

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

**804 Application for Waiver of Section 803 Conditions**

**5 Del.C. §803(c)**

Formerly Regulation No.: 5.803.0011

Effective Date: October 23, 1995

A bank seeking a waiver pursuant to Section 803(c) of Title 5, **Delaware Code**, of any or all of the conditions specified in subsections (a)(1), (a)(2), (a)(3) and (a)(4) of Section 803 of Title 5, **Delaware Code**, shall apply for such waiver in accordance with this regulation.<sup>1</sup> Until such waiver is approved by the State Bank Commissioner (the "Commissioner"), the conditions specified in subsections (a)(1), (a)(2), (a)(3) and (a)(4) of Section 803 of Title 5, **Delaware Code**, will be strictly enforced.

**1.0 Application**

- 1.1 The applicant shall clearly identify the conditions specified in subsections (a)(1), (a)(2), (a)(3) and (a)(4) of Section 803 of Title 5, **Delaware Code**, for which the bank seeks a waiver. The applicant shall provide the following information, as applicable:
- 1.2 Waiver of condition under 5 **Del.C.** § 803(a)(1) relating to a single office in this State open to the public for the conduct of banking business.
- 1.3 The applicant shall specify whether the bank seeks a waiver of the condition under Section 803(a)(1) of Title 5, **Delaware Code**, that it have no more than a single office located in this State open to the public for the conduct of banking business. The applicant shall identify the number and proposed locations, if any, of additional offices located in this State that the bank proposes to open to the public for the conduct of banking business within the next two years, and shall submit a business plan relating to such additional offices. (A separate application to open a branch office must be filed in accordance with Section 770 of Title 5, **Delaware Code**.)
- 1.4 Waiver of condition under 5 **Del.C.** §803(a)(2) relating to minimum capital stock and paid-in surplus.
- 1.5 The applicant shall specify whether the bank seeks a waiver of the condition under Section 803(a)(2) of Title 5, **Delaware Code**, relating to minimum capital stock and paid-in surplus. The applicant shall specify the bank's planned amounts of capital stock and paid-in surplus for the next two years. The applicant shall submit a business plan explaining, in detail, the reasons for the planned change, if any, from the bank's current amounts of capital stock and paid-in surplus and the expected effect of such change on the bank's operations and safe and sound condition.
- 1.6 Waiver of condition under 5 **Del.C.** §803(a)(3) relating to employment of persons within this State.
- 1.7 The applicant shall specify whether the bank seeks a waiver of the condition under Section 803(a)(3) of Title 5, **Delaware Code**, relating to employment of persons within this State. The applicant shall specify the bank's planned employment of persons within this State for the next two years. The applicant shall submit a business plan explaining, in detail, the reasons for the

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1. Notwithstanding the foregoing, a bank seeking a waiver pursuant to Section 803(c) of Title 5, **Delaware Code**, of any or all of the conditions specified in subsections (a)(1), (a)(2), (a)(3) and (a)(4) of Section 803 of Title 5, **Delaware Code**, may apply for such waiver as part of an application to merge with an out-of-state bank as provided in regulation 712 (formerly 5.795etal.0016) by including in that application all of the information required by this regulation 805 (formerly 5.803.0011). In such case, banks required to pay the \$5,750 fee and \$1,150 investigation fee provided in Section 792 of Title 5, **Delaware Code**, will not be required to pay in addition the \$6,000 fee otherwise required by Section 803(c) of Title 5, **Delaware Code**.

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- planned change, if any, from the bank's current employment of persons in this State and the expected effect of such change on the bank's operations and safe and sound condition.
- 1.8 Waiver of condition under 5 **Del.C.** §803(a)(4) relating to manner and location of operation in this State.
- 1.9 The applicant shall specify whether the bank seeks a waiver of the condition under Section 803(a)(4) of Title 5, **Delaware Code**, relating to operating in a manner and at a location that is not likely to attract customers from the general public in this State to the substantial detriment of existing banking institutions located in this State. The applicant shall specify the bank's planned manner and location of operation in this State during the next two years. The applicant shall submit a business plan explaining, in detail, the reasons for the planned change, if any, from the bank's current manner and location of operation in this State and the expected effect of such change on the bank's operations and safe and sound condition.

**2.0 Fee**

- 2.1 The application shall be accompanied by a fee of \$6,000, payable to the Office of the State Bank Commissioner.

**3.0 Notice**

- 3.1 Upon receipt of an application conforming to the requirements for applications pursuant to Section 803(c) of Title 5, **Delaware Code**, and this regulation, the Commissioner shall cause a single notice of such application to be published in at least two Delaware newspapers of general circulation. The notice shall provide a brief synopsis of the application, and state that interested persons may present their views in writing to the Office of the State Bank Commissioner.

**4.0 Additional Information, Investigation and Hearing**

- 4.1 In addition to the documents filed in accordance with this regulation, the Commissioner at his discretion may require additional information, conduct an investigation, or hold a public hearing in accordance with the Administrative Procedures Act, Chapter 101 of Title 29, **Delaware Code**.

**5.0 Findings and Decision**

- 5.1 No earlier than 20 days after publication of the Notice described in section III of this regulation, the Commissioner shall issue Findings and Decision approving or disapproving the application. In determining whether to approve the application, the Commissioner shall consider the convenience and needs of the public of this State.