk](#) is a banking attorney admitted in New Hampshire, Massachusetts and Vermont. He served on the working group developing NH's new banking and credit union laws representing banks. He can be reached at 603-545-3607 or [funk@gcglaw.com](mailto:funk@gcglaw.com).

## Executive Summary

The Bank Commissioner and the banking department regulate New Hampshire-chartered depository banks in conjunction with the Federal Deposit Insurance Corporation. The new laws have improved the efficiency of their regulatory functions. The banking department now has a separate depository bank division and its own division head.

For new depository banks, the process for organizing a bank has been streamlined. Organizers should plan on a 4- to 6-month process and submitting an application to the banking department and the FDIC which complies with their requirements. A capital plan, business plan, personal financial and background information on the principals, and policies, among other items of information, must be included.

For existing depository banks, requirements regarding meetings of board members have been made more flexible, regulatory processes have been simplified and there is greater clarity on a range of issues involving capital, liquidity, powers, branch office locations, combinations of depository banks, acquisitions by holding companies and foreign depository banks.

The commissioner is in the process of implementing changes to how the department covers its costs (it is funded by the regulated entities) by bringing per diem rates for examinations in line with actual costs and reducing the general assessment so that each depository bank more closely bears the cost of its expense to the department. The department is in the process of issuing new regulations and forms to implement the new laws.

---

“For existing depository banks, requirements regarding meetings of board members have been made more flexible, regulatory processes have been simplified and there is greater clarity on a range of issues...”

---

## A. REGULATION OF DEPOSITORY BANKS

RSA 383-A governs the organization, capital, bond and insurance coverage, management, regulatory approvals and enforcement procedures that apply to all banks. The purpose of this chapter is to have one set of requirements for banks for purposes of simplicity; however, individual chapters that apply to different types of banks, such as RSA 383-B for depository banks, may provide for exceptions or additional requirements.

**1. Organization.** A depository bank may be organized by one or more persons as a corporation or a limited liability company. The provisions of the corporations or limited liability company laws will apply to depository banks, except for certain filing and reporting requirements as provided in RSA 383-A. Typically, the organizer consists of a corporate entity formed to raise the funds necessary to pay for the cost of applying for the bank charter, obtaining FDIC insurance and organizing the bank to commence business. The investment in the corporate entity is exchanged for securities in the depository bank when the organization is completed.

*a. Application.* An application is filed with the commissioner together with a \$10,000 filing fee. There will be a separate application submitted to the FDIC for deposit insurance. The organizational instruments, a proposed capital plan, a proposed 5-year business plan, 5 years of pro forma financial projections, financial and background information (including fingerprints and criminal background checks) on the principals, and certain policies must be submitted as part of the state application.

Additionally, if the capital is to be raised through a public or private offering, the offering materials must be submitted to the commissioner and FDIC for their review and approval. Note here that in order to qualify for bank exemptions from federal and state securities laws, the bank must be organized before the offering is commenced. The application has a public section and a confidential section. All private, protected information is placed in the confidential section that is not open to public scrutiny.

The banking department typically likes to meet

with the principals at the outset of the process for a “get to know you” session and then will interview the directors/managers as part of the review of the application. The department may ask for additional information as part of the review process.

Once the review is completed, the application will be evaluated based on the soundness of its organizational structure, the adequacy of its capital

---

**“A depository bank may be organized by one or more persons as a corporation or a limited liability company.”**

---

plan, the reasonableness of its business plan and financial projections, the experience of board and management, whether its name is not misleading or in conflict with other bank names and consider other factors he or she deems relevant.

*b. Approval.* If the commissioner is satisfied, he or she will grant a charter by issuing a certificate of approval, (i) specifying any conditions that have to be met before the depository bank may engage in business, and (ii) endorsing the organizational instrument so that it may be filed with the Secretary of State. The filing of the organizational instrument must be completed within 90-days of the grant of the charter and the depository bank’s existence begins at that time. The approval process also includes approval from the FDIC that it will provide deposit insurance.

*c. Commencing Business.* After the depository bank is in existence, the organizer may commence the capital offering and raise the required funds. Once the conditions of approval are satisfied, the depository bank may apply for a certificate to engage in business. The banking department will conduct an examination, and if the conditions are met, the commissioner will issue a certificate allowing the depository bank to commence operations. One of the conditions is the receipt of deposit insurance from the FDIC.

**2. Capital.** The minimum regulatory capital for a depository bank is established by the FDIC under its capital regulations. The required capital for a new depository bank will likely be in excess of \$10,000,000 and depend on the pro forma projections of the assets of the bank over a 7-year period. The bank will be required to maintain a capital to asset ratio of at least 10% during that period. A recent depository bank organized in New Hampshire raised minimum capital of \$25,000,000.

**3. Business Plan.** The organizer proposes a business plan that must address (i) the banking business in which the depository bank will engage, (ii) the depository bank's management and operation structures, including information technology, (iii) the depository bank's disaster recovery or contingency plan, and (iv) other information relevant to the governance, operation, equity ownership, and business of the depository bank, including other information as may be prescribed by the commissioner. The business plan must assure the safety and soundness of the depository bank. The banking department will review the plan and evaluate its reasonableness. A depository bank's board of directors is required to obtain the commissioner's approval of any material amendment.

**4. Fidelity Bond; Errors and Omissions Insurance.** A depository bank is required to have a fidelity bond in an amount sufficient to protect it from loss due to fraud or theft. The amount is determined by the board, subject to the review and approval of the commissioner. The amount should be reviewed at least annually by the board. A depository bank is also required to have an errors and omissions insurance policy to protect it from claims of loss by its customers. Again, the amount is determined by the board, subject to review and approval of the commissioner.

**5. Management.**

*a. Directors and Officers.* A depository bank is required to have a board of directors of at least 5 members elected or appointed in accordance with its organizational documents. A majority of the board members must be residents of New Hampshire. Al-

though a good practice, the president is no longer required to be a board member. A director must accept his or her election or appointment in writing.

The depository bank must give notice of the election or appointment of directors to the commissioner. The board is required to elect or appoint a president, a treasurer, a secretary, and the other officers as prescribed in its organizational documents. These officers must be elected or appointed no less frequently than once every 3 years and hold office subject to the pleasure of the board.

If a depository bank is a limited liability company, its organizational documents can identify director and officer positions by a different designation, provided their responsibilities are functionally equivalent.

*b. Authority of Board of Directors.* All of the depository bank's powers are exercised by or under the authority of its board of directors, and its business and affairs are managed by or under the direction, and subject to the oversight, of its board, subject to any limitation set forth in the organizational documents. The board is required to establish the policies and procedures for the conduct of the affairs of the depository bank and to supervise its affairs to ensure that those policies and procedures are being adhered to by its officers and employees and that its operations are in compliance with federal and state laws and the organizational documents. Neither the board of directors nor individual directors may delegate their duty to supervise the affairs of the depository bank.

*c. Delegation.* Subject to its oversight and any limitation set forth in the organizational documents, the board of directors of a depository bank may delegate to one or more persons any powers and duties that the board of directors deems appropriate. The delegation of duties and powers to or the action by a delegatee does not alone constitute a director's compliance with the standards of conduct described in the next paragraph. Each delegatee is also subject to the same standards of conduct to which a director is subject.

*d. Standard of Care.* Each director of a depository bank is required to discharge his or her duties under the same standards that exist for a director of a busi-

ness corporation under the New Hampshire Business Corporation Act (RSA 293-A) except that a director is subject to a fiduciary duty when he or she is acting on matters related to the depository bank's fiduciary activities.

*e. Officers Duties.* The president is responsible for carrying out the policies and procedures of the board and managing the day-to-day affairs of the depository bank and must be accountable to the board of directors in the performance of his or her duties. Each officer with discretionary authority must discharge his or her duties under the same standards that exist for an officer of a business corporation under RSA 293-A, except that an officer will be subject to a fiduciary duty when he or she is acting on matters related to the depository bank's fiduciary activities.

**6. Committees.** Subject to its oversight and any limitation set forth in the organizational documents, the board of directors may create one or more committees, delegate to each committee any powers and duties that the board deems appropriate, and appoint one or more directors, officers, and other natural persons to serve on each committee. Each member of a committee is subject to the same standards of conduct to which a director is subject. Each committee is required to keep minutes of its activities and report to the board as frequently as it requires. Note that the mere creation of, delegation of power or duties to, or action by a committee does not alone constitute a director's compliance with standards of conduct applicable to him or her.

**7. Meetings; Records.** The board of directors is required to meet on a regular basis as often as necessary but not less than 9 meetings a year. Minutes of each meeting must be kept, showing the names of the directors who are present and describe the activities, matters discussed, and votes taken at the meeting. The attendance of a majority of the board of directors is required for a quorum to conduct business. Board members may attend in person or by telephonic or other means that allow all members to hear each other. There are no longer requirements for minimum physical attendance. The board is required to adopt a policy providing standards

for determining the number of absences by directors from meetings of the board or the committees which could result in the removal of a director from office. Unless the organizational documents provide otherwise, any action to be taken at a meeting of the board of directors or committee may be taken without a meeting under and consistent with any provision of the applicable law permitting the action.

## **8. Annual Audits; Reports.**

*a. Auditor.* The board of directors of a depository bank is required to engage a certified public accountant, at least annually, to serve as its auditor. The depository bank must give notice to the commissioner of its engagement of an auditor at the time of its engagement and require its auditor to confirm the engagement to the commissioner within 30 days of the engagement. The board must also give notice to the commissioner of the termination of the engagement of an auditor at the time of the termination and require the auditor to confirm the termination to the commissioner within 30 days of the termination.

*b. Audit Report.* The auditor must examine the books, accounts, and operating systems of the depository bank in such a manner as in his or her judgment will result in an audit that is in agreement with generally accepted accounting standards. The depository bank must direct its auditor to provide, and the auditor is required to provide, the commissioner with a copy of its audit report, within 60 days after each is made available to the depository bank. All reports, memoranda, and correspondence remain the property of the depository bank.

*c. Regulatory Review.* In the course of his or her regular official examination of the depository bank and at such other times that he or she considers advisable, the commissioner is required to review and analyze the work and reports of the accountants and auditors. The auditors are required to provide the commissioner with the work and reports as the commissioner may reasonably request provided the request is limited to matters that relate to the safety and soundness of the depository bank. If the commissioner determines that any audit is inadequate or is otherwise deficient, then the commissioner is

required to report his or her findings with instructions to the board of directors, who, within 30 days after receiving that report, must cause the depository bank to comply with the report and instructions.

## 9. Reports of Condition.

*a. Annual Report.* Each depository bank is required to balance its books at the close of business on the last business day in December in each year and, within 30 calendar days thereafter, make reports to the commissioner, upon forms furnished by the commissioner, showing the true conditions of the depository bank at that time. The commissioner uses the forms prescribed by the FDIC.

*b. Quarterly Report.* Each depository bank is required to balance its books at the close of business on the last business day in March, June, and September each year and, within 30 calendar days after the end of each of those calendar quarters, make reports to the commissioner, upon forms furnished by the commissioner, showing the true conditions of the depository bank at that time. The commissioner uses the forms prescribed by the FDIC.

**10. Examinations; Assessments.** The commissioner is required to examine the condition and management of depository banks every 18 months or more often when necessary in his or her judgment. The bank is also subject to periodic examinations by the FDIC. The commissioner and the FDIC alternate the lead in the examinations. This type of examination evaluates the safety and soundness of the depository bank. The examination looks at capital adequacy, assets, management capability, earnings, liquidity and sensitivity (market risk) (CAMELS). The depository bank is given a rating of 1 to 5 (1 being the highest), which rating is confidential.

The banking department charges a per diem rate for an examination. Recently, the commissioner announced that the per diem rate will move higher over a 3-year period to bring it in line with the department's costs. The department's budget is paid by the regulated entities and the per diem rate pays for a significant portion. Any part of the budget that is not covered by per diem fees is generally assessed across all regulated entities. By increasing the per

diem rate, the effect will be to reduce the special assessment. The general assessment is based on the asset-size of regulated entities.

**11. Violations.** RSA 383-A lists fraudulent and deceptive acts and practices that can result in enforcement action against depository banks and its officers and employees by the commissioner. The commissioner also has authority to place a depository bank in a conservatorship if he or she determines that it is engaged in unsafe or unsound acts or practices.

## B. BUSINESS OF DEPOSITORY BANKS

RSA 383-B specifically governs the activities of depository banks and defines their powers and authorities. The permitted activities under the new law are the same as they previously existed, but the sources have been clarified and there is no need to seek approval from the commissioner to engage in activities that are authorized for federally-chartered banks unless a notice or application is required under federal law.

**1. General.** A depository bank is authorized to solicit, receive, or accept deposits; to make loans; to engage in a trust business in the same manner as a trust company is permitted under RSA 383-C; and, in connection therewith, to provide services, offer products, and engage in closely related activities. The term "closely related activities" is defined and expansive in its scope. If an authorized activity or closely related activity requires a depository bank to file an application with or give notice to federal regulators, then the depository bank must also file concurrently a copy of the application or notice with the commissioner.

**2. Financial Requirements.** The minimum capital of a depository bank must comply with the requirements of the FDIC, as noted above. The depository bank is required to maintain deposit insurance in accordance with the regulations of the FDIC and comply with the reserve requirements of the Federal Reserve System. A depository bank may borrow funds in connection with the conduct of its banking

business; provided, however, each borrowing must be approved by vote of the board of directors and duly recorded in its records, and any debt security of the depository bank must be signed by at least 2 officers designated in the vote or its bylaws for that purpose. For the purpose of securing a loan or loans, a depository bank may pledge real estate mortgages, notes, stocks, or other securities.

**3. National Bank Activities.** A depository bank may directly or indirectly engage in any activity permitted for a national bank or federal savings bank or their subsidiaries under federal laws, and otherwise organize, invest in or loan funds to, any entity formed to engage in any activity that is financial in nature or incidental to the financial activity authorized under the Gramm-Leach-Bliley Act, as amended from time to time, and any activity that is complementary to a financial activity that is authorized by federal regulatory authorities under the Gramm-Leach-Bliley Act.

**4. Insurance.** Any activity is treated as insurance under the New Hampshire is subject to regulation by the insurance commissioner. A depository bank seeking to engage in any insurance activity is required give prior written notice to the insurance commissioner and must comply with all insurance laws of the state. This authority should not be construed to prevent a depository bank or subsidiary from conducting insurance activities, provided it does so in compliance with RSA 406-C. An affiliate of a depository bank is also bound by RSA 406-C with respect to sales of insurance in this state that are recommended or sponsored by the depository bank or sold on the premises of the depository bank.

**5. Public Funds.** A depository bank is authorized to pledge assets to the United States, any instrumentality of the United States, the State of New Hampshire or any state entity of the state when the pledge is necessary or desirable to secure its deposits at the depository bank. In lieu of such collateralization, a depository bank is authorized to secure such public deposits by surety bonds and to pledge securities to the surety in connection therewith. Any such deposit of public funds in any depository bank may be

evidenced by an agreement in such form and upon such terms and conditions as may be agreed upon by the depositing public authority and the bank. The bank commissioner may, by rule, limit the aggregate amount of securities which may be pledged by a depository bank consistent with safe and sound banking practices, based upon the adequacy of the surplus of the bank and other criteria deemed material by the commissioner.

**6. Federal Reserve Membership.** A depository bank may become a member of the Federal Reserve System and purchase stock in a Federal Reserve Bank under the Federal Reserve Act, as amended from time to time, and it is subject to the provisions relative to bank reserves, in substitution for the requirements of RSA 383-B, as long as it continues as a member of the Federal Reserve System.

---

“A depository bank may directly or indirectly engage in any activity permitted for a national bank or federal savings bank or their subsidiaries under federal laws”

---

**7. Trust Business.** A depository bank may engage in a trust business as defined in RSA 383-C. The depository bank is required to establish a trust department and segregate all assets held in a fiduciary capacity from its banking assets, except that the depository bank may deposit temporarily in its deposit accounts any money so held in a fiduciary capacity awaiting distribution or investment and may also deposit in its deposit accounts as an investment for any one trust an amount insurable and insured by the FDIC. The deposits must be in the name of the trust or in the name of the depository bank as

trustee of the trust. Unless required by the order of a court with proper jurisdiction, a depository bank authorized to act as trustee or executor in this state is not required to give bond to secure performance of the depository bank's duties as trustee or executor. A depository bank may establish one or more trust offices in the same manner as is permitted to a trust company under RSA 383-C.

**8. Real Estate Holdings.** A depository bank may acquire and hold real estate for its own use, in whole or in part. A depository bank may hold and lease real estate acquired in payment of a preexisting debt owed to the bank by foreclosure of mortgage or otherwise.

**9. Escrow Powers.** A depository bank may hold in escrow any written instrument, money, evidence of title to real or personal property, or any other thing of value which may come into its possession in the course of providing services as a depository bank.

**10. Sale of Loans and Servicing.** A depository bank may sell, transfer, assign, purchase, and repurchase loans authorized by RSA 383-B and may act as servicing agent for the collection and application of payments due on account of loans owned by others and may employ others to act as servicing agents for the collection and application of payments due on account of loans owned by it.

**11. Cash Deposits.** Deposits of cash may be made only in a bank authorized to accept deposits or the Federal Home Loan Bank of Boston by depository banks which are members of the Federal Home Loan Bank of Boston, provided the deposits are insured by the FDIC or repayment is assured by other security provided by the bank in which the cash is deposited.

**12. Shares of Stock.** All certificates for shares of stock, certificates of interest, uncertificated shares, or registered bonds owned by a depository bank may be registered in the name of the bank or the name of a nominee without mention of the bank's name, provided that (i) the records of the bank clearly show its ownership of the securities and the name and

address of the nominee in whose name the same are held, (ii) the nominee must not have possession of, or uncontrolled access to, the securities, and (iii) every nominee must be properly bonded in a commercially reasonable amount.

**13. Loan of Stocks, Bonds, etc.** In order to increase income from investment securities, a depository bank may loan any stocks, bonds or other securities in which the bank has invested under RSA 383-B to brokerage firms which are members of an exchange, subject to limitations set forth in the chapter.

**14. Sale or Purchase of Securities.** Subject to the regulation by the commissioner and compliance with federal and state laws, a depository bank may buy or sell securities for officers, employees, or customers.

**15. Sale of Assets and Purchase of Liabilities.** A depository bank may purchase assets from and assume the liabilities of, or sell assets and transfer liabilities to, banks, credit unions, federal credit unions, and foreign credit unions, subject to federal or state regulatory approvals.

**16. Grandfather Rights.** A depository bank retains any power that it held prior to the enactment of RSA 383-B under any federal or state authority.

## C. LOANS AND INVESTMENTS

**1. General Authority.** A depository bank may invest its banking assets (excluding assets held in reserve or in a fiduciary capacity) in the classes of securities, loans, derivatives, and other investments described in Chapter 383-B, subject to any limitations imposed by the FDIC. All investments must be made in a prudent manner consistent with federal and state laws.

**2. Investment Policy.** A depository bank's board of directors must establish a written investment policy that addresses, at a minimum, investment quality parameters, investment mix and diversification, investment maturities, derivative exposure, and delegation

of authority to officers and committees responsible for administering the portfolio. The board must review and ratify the policy annually or more frequently if circumstances so warrant.

**3. Loans.** Loans must be made based on the creditworthiness of the borrowers and guarantors, if any, the value of collateral, and other relevant factors relating to the repayment of the loans in accordance with their terms. If the value of collateral is relevant to the repayment of a loan to a depository bank, the collateral must be appraised on the basis of commercially reasonable standards.

**4. Securities.** All investments in securities must be supported by a documented credit and risk analysis. The analysis must be applied to securities as a part of a pre-purchase and ongoing due-diligence process. Assessments of creditworthiness and risk must not be solely reliant on external credit ratings, if any, provided by one or more nationally recognized statistical rating organizations. Any investment in a debt security must meet the investment grade debt security standard.

**5. Records.** A depository bank must keep a record of all loans and securities investments of every description made by the bank in such form as the commissioner may approve, which shows the loans or securities investments made under RSA 383-B and indicate such detail respecting the loans or securities investments as the commissioner directs. This record must be periodically submitted to the board of directors for its review and to the commissioner at each examination required by law. The loans or securities investments must be classified in this record in such manner as the commissioner or other regulatory authorities direct.

**6. Lending Policies.** A depository bank must adopt prudent policies with respect to its lending activities. The total liabilities of a person for money borrowed from a depository bank must not exceed the limitation prescribed for national banks under federal law. No depository bank may make a loan or loans to a borrower and its affiliates, if any, or in any group of

a similar type of loans, that would pose a risk to the safety and soundness of the bank.

**7. Equity Collateral.** A depository bank may not make a loan or discount on the security of the shares of stock or other equity interests, or be the purchaser or holder of the shares or interests unless the security

---

**“A depository bank must keep a record of all loans and securities investments of every description made by the bank in such form as the commissioner may approve”**

---

or purchase is necessary to prevent loss upon a debt previously contracted in good faith; and shares or interests so purchased or acquired are sold or disposed within 6 months after their acquisition or purchase at public or private sale, unless the time is extended by the commissioner. A depository bank must not accept its own capital stock or the capital stock of a bank holding company which controls the depository bank as collateral.

**8. Loans to Directors or Officers.** A depository bank may make a loan to an executive officer or director and accept an executive officer or director as surety, endorser, or guarantor of loans to other persons if the loan is approved in accordance with Federal Reserve Board Regulation O. Such loans must be on terms not more favorable than those afforded other borrowers.

**9. Escrow Accounts.** Any depository bank which requires or accepts moneys for deposit in escrow accounts maintained for the payment of taxes or insurance premiums related to loans on property secured by real estate mortgages must credit each escrow account with interest at a minimum rate set for a 6-month period by the commissioner on February 1 and August 1 of each year. The rate must be one

percent below the mean interest rate paid by depository banks on regular savings accounts during the applicable period. The commissioner will post the rate on the department's website.

**10. Repayment of Loans.** Upon payment in full of the outstanding principal, interest, and other charges due on any loan made by any depository bank or subsidiary, the depository bank or subsidiary, or the assignee or successor in interest thereto, if any, must plainly mark the note or a copy thereof with the words "PAID IN FULL" or "CANCELLED" and release or provide the borrower evidence to release any mortgage or security instrument no longer securing any indebtedness to the depository bank or subsidiary, or the assignee or successor in interest thereto, if any. If the original note is retained by the depository bank or subsidiary, the original must be returned within a reasonable period of time upon the written request of the borrower.

**11. Types of Loans and Investments.** RSA 383-B lists the characteristics of permissible loans and investments and any limitations thereon. It also authorizes the making of loans and investments that do not fit into a permitted category, provided they are prudent and do not exceed 7.5% of the depository bank's assets.

## D. DEPOSIT ACCOUNTS

The new law clarifies certain rights of deposit holders in deposit accounts and limitations of the liability of depository banks.

**1. Power of Attorney.** A depository bank doing business in this state may continue to recognize the power of an attorney-in-fact authorized in writing to make withdrawals either in whole or in part from the account of a depositor, whether a minor or adult, until it receives written notice or is on actual notice of the revocation of his or her authority. No depository bank is liable for damages, penalties, or tax by reason of any payment made under this authority.

**2. Assignment.** No assignment of a deposit which is evidenced by a passbook or certificate of deposit is a valid transfer of the deposit unless the passbook or certificate of deposit is delivered to the assignee accompanied by a written assignment or order for transfer.

**3. Liability.** No assignment of a deposit, however evidenced, is effective to charge the depository bank in which the deposit is maintained with a duty of payment to the assignee prior to service by the assignee on the depository bank of written notice of the assignment. No depository bank is liable to an assignee of a deposit maintained in that bank for any payment of the deposit or portion thereof or dividend or interest thereon made to the depositor prior to service on the depository bank by the assignee of the written notice of the assignment; except that the exemption from liability does not apply in the case of a payment to a depositor, with respect to a deposit evidenced by a passbook, which is made without production of the passbook if the bylaws of the depository bank require production of the passbook as a condition to payment.

### 4. Payable on Death Accounts.

*a. Creation.* A "payable on death" deposit account is created by a deposit in a depository bank in the name of an account holder or several joint account holders with a designation that the account is payable on death to one or more payees, or is in trust for another, and no other or further notice of the existence and terms of a legal and valid trust is given in writing to the bank.

*b. Ownership Rights.* Any person designated as a depositor is the owner of the deposit account. The owner retains the right during the owner's lifetime to withdraw, assign, or pledge the balance of the deposit account, in whole or in part, as though no survivor payee or beneficiary had been named, and to delete or change a survivor payee or beneficiary. No change in the designation of the survivor payee or beneficiary is valid unless executed on a form and in the manner prescribed by the depository bank.

*c. Vesting.* On the death of the sole account holder or the last surviving joint account holder, any

remaining balance in a payable on death account, including interest, vests solely in the surviving payable on death payee, or the in trust for beneficiary, or equally and severally in the then surviving payees or beneficiaries. If no payee or beneficiary survives, the deposit account remains in the estate of the last surviving owner.

*d. Payment.* Ninety days after the death of the sole account holder or the last surviving joint account holder, the depository bank may pay the remaining balance in the deposit account to the new owner or owners or their legal representatives without further liability for the amount or amounts paid. If no payee or beneficiary is surviving 90 days after the last surviving account holder dies, the balance of the account is payable to the personal representative of that account holder. A depository bank that makes payment as described herein, is, to the extent of each payment so made, released from all claims of any of the deposit account owners, the named payees or beneficiaries, their respective legal representatives, and all others claiming through or under them. Each payee, beneficiary or legal representative claiming under this section must provide the identification and other information as requested by the depository bank.

*e. Account Holder Rights.* The account holder or joint account holders of a payable on death deposit account retain the right during the holder's or holders' lifetime to withdraw, assign or pledge the balance of the deposit account, in whole or in part, as though no survivor payee or beneficiary had been named, and to delete or change a survivor payee or beneficiary. No change in the designation of the survivor payee or beneficiary is valid unless executed on a form and in the manner prescribed by the depository bank. Unless otherwise required in writing by all of the joint account holders at the time the deposit account is created, the withdrawal, assignment or pledge of one joint account holder is binding on the other joint account holders. For purposes hereof, no payee or beneficiary is deemed to be an account holder.

*f. No Other Law May Defeat.* The rights of a surviving payee or beneficiary to the funds in a payable on death deposit account may not be denied,

abridged or in any way affected because the rights have not been created by a writing executed in accordance with the laws of New Hampshire prescribing the requirements to effect a valid testamentary disposition of property or because of any absence of delivery or compliance with other requirements to effect a valid gift or transfer in trust.

*g. Foreign Banks.* Foreign banks maintaining deposits in New Hampshire must comply with these provisions.

## E. SAFE DEPOSIT BOXES

The new law clarifies procedures in the event that a renter of a safe deposit box defaults in the payment of his or her contract to open the box and dispose of the contents.

**1. Notice of Default.** If the amount due for the rent or use of a safe deposit box has not been paid for 6 consecutive months, or if the renter thereof has not removed the contents thereof within 30 days from the termination of the lease therefor for any reason other than for the non-payment of rent, the depository bank is required to send a written notice to the renter at his or her last known mailing address by registered or certified mail, return receipt requested. The notice must state that the renter has 60 days from the date the letter is sent to pay the rent and/or remove all contents, or the depository bank open the box and remove the contents as explained in the next paragraph.

**2. Forfeiture of Rights.** At the expiration of 60 days from the date of mailing the notice, if the renter of the safe deposit box failed to pay all of the amounts due for the rental to the date of payment, and/or remove the contents, all rights of the person in the safe deposit box and of access to the box cease. The depository bank is allowed to use only the degree of care required of a bailee for the sole benefit of the bailor. The depository bank is required to open the box in the presence of an officer of the depository bank and a notary public who is not an officer or employee. The notary public must then remove the contents thereof, make a list of them, seal the con-

tents in a package, and write on the package the name and address of the person in whose name the safe deposit box was recorded on the books of the depository bank. The package must then be placed in a storage vault of the depository bank in the presence of the notary public and bank officer. The proceedings of the notary public, including the list of the contents of the safe deposit box of the contents, are finally recorded under his or her official seal and maintained in written or electronic form by the depository bank.

**3. Record of Notary Public.** The record of the notary public is prima facie evidence of the facts stated therein in all proceedings at law and in equity wherein evidence of the facts would be competent.

**4. Contents.** If the contents of the safe deposit box have not been claimed or redeemed by the payment of charges within 5 years after the removal of the contents, the depository bank is required, without any requirement to appraise the contents of the safe deposit box, to sell the contents of the safe deposit box at public auction, public sale, or nationally recognized internet auction to the highest bidder after providing the notice to the apparent owner as required by New Hampshire's escheat laws.

For all sales or auctions, the time and place of any auction or sale must be posted conspicuously on the premises of the depository bank and published in a newspaper of general circulation once weekly for 3 consecutive weeks, the last publication being no less than 10 days before the auction or sale, in a newspaper published in the place where the safe deposit box is located. Any documents, letters or other papers of a private nature and any property or articles of no apparent value among the contents of the safe deposit box need not be sold, but must be retained for the 5-year period, and unless sooner claimed by the renter of the safe deposit box, may thereafter be destroyed without the need to provide notice to the apparent owner under the escheat laws.

Contents of a safe deposit box offered for sale for which no purchaser exists may be destroyed by the depository bank. United States coin or currency among the contents of any safe deposit box so

opened need not be sold, but may be used by the depository bank to pay for its charges. U.S. Savings Bonds may not be sold or destroyed, but instead delivered to the administrator under escheat laws. If property is destroyed as provided by law, no action or proceeding may be maintained against the depository bank or any of its employees, officers or directors for or on account of the action.

**5. Charges.** From the proceeds of the sale, the depository bank may deduct all its charges for rental up to the time of opening the safe deposit box, including the amount which have been due for rental up to the time of opening the safe deposit box, the cost of the opening thereof, and the fees of the notary public for his or her proceedings and pay from time to time the further charges and costs of safe keeping, selling, and destroying the contents of the safe deposit box so opened, including reasonable expenses for notices, advertising, sale, and destruction. After deduction of costs, the depository bank must remit the net cash proceeds to the administrator under the escheat laws.

**6. Access by Survivors.** When a safe deposit box is rented to 2 or more persons under a rental contract granting a separate right of access to either or any one of the persons or the survivor or survivors of them, the survivor or survivors of the joint renters have a right of access to the safe deposit box for any purpose. The depository bank is protected against all renters of the box, their heirs, assigns, executors, and administrators, in recognizing that right.

**7. Surviving Representative.** When a safe deposit box is rented to a person, and the renter appoints a representative on the records of the depository bank by written power of attorney expressly providing that the representative shall have a continued right of access to the safe deposit box after the death of the renter, and the renter dies survived by the representative, then, notwithstanding any rule of law to the effect that a power of attorney is terminated by the death of the principal, the surviving representative continues to have a right of access to the box for any purpose. The depository bank, its employees,

officers, and directors are protected against the heirs, assigns, executors, and administrators of the deceased renter in recognizing that right.

**8. No Joint Tenancy.** The law makes clear that these provisions are not to be construed to create a joint tenancy in or otherwise establish ownership in any of the contents of a safe deposit box.

**9. Discharge of Taxpayer Liability.** A depository bank engaged in the business of renting safe deposit boxes, which in good faith allows the department of revenue administration access to a taxpayer's safe deposit box under the department's distraint powers under RSA 80 is discharged, as well as its employees, officers and directors, from any obligation or liability to the taxpayer with respect to the property contained in the safe deposit box.

**10. Foreign Banks.** Foreign banks maintaining safe deposit boxes in New Hampshire must comply with these provisions.

## F. MUTUAL BANKS AND HOLDING COMPANIES

The new law recodifies the existing laws with respect to mutual savings banks and mutual holding companies and clarifies their right to acquire or combine with other banking organizations in other states. The new law also preserves certain distinctions between state-chartered mutual banks and member-owned savings associations.

**1. Board of Directors of Mutual Banks and Mutual Holding Companies.** The governance of a mutual bank or mutual holding company is vested in its board of directors. The board of directors has all powers and authorities granted under the organizational documents of the mutual bank or mutual holding company and applicable federal and state laws. The board of directors elects officers and supervises management of the mutual bank or mutual holding company. The board of directors is required to review and approve by majority vote, or by higher vote if required by applicable state laws or by the organizational documents, any matter expressly

reserved for the approval of corporators of mutual banks or association members of savings associations prior to submitting the matter to their approval. In exercising their duties as directors, the directors are required to consider the interests of the depositors, borrowers, and other customers of the mutual bank or mutual holding company, the general benefit, and economic well-being of the communities served by the mutual bank or mutual holding company and the safety, soundness, and general business needs of the mutual bank or mutual holding company. The directors are accountable to the corporators or association members, as applicable, for the proper discharge of their duties.

### 2. Corporators and Association Members.

*a. Corporators.* The corporators of a mutual bank or mutual holding company are deemed to be exclusively representative of, and must exclusively represent, the various interests and communities served by the mutual savings bank or mutual holding company. Each corporator is entitled to cast one vote and may vote in person or by proxy. The corporators elect persons to serve as corporators and directors, and may remove any corporator or director who has failed to properly discharge his or her duties, in the manner prescribed by its organizational documents.

Except as otherwise provided in the law, the following corporate powers of a mutual savings bank or mutual holding company are vested solely in the corporators: the corporators have authority to approve by majority vote, or by higher vote if required by applicable state laws or rules or by the organizational documents, the amendment of the organizational documents, the conversion of the mutual savings bank or mutual holding company from mutual to stock form, the formation of a mutual holding company, the combination of the mutual savings bank or mutual holding company with any other entity, the voluntary liquidation of the mutual savings bank or mutual holding company, and any other matter expressly reserved for the approval of corporators under applicable state laws or the organizational documents of the mutual savings bank or holding company.

The corporators are required to consider the interests of the depositors, the borrowers, and other

customers of the mutual savings bank or mutual holding company, the general benefit and economic well-being of the communities served by the mutual savings bank or mutual holding company, and the safety, soundness, and general business needs of the mutual savings bank or mutual holding company in exercising their duties as corporators.

*b. Members.* The voting rights and interests of association members of a savings association or mutual holding company that owns a saving association are governed by the organizational documents of the savings association or the mutual holding company only. In any case requiring a vote of the corporators of a mutual savings bank or mutual holding company, the vote is cast by the association members instead.

### **3. Rights of Depositors of Mutual Banks or Mutual Holding Companies.**

*a. Inchoate Interests.* A depositor at a mutual bank has an undivided inchoate interest in the net worth of the mutual bank in proportion to the amount of the person's funds in the account or accounts divided by the aggregate amount of all funds of persons on deposit in time, savings, and demand accounts at the mutual bank at the time the interest ripens into a vested estate. The inchoate interest terminates upon the withdrawal of a depositor's funds in a time, savings, or demand account or accounts from the mutual bank. The inchoate interest is of no force or effect unless and until a dividend is declared or liquidation proceedings are commenced. If a bank is owned by a mutual holding company, the depositors of the bank have the same inchoate interest in the net worth of the mutual holding company.

*b. Conversion from Mutual to Stock Form.* In the event that a mutual bank or mutual holding company converts from mutual to stock form, the proprietary interest of depositors are transferred to the liquidation account of the converted bank in the same manner as prescribed for a federal savings bank or federal mutual holding company under federal law.

*c. Voting Rights.* Depositors of a mutual savings bank or association members of a savings association have the right to vote to give approval to a conver-

sion of a mutual bank or mutual holding company from mutual to stock form in a transaction involving the issuance of securities of any bank or bank holding company other than the securities of the converting mutual bank or the securities of a mutual holding company organized by the converting mutual bank in order to acquire its capital stock. Except as otherwise provided in the organizational documents of the mutual savings bank or savings association, each depositor or association member is entitled to cast one vote and may vote in person or by proxy.

**4. Dividends to Depositors.** Except as may be limited or otherwise required by applicable federal or state laws, the board of directors of a mutual bank or mutual holding company through its subsidiary bank or subsidiary banks may declare a dividend and distribute the capital, surplus, and retained earnings to the depositors of the bank or banks, in proportion to the average amount of their respective funds on deposit during the 30-day period immediately preceding the time at which a dividend is declared, in such amounts, at such times, and under such conditions as are determined by the directors in the exercise of their reasonable discretion.

In the event of liquidation of a mutual bank or mutual holding company, the assets, if any, of the mutual bank or mutual holding company remaining after payment of all liabilities and the costs and expenses of the liquidation are required to be distributed as a dividend to the depositors of the mutual bank or subsidiary bank or subsidiary banks, in proportion to the average amount of their respective funds on deposit during the 30-day period immediately preceding the time at which the liquidation proceedings are commenced.

### **5. Conversion from Mutual to Stock Form.**

*a. Permitted Conversion.* Any mutual bank or mutual holding company may convert to stock form in the same manner as prescribed for a federal savings bank or a federal mutual holding company under federal law. However, a conversion is not permitted that includes as part of the conversion transaction the issuance of securities of any bank or holding company other than securities of the con-

verting bank or holding company or the securities of a holding company organized by the converting bank in order to acquire its capital stock, unless it is ratified by the depositors of a mutual bank or the depositors of a subsidiary bank or subsidiary banks of a mutual holding company. Ratification by depositors is not required if the conversion is part of a reorganization into a mutual holding company or the conversion is required by federal or state regulatory authorities.

*b. Vote.* The depositor voting procedures is the same as those prescribed for a federal savings bank or a federal mutual holding company under federal law.

*c. Approval.* In connection with a proposed conversion, no new compensation arrangement may be provided for directors, officers, or employees unless the commissioner finds that it is fair and reasonable, based upon all of the facts and circumstances of the conversion and the future management and operational needs of the mutual bank or mutual holding company, including comparable compensation arrangements at similarly situated banks or holding companies. In addition, no conversion or reorganization may be approved by the commissioner unless the commissioner finds that the process of obtaining corporate decisions and approvals was conducted in a lawful, informed, and independent manner, the rights of the depositors of the converting mutual bank or of the subsidiary bank or subsidiary banks of the converting mutual holding company are not impaired under the plan of conversion or reorganization, the depositors are not treated detrimentally or inequitably under the terms of the proposed conversion or reorganization, and the plan of conversion or reorganization does not provide corporators, if any, directors, officers, or employees with any benefit, privilege, or advantage with respect to the purchase, if any, of the capital stock in the conversion or reorganization which is not generally available to the depositors.

## 6. Mutual Holding Companies

*a. Reorganization.* A mutual bank may reorganize into a holding company structure pursuant to which the mutual character of the bank is retained in the holding company and the bank is operated as

a stock subsidiary of the holding company. The new law sets forth the requirements for a reorganization, including corporate and regulatory approvals and the preservation of the inchoate rights of depositors. A mutual holding company may convert from mutual to stock form under rules that are similar to those for mutual bank conversions.

*b. Purpose and Powers.* The general purpose of a mutual holding company is to conduct and carry on the business and activities of a bank holding company. A mutual holding company may not accept deposits. It holds the general powers of business corporations under New Hampshire law and may:

- (1) Invest in the stocks and securities of banks or bank holding companies;
- (2) Organize a bank in any jurisdiction and directly or indirectly acquire a bank by purchase, combination, or any other manner in any jurisdiction;
- (3) Combine with or acquire another mutual holding company or foreign mutual holding company;
- (4) Combine any subsidiary of the mutual holding company with and into another subsidiary thereof;
- (5) Make capital contributions and loans to its subsidiaries and affiliates and otherwise assist them financially;
- (6) Engage either directly or indirectly in any non-banking activity authorized for a bank holding company under federal law; and
- (7) Issue capital debentures for the purpose of strengthening its financial condition. With the approval of the commissioner, the debentures are considered as legal investments for banks.

*c. Supervision and Examinations.* The commissioner may require such reports from, and make such examinations of, each mutual holding company as he or she deems necessary to determine the true condition of the subsidiaries and affiliates thereof over which he or she has general supervision, the ability of the subsidiaries and affiliates to perform their engagements, and the inter-company relationship of the mutual holding company and its subsidiaries and affiliates. The cost of the examinations are assessed against, and paid by, the mutual holding

company. Mutual holding companies must furnish the commissioner with copies of the reports filed by them with their federal supervisory authorities, and the commissioner may rely upon those reports for purposes of supervision and examination.

## G. BRANCH OFFICES

**1. General.** A state or foreign depository bank may establish one or more branch offices or acquire branch offices from any depository bank, national bank, federal savings bank or foreign bank in any location within New Hampshire by making either a notice or application filing with the commissioner. The commissioner may not permit a depository bank to establish or acquire a branch office if the dollar volume of the total deposits of the bank is greater than 30 percent of the dollar volume of the total deposits of all banks doing business in New Hampshire as determined by the commissioner on the basis of the most recent annual deposit reports of the FDIC. The commissioner may also not permit a depository bank to establish or acquire a branch office if the bank is an affiliate of a bank holding company which with all its affiliates then holds a dollar volume of total deposits greater than 30 percent of the dollar volume of total deposits of all banks doing business in New Hampshire as determined by the commissioner on the basis of the most recent annual deposit reports of the FDIC.

**2. Expedited Treatment.** A state and foreign depository bank that is well-capitalized under applicable federal law and has a composite CAMELS rating of at least 2 as a result of its most recent examination by its federal regulatory authority or the commissioner, is entitled to expedited treatment.

**3. Branch Closings and Relocations.** A state and foreign depository bank may close or relocate a branch office upon making appropriate filings with the commissioner and the FDIC and giving notice to the depositors.

**4. Loan Production Offices.** A state and foreign depository bank that is authorized to make loans may

engage in the business of loan production in New Hampshire upon making appropriate filings with the commissioner. A loan production office is any place of business located within the state at which the bank engages solely in activities relating to loan production. A loan production office is not a branch office.

### 5. Automated Teller Machines; Fee Disclosure.

A state and foreign depository bank may own and operate automated teller machines in any location within or without the state. An automated teller machine is not a branch office. A depository bank is not required to making any filing with the commissioner to establish, own or operate an automated teller machine. No fee may be charged by a depository bank for the use of an automated teller machine unless the amount of the fee is disclosed clearly and conspicuously to consumers in the manner required by the law.

**6. Existing Branch Offices.** The law does not affect the continuation of the operation of any branch office lawfully existing on October 1, 2015.

## H. CONVERSION OF CHARTERS

**1. Conversion of State Depository Bank into a National Bank or Federal Savings Bank.** A state depository bank may convert into a national bank or federal savings bank. The conversion is governed by federal law and not the law of New Hampshire, except that the conversions must be approved by a majority of the holders of each class of voting stock of an investor-owned depository bank, the corporators of a mutual savings bank, or the association members of a savings association, or by a higher percentage if required by the entity's organizational documents.

**2. Conversion of a National Bank or Federal Savings Bank into a Depository Bank.** A national bank or federal savings bank located in New Hampshire which follows the procedure prescribed by federal laws to convert into a state depository bank, may be granted a charter in New Hampshire if the commissioner finds that the bank meets the standards

as to office location, capital structure, and business experience of officers and directors for the incorporation of a depository bank under RSA 383-A.

**3. Conversion of a Mutual Bank or Mutual Bank into a Credit Union.** A mutual savings bank or mutual bank may convert to a credit union if the incorporators of a mutual savings bank or the association members of a savings association approve the conversion by majority vote, or by a higher percentage if required by its organizational documents.

**4. Procedural Requirements.** All conversions require the approval of the commissioner.

## I. COMBINATIONS

**1. Depository Banks.** A New Hampshire depository bank may combine (merge) with another depository bank, national bank, federal savings bank, or foreign bank, subject to the approval of the commissioner and other federal or state approvals.

**2. Holding Companies.** A New Hampshire bank holding company may directly or indirectly acquire a depository bank, national bank, federal savings bank, or out of state depository bank, subject to the approval of the commissioner and other federal or state approvals. However, no bank holding company is permitted directly or indirectly acquire ownership or control of any voting stock of a depository bank, national bank, or federal savings bank, and no depository bank is permitted to combine with another depository bank or foreign bank, if upon making the acquisition the bank holding company would have more than 12 affiliates in New Hampshire, or the dollar volume of the total deposits in the state of the bank holding company and all its affiliates or the bank resulting from the combination would exceed 30 percent of the dollar volume of total deposits in New Hampshire of all banks in this state as determined by the commissioner on the basis of the most recent annual deposit reports of the FDIC available at the time of acquisition. This limitation may be waived by the commissioner if there is a federal or state supervisory action.

**3. Required Vote.** The combination of depository banks or the acquisition of an investor-owned depository bank by a New Hampshire bank holding company is required to be approved by a majority of the owners of the shares having a right to vote of an investor-owned depository bank, a majority of the incorporators of a mutual savings bank, a majority of association members of a savings association, or a higher percentage if required by their respective organizational documents, as applicable.

**4. Name Change.** The bank resulting from a combination may change the name of the resulting bank.

**5. Branch Offices.** The bank resulting from the combination is authorized to operate any branch office or other office of the other bank or banks acquired in the combination unless otherwise ordered by the commissioner.

## J. INTERSTATE BANKING

**1. Holding Company Acquisitions.** A New Hampshire bank holding company may directly or indirectly acquire a foreign bank holding company or a foreign bank. Likewise, a foreign bank holding company may directly or indirectly acquire a New Hampshire bank holding company, a depository bank, or a national bank or a federal savings bank having its principal place of business in New Hampshire. A foreign bank holding company may also organize, and be the sole incorporator of, a depository bank. All such acquisitions are subject to the approval of the commissioner and other federal and state approvals.

**2. Bank Combinations.** A New Hampshire depository bank may combine with any foreign bank, subject to the approval of the commissioner and other federal and state approvals. If the resulting bank is a New Hampshire depository bank, it obtains all the powers held by the foreign bank with which it combined under the laws of the state in which each branch office is located, subject to the duties and restrictions thereof. In addition to any regulation by regulatory authorities in the state where a branch

office is located, each branch office of the depository bank located outside of New Hampshire is subject to regulation by the commissioner as if such branch office were located in New Hampshire and must comply with New Hampshire law in the conduct of its business in such other state unless otherwise required or permitted under the laws of such other state. If the resulting bank is a foreign bank, it obtains all the powers held by the depository bank with which it combined under New Hampshire law, subject to the duties and restrictions thereof.

Any branch office located in New Hampshire of a foreign bank, other than a national bank or federal savings association, is regulated by the commissioner as if the branch office were a branch office of a depository bank. Any foreign bank having a branch office located in New Hampshire is required to comply with New Hampshire law in the conduct of its business in New Hampshire. No branch office of a foreign bank is permitted to engage in any activity not permissible for a New Hampshire depository bank. If the foreign bank is a national bank or a federal savings association, it is required to comply with New Hampshire law to the maximum extent allowed under federal law.

**3. Branch Offices.** A New Hampshire depository bank may establish a branch in any state or may acquire one or more branch offices of a foreign bank in any state under federal law and the laws of the other state, subject to the approval of the commissioner and other federal and state approvals. The depository bank obtains all the powers under the laws of the state in which each branch office is located, subject to the duties and restrictions thereof. In addition to any regulation by regulatory authorities in the state where a branch office is located, each branch of the depository bank located outside of New Hampshire is subject to regulation by the commissioner as if such branch office were located in New Hampshire and must comply with New Hampshire law in the conduct of its banking business in such other state unless otherwise required or permitted under the laws of such other state. A foreign bank may establish one or more new branch offices in New Hampshire or may acquire one or more branch offices from

a New Hampshire depository bank or a national bank or federal savings bank having its principal place of business in New Hampshire, subject to the approval of the commissioner and other federal and state approvals. The foreign bank obtains all the powers held by a depository bank with respect to the operation of the branch office or branch offices located in New Hampshire under New Hampshire law, subject to the duties and restrictions thereof.

Each branch office located in New Hampshire of a foreign bank, other than a national bank or federal savings association, is regulated by the commissioner as if the branch office were a branch office of a New Hampshire depository bank. Any foreign bank having a branch office located in New Hampshire is required to comply with New Hampshire law in the conduct of its banking business in New Hampshire. No branch office of a foreign bank is permitted to engage in any activity not permissible for a New Hampshire depository bank. If the foreign bank is a national bank or a federal savings association, it is required to comply with New Hampshire law to the maximum extent allowed under federal law.

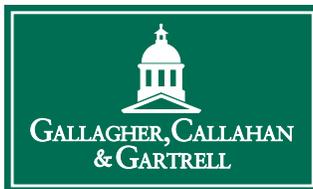
## K. ADMINISTRATIVE PROCEDURES

RSA 383-A substantially revised the administrative procedures to obtain the approval of the commissioner for act or actions proposed to be taken with respect to a depository bank. Some matters require a notice containing abbreviated information and others require an application with more complete information. A 30-day time period exists for the commissioner to determine whether a notice or application is materially complete. A presumption exists that if no further information is required within the 30-day period, the notice or application is deemed to be complete. The commissioner must make a determination within 30 days from the date of material completion in the case of a notice and 60 days in the case of an application. The commissioner may conduct investigations or request additional information at any time prior to making a determination.

## L. OBSERVATIONS

Chapter 272 consolidated into RSA 383-A and RSA 383-B requirements on banks and holding companies that were scattered over many different statutes and greatly simplified the regulatory scheme. Now, depository banks and holding companies only have to consult RSA 383-A and RSA 383-B to determine their rights and duties. It has made clear that depository banks are subject to New Hampshire business corporation laws or limited liability company laws, as applicable, unless otherwise provided in RSA 383-

A or RSA 383-B. Previously, there was no guidance as to what standards were applicable. Chapter 272 has removed many archaic requirements of the former banking laws and now allows depository banks to operate under contemporary standards in the administration of their internal affairs. It also streamlined administrative procedures, making it less burdensome for depository banks and holding companies to secure regulatory approvals. The banking department expects to issue new rules and forms specific to depository banks as the new laws go into effect.



Gallagher, Callahan & Gartrell provides cost-effective legal expertise in representing financial institutions, and is a recognized leader in serving the general and special needs of community banks, trust companies, non-bank lenders/brokers, insurance companies, and securities brokerage firms in local, state and federal matters. For 40 years, we have represented financial services clients through times of dramatic market and regulatory change and intensive competition on leading-edge issues. Learn more at [gcglaw.com](http://gcglaw.com) or call **John Funk at 800-528-1181**.