

**DEPARTMENT OF STATE**  
**OFFICE OF THE STATE BANK COMMISSIONER**  
Statutory Authority: 5 Delaware Code, Section 121(b) (5 Del.C. §121(b))  
**5 DE Admin. Code 1113**

**FINAL**

**ORDER**

**1113 Election by a Subsidiary Corporation of a Banking Organization or Trust Company to be Taxed in Accordance with Chapter 19 of Title 30**

IT IS HEREBY ORDERED, this 10<sup>th</sup> day of September, 2020, that amended Regulations 801, 1101, 1104, 1105, 1107, 1108, 1111, 1112, 1113, 1114, and 1201 are adopted as Regulations of the State Bank Commissioner. The effective date of each of these Regulations is October 11, 2020. These Regulations are adopted by the State Bank Commissioner in accordance with Title 5 of the Delaware Code and pursuant to the requirements of Chapters 11 and 101 of Title 29 of the Delaware Code, as follows:

1. Regulation 801 is amended by deleting the Office of the State Bank Commissioner's old office mailing and delivery address and inserting the new office mailing and delivery address and removing a reference to the former Regulation number.

2. Regulations 1101, 1104, 1105, 1107, 1108, 1111, 1112, 1113, 1114, and 1201 are amended by deleting the Office of the State Bank Commissioner's old mailing and delivery address and inserting the new mailing and delivery address.

3. The State Bank Commissioner is authorized to adopt regulations as provided in Section 121(b) of Title 5 of the Delaware Code.

4. The Administrative Procedures Act, Chapter 101 of Title 29 of the Delaware Code, provides at Section 10113, in pertinent part:

“(b) Regulations of the following types are exempted from the procedural requirements of this chapter and may be adopted informally: ...

“(4) Nonsubstantive changes in existing regulations to alter style or form or to correct technical errors; ...

“Any regulation adopted pursuant to this subsection, along with a copy of the order adopting said regulation, shall be filed with the Registrar of Regulations, and the regulation so filed shall become the official regulation as defined in § 1132 of this title.”

Robert A. Glen  
State Bank Commissioner

**1113 Election by a Subsidiary Corporation of a Banking Organization or Trust Company to be Taxed in Accordance with Chapter 19 of Title 30**

Effective Date: ~~February 11, 2017~~ October 11, 2020

**1.0 Qualifications for Election**

Pursuant to 5 Del.C. §1101(e) and §1101A(c)(2), a subsidiary corporation of a banking organization or trust company may elect to be taxed in accordance with Chapter 19 of Title 30 if the subsidiary is not itself a banking organization or trust company, if the subsidiary is not described in §1902(b)(8) of Title 30, and if the subsidiary is not engaged in the sale, distribution, underwriting of, or dealing in, securities.

**10 DE Reg. 1046 (12/01/06)**

**2.0 Effect**

If a valid election is made, the electing subsidiary shall not be considered a subsidiary corporation of its parent banking organization or trust company for the purposes of Chapter 11 of Title 5, and the income of the electing subsidiary shall be excluded from the taxable income of its parent banking organization or trust company for the tax year involved.

**3.0 Filing**

An electing subsidiary shall make this election by filing the original of Form A under this regulation with the State Bank Commissioner; ~~555 E. Lockerman Street, Suite 210;~~ 1110 Forrest Avenue; Dover, DE, ~~19904~~ 19904 and a copy with the

Delaware Division of Revenue; 820 N. French Street; Wilmington, DE 19801.

#### **4.0 Reporting Requirements**

Every year, an electing subsidiary shall file with the State Bank Commissioner on or before the date that its Delaware State Income Tax Return is due (1) Form B under this regulation, and (2) a copy of its Delaware State Income Return as filed with the Delaware Division of Revenue.

#### **5.0 Termination of Election**

An election under this regulation remains in effect until terminated. An electing subsidiary may terminate its election by filing a notice to that effect with the State Bank Commissioner and the Delaware Division of Revenue.

**8 DE Reg. 474 (09/01/04)**

**10 DE Reg. 1046 (12/01/06)**

**24 DE Reg. 393 (10/01/20) (Final)**

**1113A.pdf FORM A Election of a Subsidiary Corporation to be Taxed in Accordance with Chapter 19 of Title 30 and FORM B Annual Report of a Subsidiary Corporation Electing to be Taxed in Accordance with Chapter 19 of Title 30**  
**<http://regulations.delaware.gov/register/october2020/final/1113A.pdf>**