

**800 Acquisition of Interests in Banking Institutions; Bank Holding Companies**

**803 Application by an Out-of-State Bank Holding Company to Acquire a Delaware Bank or Bank Holding Company**

5 Del.C. §844

Formerly Regulation No.: 5.844.0009

Effective Date: December 11, 1998

**1.0 Instructions**

- 1.1 This Application is to be filed by an "out-of-state bank holding company" (as defined in Section 801 of Title 5 of the **Delaware Code**) for the purpose of acquiring a Delaware bank or bank holding company pursuant to the Delaware Interstate Banking Act (5 **Del.C.** §841 et seq.).
- 1.2 This Application is to be completed, executed and acknowledged by a lawfully empowered officer of the out-of-state bank holding company. The completed Application and required exhibits should be filed with the Office of the State Bank Commissioner, Dover, Delaware in duplicate, accompanied by a non-refundable filing fee made payable to the State of Delaware in the amount of five thousand seven hundred and fifty dollars (\$5,750.00), together with a non-refundable processing fee made payable to the Office of the State Bank Commissioner in the amount of one thousand one hundred and fifty dollars (\$1,150.00). THE COMMISSIONER WILL NOT DEEM ANY APPLICATION AS FILED UNTIL THE COMMISSIONER HAS DETERMINED THAT ALL OF THE INFORMATION REQUESTED IN THE APPLICATION HAS BEEN PROVIDED; THAT THE CERTIFICATE HAS BEEN PROPERLY SIGNED AND ACKNOWLEDGED; THAT ALL REQUIRED EXHIBITS ARE ATTACHED; AND THAT ALL FEES HAVE BEEN PAID.

**2.0 Application Process**

- 2.1 Upon notification by the Commissioner that this Application is deemed as filed, the applicant shall cause to be published in a newspaper of general circulation throughout the State of Delaware, once a week for two (2) consecutive weeks, a notice of its intention to acquire a Delaware bank holding company or bank, and, if applicable, to form an interim bank in connection therewith. Such notice shall include the date, time and location of the public hearing on the application as established by the Commissioner. Such notice shall expressly invite members of the public to examine the Application on file with the Office of the State Bank Commissioner and to submit comments regarding the Application to the Office of the State Bank Commissioner. A public hearing will be conducted by the Commissioner or his designee in accordance with Chapter 101 of Title 29, **Delaware Code** to review the Application and to take such testimony and to gather such evidence as the Commissioner or his designee deems necessary to determine whether the proposed acquisition (and, where applicable, the formation of the proposed interim bank) will serve the public convenience and advantage pursuant to the criteria set forth in 5 **Del.C.** §844(b). When applicable, the Commissioner or his designee will also consider whether a proposed acquisition should be approved even though the acquiring out-of-state bank holding company, or any subsidiary thereof, would control, together with any affiliated insured depository institution, 30 percent or more of the total amount of deposits of insured depository institutions in this State, as provided in 5 **Del.C.** § 843(b). A record from which a verbatim transcript can be prepared shall be made of all hearings. The expense of any transcription of the proceedings requested by the Commissioner or his designee shall be borne by the applicant; in all other instances, the expense of such transcription shall be borne by the person requesting it. The Commissioner or his designee will issue preliminary findings of fact and law and make the same available for comment to the applicant and all parties having presented data, views or argument at the hearing. Said parties shall have thereafter twenty (20) days to submit in writing to the Commissioner exceptions, comments and arguments respecting the preliminary findings. If the Commissioner or his designee presides at a hearing conducted pursuant to this regulation

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**DELAWARE ADMINISTRATIVE CODE**

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and if the decision on the Application is not adverse to the applicant, the Commissioner or his designee has the right to waive the preliminary findings of fact and law and may instead proceed directly to the entry of a final order.

**3.0 Confidential Information**

- 3.1 An applicant may request that specific information included in this Application be treated as confidential. Any information or exhibits for which the applicant claims the designation of confidential shall be segregated at the end of the Application as a separate exhibit which the applicant shall designate as "confidential". The Commissioner, in his sole discretion, shall determine whether any or all of the information for which the "confidential" designation is requested by the applicant meets the criteria for confidentiality set forth in 29 **Del.C.** §10112(b)(4). All portions of this Application which the Commissioner shall not designate as "confidential" shall be made available for public inspection and copying in the manner provided by law.

**Application for Authority of an Out-Of-State Bank Holding Company to Acquire a Delaware Bank or Bank Holding Company**