

CHAPTER 16 – SAVINGS INSTITUTIONS

SUBCHAPTER 16A - GENERAL PROVISIONS

SECTION .0100 - GENERAL

04 NCAC 16A .0101 SAVINGS INSTITUTIONS DIVISION

History Note: Authority G.S. 54B-4; 54B-55; 54C-4; 54C-53;
Eff. August 31, 1981;
Amended Eff. December 1, 2011; December 6, 1991; January 1, 1990;
Repealed Eff. November 1, 2017.

04 NCAC 16A .0102 RULE-MAKING AND ADMINISTRATIVE HEARING PROCEDURES

History Note: Authority G.S. 54B-55; 150B-14;
Eff. August 31, 1981;
Repealed Eff. June 1, 1988.

04 NCAC 16A .0103 DEFINITIONS

Unless otherwise indicated, words and phrases defined by G.S. 54B-4 and G.S. 54C-4 shall have the same meaning in this Chapter.

History Note: Authority G.S. 54B-55; 54C-53;
Eff. August 31, 1981;
Amended Eff. July 1, 1990;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16A .0104 SUPERVISORY FEE

History Note: Filed as a Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Authority G.S. 54B-55; 54B-57; 54C-53; 54C-55;
Eff. August 31, 1981;
Amended Eff. February 15, 1992; July 1, 1990; September 1, 1986; October 1, 1982;
Repealed Eff. November 1, 2017.

04 NCAC 16A .0105 RESTRICTIONS: PAYMENT OF DIVIDENDS AND REPURCHASE OF STOCK

(a) A stock savings institution shall not declare or pay a cash dividend on or repurchase any of its capital stock if the effect would be to reduce the net worth of the savings institution to an amount that is less than the minimum required by the federal regulatory authority pursuant to 12 U.S.C. 1831o(d) or an amount less than the minimum required by G.S. 54C-163, whichever is greater. 12 U.S.C. 1831o(d) is hereby incorporated by reference, including subsequent amendments or editions, and may be found free of charge as follows: <https://www.gpo.gov/fdsys/pkg/USCODE-2010-title12/html/USCODE-2010-title12-chap16-sec1831o.htm>.

(b) Without the prior written approval of the Commissioner of Banks, a stock savings institution that has been in operation or converted from mutual form for less than five years shall not repurchase any of its capital stock. Such approval shall be granted only upon a showing that the proposed repurchase will not adversely affect the safety and soundness of the savings institution.

(c) A stock savings institution that has been in operation or converted from mutual form for less than five years shall obtain the written approval of the Commissioner of Banks before declaring or paying a cash dividend on its capital stock in an amount in excess of one-half of the greater of:

- (1) the savings institution's net income for the most recent fiscal year end; or

- (2) the average of the savings institution's net income after dividends for the most recent fiscal year end and not more than two of the immediately preceding fiscal year ends.
- (d) For a period of three years following the date of completion of a conversion from mutual to stock form, no person shall, directly or indirectly, offer to acquire or acquire the beneficial ownership of more than 10 percent of any class of an equity security of a converted savings institution without the prior written approval of the Commissioner of Banks. Such approval shall be granted only as follows:
- (1) upon a finding by the Commissioner of Banks that during the first year following the date of completion of the conversion to protect the safety and soundness of the institution; or
 - (2) during the second and third years following the date of completion of the conversion upon a finding by the Commissioner of Banks that:
 - (A) such acquisition:
 - (i) is necessary to protect the safety and soundness of the institution; or
 - (ii) is supported by the board of directors of the converted savings institution; and
 - (B) the person acquiring in excess of 10 percent of any class of an equity security of the converted institution is of good character and integrity, possesses satisfactory managerial skills, after the acquisition such person will be a source of financial strength to the converted savings institution, and the interests of the public will not be adversely affected.
- (e) Securities owned in violation of Paragraph (d) of this Rule in excess of 10 percent of any class of securities shall not be counted as shares entitled to vote and shall not be voted by any person or counted as voting shares in connection with any matters submitted to the stockholders for a vote.
- (f) Paragraphs (d) and (e) shall not apply to:
- (1) any offer with a view toward public resale made to the savings institution, the institutions underwriters, or the selling group acting on the institution's behalf; or
 - (2) any offer to acquire or acquisition of beneficial ownership of more than 10 percent of the common stock of a savings institution by a corporation whose ownership is or will be substantially the same as the ownership of the savings institution, provided that the offer or acquisition is made more than one year following the date of completion of the conversion.

History Note: Authority G.S. 54B-43; 54B-55; 54C-44; 54C-53; Eff. August 31, 1981; Amended Eff. July 1, 1990; November 1, 1985; Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992; Amended Eff. November 1, 2017; December 1, 2011; April 15, 1993; February 15, 1992; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

SECTION .0200 – RULE-MAKING HEARINGS

- 04 NCAC 16A .0201 PETITION FOR ADOPTION: AMENDMENT OR REPEAL OF RULES**
04 NCAC 16A .0202 NOTICE OF RULE-MAKING HEARINGS
04 NCAC 16A .0203 RULE-MAKING HEARINGS: GENERAL INFORMATION

History Note: Authority G.S. 53-93; 54B-55; 150B-12; 150B-20; 150B-21.2(d); Eff. July 1, 1990; Amended Eff. December 1, 2011; Repealed Eff. November 1, 2017.

SECTION .0300 - DECLARATORY RULINGS

- 04 NCAC 16A .0301 PETITION FOR DECLARATORY RULING**
04 NCAC 16A .0302 RESPONSE OF COMMISSIONER OF BANKS TO PETITION

History Note: Authority G.S. 53-93; 54B-2; 54B-52; 54B-55; 54C-2; 54C-3; 54C-52; 54C-53; 150B-2(5); 150B-4;

Eff. July 1, 1990;
Amended Eff. December 1, 2011;
Repealed Eff. November 1, 2017.

SECTION .0400 - ADMINISTRATIVE HEARINGS

04 NCAC 16A .0401	RIGHT TO HEARING
04 NCAC 16A .0402	INFORMAL SETTLEMENT
04 NCAC 16A .0403	REQUEST FOR HEARING
04 NCAC 16A .0404	NOTICE OF HEARING
04 NCAC 16A .0405	INTERVENTION IN AN ADMINISTRATIVE HEARING
04 NCAC 16A .0406	DEPOSITIONS
04 NCAC 16A .0407	SUBPOENAS
04 NCAC 16A .0408	SERVICE OF SUBPOENAS
04 NCAC 16A .0409	OBJECTION TO A SUBPOENA

History Note: Authority G.S. 53-93; 53-104; 54B-55; 150B-38; 150B-39;
Eff. July 1, 1990;
Amended Eff. December 1, 2011;
Repealed Eff. November 1, 2017.

SUBCHAPTER 16B – SAVINGS INSTITUTIONS COMMISSION

04 NCAC 16B .0101	OFFICERS
04 NCAC 16B .0102	MEETINGS
04 NCAC 16B .0103	COMMITTEES

History Note: Authority G.S. 54B-53; 54B-55
Eff. August 31, 1981;
Amended Eff. July 1, 1990;
Repealed Eff. May 14, 2014 pursuant to G.S. 150B-21.7(a).

SUBCHAPTER 16C - APPLICATIONS

SECTION .0100 - CHARTER APPLICATION

04 NCAC 16C .0101	FORMS
04 NCAC 16C .0102	CHARTER APPLICATION RESTRICTIONS
04 NCAC 16C .0103	CORPORATE NAME

History Note: Authority G.S. 54B-2; 54B-9; 54B-10; 54B-52; 54B-55; 54C-2; 54C-9; 54C-12; 54C-52; 54C-53;
Eff. August 31, 1981;
Temporary Amendment Eff. August 26, 1985 for a period of 93 days to expire on November 26, 1985;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. December 1, 2011; February 15, 1992; July 1, 1990; November 1, 1985;
Repealed Eff. November 1, 2017.

04 NCAC 16C .0104	INTERIM SAVINGS INSTITUTIONS
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History Note: Filed as a Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Filed as a Temporary Rule Eff. August 26, 1985 for a period of 93 days to expire on

November 26, 1985;
Authority G.S. 54B-45; 54B-55; 54C-46; 54C-53;
Eff. November 1, 1985;
Amended Eff. February 15, 1992;
Repealed Eff. November 1, 2017.

04 NCAC 16C .0105 CONVERSION TO SAVINGS BANK

History Note: Filed as a Temporary Adoption Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Authority G.S. 54C-30; 54C-53;
Eff. February 15, 1992;
Repealed Eff. November 1, 2017.

SECTION .0200 - BRANCH OFFICE APPLICATION

- 04 NCAC 16C .0201 FORM**
- 04 NCAC 16C .0202 BRANCH OFFICE APPLICATION RESTRICTIONS**
- 04 NCAC 16C .0203 FORFEITURE OF BRANCH OFFICE FINAL APPROVAL**

History Note: Authority G.S. 54B-22; 54B-55; 54C-23; 54C-53;
Eff. August 31, 1981;
Amended Eff. November 1, 1982;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. December 1, 2011; February 15, 1992; July 1, 1990;
Repealed Eff. November 1, 2017.

SECTION .0300 - APPLICATION TO CHANGE LOCATION OF BRANCH OFFICE OR PRINCIPAL OFFICE

- 04 NCAC 16C .0301 BRANCH OFFICE**
- 04 NCAC 16C .0302 PRINCIPAL OFFICE**

History Note: Authority G.S. 54B-23; 54B-55;
Eff. August 31, 1981;
Repealed Eff. November 1, 1985.

04 NCAC 16C .0303 LOCATION CHANGE

History Note: Authority G.S. 54B-23; 54B-55;
Eff. November 1, 1985;
Repealed Eff. February 15, 1992.

04 NCAC 16C .0304 TEMPORARY CLOSING OF OFFICE

If a bank's office is closed temporarily, other than closures in observance of a holiday, the bank shall notify the Commissioner of Banks no later than 72 hours after such closure if the closure may interfere with the bank's operations or poses an existing or imminent threat to the safety or security of persons on property.

History Note: Authority G.S. 54B-55;
Eff. July 1, 1990;
Amended Eff. November 1, 2017; December 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16C .0305 PURCHASE OF BRANCH

History Note: Authority G.S. 54B-22; 54B-55; 54C-24; 54C-53;
Eff. July 1, 1990;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. December 1, 2011; February 15, 1992;
Repealed Eff. November 1, 2017.

SECTION .0400 - REMOTE SERVICE UNITS

- 04 NCAC 16C .0401 DEFINITIONS**
- 04 NCAC 16C .0402 APPLICATION: GUIDELINES FOR APPROVAL BY ADMINISTRATOR**
- 04 NCAC 16C .0403 GENERAL POLICIES**
- 04 NCAC 16C .0404 UNMANNED REMOTE SERVICE UNIT ACCESS TECHNIQUES**
- 04 NCAC 16C .0405 PRIVACY OF ACCOUNT DATA**

History Note: Filed as a Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Authority G.S. 54B-55; 54B-77; 54C-53; 54C-146;
Eff. April 1, 1982;
Amended Eff. February 15, 1992; July 1, 1990;
Repealed Eff. November 1, 2017.

SECTION .0500 - INTERSTATE RECIPROCAL ACQUISITIONS

- 04 NCAC 16C .0501 FORM**
- 04 NCAC 16C .0502 ACQUISITION RESTRICTIONS**
- 04 NCAC 16C .0503 FEES**

History Note: Filed as a Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Authority G.S. 54B-48.6; 54B-55; 54C-53; 54C-178;
Eff. September 1, 1986;
Amended Eff. February 15, 1992; July 1, 1990;
Repealed Eff. November 1, 2017.

SUBCHAPTER 16D - OPERATION OF SAVINGS ASSOCIATIONS

SECTION .0100 - DIRECTORS: OFFICERS AND EMPLOYEES

- 04 NCAC 16D .0101 COMPOSITION OF BOARD OF DIRECTORS**

History Note: Authority G.S. 54B-55;
Eff. August 31, 1981;
Amended Eff. April 15, 1993; February 15, 1992; July 1, 1990; September 1, 1984;
Repealed Eff. November 1, 2017.

- 04 NCAC 16D .0102 PROHIBITED TRANSACTIONS**

History Note: Authority G.S. 54B-55;
Eff. August 31, 1981;
Amended Eff. January 1, 1984; April 1, 1983;

Repealed Eff. July 1, 1990.

04 NCAC 16D .0103 BYLAWS

*History Note: Authority G.S. 54B-2; 54B-9; 54B-52; 54B-55; 54C-2; 54C-9; 54C-52; 54C-53;
Eff. August 31, 1981;
Amended Eff. December 1, 2011;
Repealed Eff. November 1, 2017.*

04 NCAC 16D .0104 INSIDER LOAN LIMITATIONS

*History Note: Authority G.S. 54B-154;
Eff. April 1, 1982;
Amended Eff. July 1, 1983;
Repealed Eff. July 1, 1990.*

04 NCAC 16D .0105 AMENDMENT OF CONVERTED ASSOCIATION'S CHARTER

*History Note: Authority G.S. 54B-33;
Eff. December 1, 1984;
Repealed Eff. April 15, 1993.*

SECTION .0200 - PROXIES

- 04 NCAC 16D .0201 VOTING BY PROXY**
- 04 NCAC 16D .0202 FORM OF PROXY**
- 04 NCAC 16D .0203 HOLDERS OF PROXIES**
- 04 NCAC 16D .0204 PROXY SOLICITATION**

*History Note: Authority G.S. 54B-55; 54B-105;
Eff. August 31, 1981;
Amended Eff. December 6, 1991; July 1, 1990;
Repealed Eff. November 1, 2017.*

SECTION .0300 - RECORDS

- 04 NCAC 16D .0301 GENERAL POLICIES**
- 04 NCAC 16D .0302 RETENTION: REPRODUCTION AND DISPOSITION OF RECORDS**

*History Note: Authority G.S. 54B-2; 54B-9; 54B-21; 54B-52; 54B-55; 54C-2; 54C-52; 54C-53;
Eff. August 31, 1981;
Amended Eff. December 1, 2011; February 15, 1992; July 1, 1990; April 1, 1987; January 1,
1984; July 1, 1983;
Repealed Eff. November 1, 2017.*

SECTION .0400 - LOANS

- 04 NCAC 16D .0401 SERVICING LOANS**
- 04 NCAC 16D .0402 APPRAISALS**
- 04 NCAC 16D .0403 RECORDS WITH RESPECT TO LOAN**

*History Note: Authority G.S. 54B-55; 54B-161;
Eff. August 31, 1981;
Amended Eff. February 15, 1992; July 1, 1990; November 1, 1985;
Repealed Eff. November 1, 2017.*

04 NCAC 16D .0404 ALTERNATIVE MORTGAGE INSTRUMENTS

History Note: Authority G.S. 54B-55; 54B-163;
Eff. August 31, 1981;
Amended Eff. July 1, 1990; October 1, 1987;
Repealed Eff. February 15, 1992.

04 NCAC 16D .0405 UNSECURED LOANS LIMIT

History Note: Authority G.S. 54B-55; 54B-151;
Eff. August 31, 1981;
Amended Eff. July 1, 1990;
Repealed Eff. November 1, 2017.

04 NCAC 16D .0406 ACCOUNTING FOR GAINS AND LOSSES

History Note: Authority G.S. 54B-55;
Eff. December 1, 1981;
Amended Eff. April 1, 1984;
Repealed Eff. July 1, 1990.

04 NCAC 16D .0407 LOANS TO ONE BORROWER

History Note: Authority G.S. 54B-55; 54B-164;
Eff. July 1, 1983;
Amended Eff. December 1, 2011; February 15, 1992; July 1, 1990; November 1, 1985; January 1, 1985;
Repealed Eff. November 1, 2017.

04 NCAC 16D .0408 ACCOUNTING FOR UNCOLLECTIBLE INCOME

History Note: Authority G.S. 54B-55;
Eff. January 1, 1984;
Repealed Eff. July 1, 1990.

SECTION .0500 - WITHDRAWABLE ACCOUNTS

04 NCAC 16D .0501 SIGNATURE CARDS

04 NCAC 16D .0502 HOLDING OF CERTIFICATE OR PASSBOOK

History Note: Authority G.S. 54B-55; 54B-121;
Eff. August 31, 1981;
Repealed Eff. November 1, 2017.

04 NCAC 16D .0503 NONNEGOTIABLE ORDERS OF WITHDRAWAL

History Note: Authority G.S. 54B-55; 54B-128;
Eff. August 31, 1981;
Repealed Eff. July 1, 1990.

04 NCAC 16D .0504 NEGOTIABLE ORDER OF WITHDRAWAL ACCOUNTS

History Note: Authority G.S. 54B-55; 54B-127;
Eff. August 31, 1981;
Amended Eff. February 1, 1983;
Repealed Eff. November 1, 2017.

**04 NCAC 16D .0505 NON-INTEREST-BEARING NEGOTIABLE ORDER OF WITHDRAWAL
ACCTS.**

History Note: Authority G.S. 54B-55; 54B-127;
 Eff. August 31, 1981;
 Repealed Eff. July 1, 1990.

04 NCAC 16D .0506 CREDIT CARDS

History Note: Authority G.S. 54B-55; 54B-77;
 Eff. August 31, 1981;
 Repealed Eff. February 15, 1992.

SECTION .0600 - LIQUIDITY FUND

**04 NCAC 16D .0601 LIQUIDITY FUND REQUIREMENT
04 NCAC 16D .0602 AMOUNT OF LIQUIDITY FUND**

History Note: Authority G.S. 54B-55; 54B-210; 54B-211;
 Eff. August 31, 1981;
 Amended Eff. July 1, 1983;
 Repealed Eff. July 1, 1990.

SECTION .0700 - GENERAL RESERVE ACCOUNT

04 NCAC 16D .0701 GENERAL RESERVE REQUIREMENTS

History Note: Authority G.S. 54B-216;
 Eff. December 1, 1981;
 Amended Eff. November 1, 1982; October 1, 1982;
 Repealed Eff. January 1, 1986.

04 NCAC 16D .0702 REQUIREMENTS FOR NEWLY-CHARTERED STOCK ASSOCIATIONS

History Note: Authority G.S. 54B-216;
 Eff. December 1, 1981;
 Repealed Eff. November 1, 1982.

04 NCAC 16D .0703 APPRAISED EQUITY CAPITAL

History Note: Authority G.S. 54B-216;
 Eff. November 1, 1982;
 Amended Eff. July 1, 1983;
 Repealed Eff. January 1, 1986.

SECTION .0800 - TRUST POWERS

Editor's Note: 4 NCAC 16D .0801 - .0817 was recodified to 4 NCAC 16K .0001 - .0017, effective September 6, 1991.

SECTION .0900 - INVESTMENTS

04 NCAC 16D .0901 SECURITIES

History Note: Authority G.S. 54B-55; 54B-193; 54C-53; 54C-141;

Eff. October 1, 1987;
Amended Eff. December 1, 2011; July 1, 1990;
Repealed Eff. November 1, 2017.

04 NCAC 16D .0902 STOCK IN OTHER DEPOSITORY INSTITUTIONS

History Note: Authority G.S. 54B-55; 54B-193; 54C-53; 54C-141;
Eff. July 1, 1990;
Amended Eff. December 1, 2011; February 15, 1992;
Repealed Eff. November 1, 2017.

SECTION .1000 - VOLUNTARY DISSOLUTION

Editor's Note: 4 NCAC 16D .1001 - .1004 was recodified to 4 NCAC 16L .0001 - .0004, effective September 6, 1991.

SUBCHAPTER 16E - OPERATION OF SAVINGS INSTITUTIONS

SECTION .0100 - DIRECTORS, BYLAWS AND CHARTER

04 NCAC 16E .0101 TAX FORMS: COLLECTION **04 NCAC 16E .0102 INTERNAL REVENUE SERVICE FORM 1099**

History Note: Authority G.S. 54B-55; 105-228.27;
Eff. August 31, 1981;
Amended Eff. January 1, 1983;
Repealed Eff. January 1, 1984.

04 NCAC 16E .0103 BOARD OF DIRECTORS

- (a) A director shall not vote on any matter in which they have a personal or financial interest.
- (b) When a savings institution takes action establishing a new chief executive officer or director, the savings institution shall notify the Commissioner of Banks within 14 calendar days of such change, and shall provide the name of the new chief executive officer or director, the effective date of the appointment, and a statement of the person's past and current business and professional affiliations. The name of any departing chief executive officer or director shall also be provided to the Commissioner of Banks in writing.
- (c) Any of the following shall be deemed to be significant ownership interests for G.S. 54C-101(c):
- (1) For stock savings banks under fifty million dollars (\$50,000,000) in assets, stock ownership in the institution or its holding company of two thousand five hundred dollars (\$2,500.00) in market value at time of purchase;
 - (2) For mutual savings banks under fifty million dollars (\$50,000,000) in assets, a two thousand five hundred dollar (\$2,500) deposit relationship;
 - (3) For stock savings banks over fifty million dollars (\$50,000,000) in assets, stock ownership in the institution or its holding company of five thousand dollars (\$5,000) in market value at time of purchase; or
 - (4) For mutual savings banks over fifty million dollars (\$50,000,000) in assets, a five thousand dollar (\$5,000.00) deposit relationship.

For savings institutions that cross the fifty million dollar (\$50,000,000) threshold, the Commissioner of Banks shall allow up to one year for the Directors to comply with the ownership interest requirement.

History Note: Authority G.S. 54B-55; 54C-53; 54C-101;
Temporary Adoption Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Eff. February 15, 1992;
Amended Eff. November 1, 2017;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16E .0104 BYLAWS

The Commissioner of Banks shall be deemed to have approved any amendments to bylaws that the Commissioner has not objected within 25 days after the date that the bylaws are filed with the Commissioner of Banks.

*History Note: Authority G.S. 54B-9; 54B-52; 54C-9; 54C-52; 54C-53; 54C-102;
Temporary Adoption Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Eff. February 15, 1992;
Amended Eff. November 1, 2017; December 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.*

04 NCAC 16E .0105 AMENDMENT OF CONVERTED SAVINGS BANK'S CHARTER

*History Note: Filed as a Temporary Adoption Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Statutory Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Repealed Eff. April 15, 1993.*

SECTION .0200 - PROXIES

- 04 NCAC 16E .0201 VOTING BY PROXY**
- 04 NCAC 16E .0202 FORM OF PROXY**
- 04 NCAC 16E .0203 HOLDERS OF PROXIES**
- 04 NCAC 16E .0204 PROXY SOLICITATION**

*History Note: Filed as a Temporary Adoption Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Authority G.S. 54C-53; 54C-105;
Eff. February 15, 1992;
Repealed Eff. November 1, 2017.*

SECTION .0300 - RECORDS AND POLICIES

04 NCAC 16E .0301 GENERAL POLICIES

- (a) Records to be Kept at Principal Office. Each savings institution, each affiliate, and the institution's parent company shall keep and make available for examination by the representatives of the Commissioner of Banks at the principal office, books and records of all the transactions of the institution in its true financial condition. Records shall be kept to permit and facilitate a speedy examination by the representatives of the Commissioner of Banks.
- (b) Maintenance of Membership and Stockholder Records. Every savings institution shall maintain membership or stockholder records. When a savings institution has reason to believe 10 percent or more of the outstanding capital stock of the savings institution is controlled by one owner, the institution shall notify the Commissioner in writing and shall include the residential address and the number of shares held by the shareholder.
- (c) Savings institutions shall keep the following books and records at the institution, or at its parent holding company, unless another storage site is approved by the Commissioner of Banks in writing:
 - (1) Alphabetical direct and indirect liability ledgers. Each institution shall keep an alphabetical direct and indirect liability ledger. The alphabetical direct liability ledger shall show each customer's direct obligations owed to the institution by loan name or account number and the balance outstanding under each account. The alphabetical indirect liability ledger shall show each customer's indirect obligations owed to the institution by loan name or account number and the balance outstanding under each account. The alphabetical direct liability ledger shall be kept in balance with the general ledger control. The alphabetical indirect liability ledger shall be updated at least monthly. Where the aggregate total of a customer's direct and indirect obligations to the

institution do not exceed twenty thousand dollars (\$20,000), the indirect obligations of that customer may be omitted from the alphabetical indirect liability ledger. In an institution whose automated record system is not able to produce an alphabetical liability ledger, the institution shall produce an alphabetical listing of customers showing all of a customer's loan or account numbers and the amount outstanding under each account number when called upon by representatives of the Commissioner of Banks. Each institution shall produce both the direct and indirect liability ledgers in hard copy form upon request by representatives of the Commissioner of Banks.

- (2) Monthly reconciliation of accounts with correspondent banks. A record shall be kept, showing the monthly reconciliation of each account with correspondent banks. A signed review of such reconciliations shall be made by an officer or employee of the institution other than the person responsible for preparing the reconciliation.
- (3) Purchases and sales of securities. A record shall be kept of purchases and sales of securities. The record shall include the following:
 - (A) dates of purchases and sales;
 - (B) interest rates;
 - (C) maturities;
 - (D) par value;
 - (E) cost value;
 - (F) all write-ups or write-downs;
 - (G) a full description of the security;
 - (H) from whom purchased;
 - (I) to whom sold;
 - (J) purchase price;
 - (K) selling price; and
 - (L) when, where, and why pledged or deposited.This record shall be maintained in balance with the general ledger control.
- (4) Charge-offs. A record shall be kept of all items charged-off and of all recoveries. All charge-offs shall be authorized or approved by the executive committee or by the board of directors, and the action shall be recorded in their minutes. The charge-off record shall show the date of the charge-off, a description of the asset, and the amount of the charge-off. The record shall be supported by the actual charged-off items or the final disposition of any charged-off item. The record of recoveries shall show the date and amount of each recovery.
- (5) Records of real estate. A record shall be kept of all parcels owned, including the banking house. The record shall show when the property was acquired, how the property was acquired, the cost of the property, the book value of the property, and detailed income and expense reports relating to the property. This record shall be supported by appraisals, title certificates showing assessed value, tax receipts, and hazard insurance policies relating to the property. Every savings institution shall appraise the value of each parcel of real estate taken in satisfaction of debts previously contracted at the time of acquisition. The report of each appraisal shall be submitted in writing to the Board of Directors and shall be kept in the records of the savings institution.
- (6) Meeting minutes. Minutes of all board of directors' meetings, board committee meetings, and members and stockholders meetings shall be kept showing any action resulting from the meeting. All minutes shall be signed by the chairman and the secretary of such meeting.
- (7) Cash items held over. A daily record shall be kept of all cash items held over from the day's business, including all checks that would cause an overdraft if handled according to the institution's check-posting policy. This record shall be kept in balance with the general ledger control and shall identify the account on which the item is drawn or is obligated for payment, the reason the item is being held, the date the item was placed in the cash items account, and the amount of the item.
- (8) Record of income and expenses. A detailed record of income and expenses shall be kept and balanced monthly. A report of this record shall be made to the executive committee or board of directors, and the receipt of same shall be noted in the meeting minutes.

(d) Unless an institution requests approval of another storage site in writing, and receives approval from the Commissioner of Banks, the books and records of the institution's parent holding company shall be kept at the institution or at the institution's parent holding company; and the books and records of an affiliate of the institution shall be kept at the affiliate, the institution, or the institution's parent holding company.

(e) Based upon the safety and soundness of a savings institution as determined by examination or other information, the Commissioner of Banks may require a savings institution to prepare or maintain different or additional books, records, and reports.

History Note: Authority G.S. 54B-2; 54B-9; 54B-52; 54B-55; 54C-2; 54C-22; 54C-52; 54C-53; Temporary Adoption Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992; Eff. February 15, 1992; Amended Eff. November 1, 2017; December 1, 2011; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16E .0302 RETENTION, REPRODUCTION AND DISPOSITION OF RECORDS

- (a) Each savings institution shall take precautions to protect records from damage by fire, flood, or other hazards and to safeguard records from unnecessary deterioration as a result of excess heat, humidity, dryness, or lack of proper ventilation. Safeguards shall be maintained to protect records from access or removal by unauthorized persons.
- (b) Each savings institution or branch office shall retain all records set forth in this Paragraph for the periods specified.

RECORDS TO BE RETAINED	MINIMUM RETENTION PERIOD (YRS.)
ACCOUNTING - ASSOCIATION	
Bank Statements and Reconcilements	5
Cancelled Checks	5
Check Vouchers or Stubs	5
Duplicate Deposit Slips	5
Expense and Paid Bills File	3
FHLB and State Reports	5
General and Subsidiary Ledgers	15
General and Other Journals	15
Original Entry Records	5
Pre-authorized Bank Forms	5
Tellers' Cash Proof Sheets	2
Trial Balances	3
CORPORATE	
Annual Reports to Supervisors	5
Attachments, Executions, and Releases	3
Audit Reports	3
Ballots and Proxy Votes of Members and Stockholders	3
Blanket Bonds	T + 5
Certificate of Insurance	P
Charter, Bylaws, and Amendments	P
Claims, Court Orders, and Restraining Orders	10
Deeds, Leases, and Contracts; Titles to Vehicles	T + 5
Examination Reports and Supervisory Letters	5
FHLB Membership Certificate	P
Minute Books (Members, Stockholder, Directors, and Committees)	P
N.C. Corporate Tax Forms	15
Pension Trust (IRS Ruling, Bylaws, and Trust Agreements)	T + 5
Personal Property Tax Records	15
Social Security and Unemployment Tax Records	15
U.S. Corporate Income Tax Forms	15

DEPOSIT ACCOUNTS

Affidavits for Lost Passbook or Certificate	P
Cancelled Savings Certificates	5
Deposit	5
Deposit Account Assignment or Transfer Records	P
Deposit Account Loan Disclosures After Note "Paid"	2
Deposit Account Loan Notes	R
Inheritance Tax Releases	10
Lost Instrument Bonds for Passbooks or Certificates	P
No-Mail Notice	T + 4
Power of Attorney or Affidavits	P
Returned 1099 Forms	6
Savings Certificates Record of Issue	T + 5
Signature Card Files	T + 5
Withdrawal Slips or Checks	5
INSURANCE	
Directors and Officers Liability	10
Fire and Extended Coverage, Auto Errors and Omissions	3
Public Liability - Workers Compensation	10
LOANS (Commercial, Consumer Credit, and Credit Cards)	
Borrowers' Statement	T + 3
Charged-off Loan Records	10
Collateral Records	10
Customer Application	T + 1
Disclosure Document	2
Interest Rebate Record	T + 3
Liability Card or Ledger	T + 3
Loan Ledger Cards	T + 3
Loans Made Record	T + 3
Loans Paid Record	T + 3
Loan Proceeds Disbursement Records	T + 3
Merchant Agreement - Credit Card	T + 2
Note and/or Loan Register	P
Posting or Transaction Journal	3
Resolutions	T + 3
Sales Tickets or Drafts - Credit Card	3
Statement of Account - Credit Card	5
MORTGAGE LOANS	
Additional Collateral Agreement	T + 3
Affidavits	T + 3
Applications	T + 3
Appraisals	T + 3
Collection Records	T + 3
Commitments	T + 3
Construction Loan Agreement	T + 3
Construction Loan Authorizations	T + 3
Correspondence	T + 3
Cost Estimates	T + 3
Credit Reports	T + 3
Disclosure and Recision	T + 3
Escrow Agreements and Records	T + 3
FHA Insurance Receipts	T + 3
Flood Insurance Documentation	T + 3
Inspection Reports	T + 3
Loan Register	P

Modifications	T + 3
Mortgage Loan Disclosure Statement (Form HMDA-1)	5
Paid Bills for Borrowers Construction	T + 3
Settlement Statement	T + 3
Signature Cards	T + 3
Title Opinions	T + 3
Waiver of Liens	T + 3
MISCELLANEOUS	
All Retirement Plan Accounts	
All Related Forms and Documents	T + 7
General Correspondence	3
Investments	
Purchase and Sale	T + 3
Register	P
Safe-Keeping Receipts	T + 3
Mail Register	3
OSHA	
OSHA Records and Reports	6
Personnel Records	
Employment Applications	
1. Hired	T + 3
2. Not Hired	3
Group Insurance Records	T + 6
Payroll Records	10
Time Cards	3
Purchases, Sales and Participation	
Agreement	T + 3
Remittance Report	T + 3
Sale List	T + 3
Safe Deposit Boxes	
History Cards	P
Lease Contracts	T + 3
Rent Receipts	3
Savings Bonds	
Applications	2
Duplicate Stubs	2
Letter of Transmittal of Bonds Redeemed	2
Monthly Report of Sales and Holdings	2
Travelers Checks	

Applications	2
Consignment Receipts	2
REAL ESTATE OWNED	
Appraisal	T + 3
Contracts for Sale	T + 3
Deeds	T + 3
Notice of Intent to Foreclose	T + 3
Leases	T + 3
PMI Claims	T + 3
Tax Records	T + 3
Title Policies	T + 3
Trustee's Report	T + 3

KEY TO SYMBOLS USED

P	-	Permanent
R	-	Return to Customer After Termination of Contractual Relationship
T	-	Termination (Closed, Paid-off, or Settled)

History Note: Authority G.S. 54B-55; 54C-53;
Temporary Adoption Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Eff. February 15, 1992;
Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16E .0303 REQUIRED POLICIES

History Note: Filed as a Temporary Adoption Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Authority G.S. 54C-53;
Eff. February 15, 1992;
Repealed Eff. November 1, 2017.

SECTION .0400 - LOANS

04 NCAC 16E .0401 SERVICING LOANS

A savings institution may service loans originated by the savings institution or by other lenders.

History Note: Authority G.S. 54B-55; 54B-161; 54C-53;
Temporary Adoption Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Eff. February 15, 1992;
Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16E .0402 APPRAISALS

History Note: Filed as a Temporary Adoption Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Authority G.S. 54C-53; 54C-128;
Eff. February 15, 1992;
Repealed Eff. November 1, 2017.

04 NCAC 16E .0403 RECORDS WITH RESPECT TO LOANS

Each savings institution shall maintain the following loan documentation:

- (1) Financial Statements. Financial statements shall be required from any person who is a maker, co-maker, guarantor, endorser, or surety on any unsecured loans or other unsecured extensions of credit in an amount of fifty thousand dollars (\$50,000) or more in the aggregate. Financial statements required by this Item shall:
 - (a) be signed or acknowledged by the maker;
 - (b) be dated within 18 months preceding the origination date of the credit obligation;
 - (c) be renewed within 18 months after the date of the last financial statement on file;
 - (d) be addressed to or made for the lending savings institution; and
 - (e) include information reflecting the assets, liabilities, net worth, and income of the borrower.
- (2) Financial Statement Exceptions. A savings institution may waive the financial statement required by Item (1) of this Rule for credit granted under a credit card. For an individual whose unsecured obligations consist of consumer loans scheduled to be repaid in at least quarterly installments, a savings institution may substitute a current credit bureau report for the financial statement required by Item (1) of this Rule. A credit bureau report shall be within 18 months from its date of issue.
- (3) Personal Property Appraisals. Appraisals on personal property used as collateral for a loan shall be obtained and shall be completed as follows:
 - (a) Except as provided by Sub-item (3)(c) of this Rule, a written appraisal of personal property used to collateralize any loan shall be made or approved.
 - (b) Requirements. The appraisal required by this Item shall include:
 - (i) the name of the borrower;
 - (ii) the date the appraisal was made;
 - (iii) the value of the collateral;
 - (iv) the signatures of two people making the appraisal;
 - (v) a brief description of the property;
 - (vi) the amount of any senior lien and the holder of the lien, if any; and
 - (vii) the original amount or outstanding balance of the loan that the property is used to secure.
 - (c) Appraisal Exceptions. No appraisal shall be required under the following circumstances:
 - (i) on collateral to notes of less than fifty thousand dollars (\$50,000);
 - (ii) on loans fully secured by obligations of the United States or the State of North Carolina;
 - (iii) on loans fully secured by deposits in the savings institution maintaining the loan account; or
 - (iv) on loans fully secured by the cash surrender or loan value of life insurance policies.
 - (d) Renewal Exceptions. Appraisals need not be renewed biennially where a motor vehicle or mobile home is the sole or partial collateral for a loan.
 - (e) Single Signature Exception. An appraisal may be performed and signed by only one person where a motor vehicle or mobile home is the sole collateral for a loan.
- (4) Real Estate Appraisals. Unless otherwise provided, all real estate taken as security for loans shall be appraised in the form and manner set forth in Sub-item (4)(a) through (4)(c) of this Rule. In addition, the appraisal shall be independent in that the appraiser shall not be involved in the loan transaction secured by the property being appraised and shall have no interest, financial or otherwise, in the property.
 - (a) The savings institution may elect to waive the requirement for an appraisal of real estate given as security for loans of fifty thousand dollars (\$50,000) or less.
 - (b) Appraisals of real estate given as security for loans over fifty thousand dollars (\$50,000), but not exceeding two hundred fifty thousand dollars (\$250,000), whether directly or indirectly pledged as collateral, shall be prepared by:
 - (i) two members of the board of directors who are familiar with real estate values in the community where the property is located;
 - (ii) two savings institution employees who are familiar with real estate values in the community where the property is located, provided that one of the two

- employees shall not be involved in the loan transaction secured by the property being appraised; or
- (iii) a state-licensed real estate appraiser, state-certified real estate appraiser, or a person certified as a real estate appraiser by an appraisal trade organization approved by the savings institution to perform an appraisal.
- (c) Appraisals prepared pursuant to Sub-item (4)(b) of this Rule shall be in writing and shall be signed and dated by the person or persons making the appraisal. The appraisal shall identify the loan transaction for which it was made; identify the current balance of any senior lien and the identity of the holder of the lien, if any; segregate values of improvements from values of the land; and describe the property so as to make it identifiable. If a professional appraisal form is used that does not include this information, the savings institution shall complete and attach to the appraisal its own appraisal summary form disclosing the required information. The appraisal shall state the basis or approach used to determine the value of the property. Acceptable approaches to determining the value of real property shall be the following:
- (i) the current cost of replacing a property, less depreciation relating to deterioration from functional or economic obsolescence;
 - (ii) the value indicated by recent sales of comparable properties in the market and other market factors such as listings and offers to sell; or
 - (iii) the value that the property's net earning power will support, based on a capitalization of net income.
- (d) All real estate given as security for loans in an amount over two hundred fifty thousand dollars (\$250,000), whether directly or indirectly pledged as collateral, shall be appraised, and such appraisal shall be subject to the provisions of 12 C.F.R. 323.1 through 12 C.F.R. 323.7, which are hereby incorporated by reference including subsequent amendments or additions. This information is available at the U.S. Printing Office website at <http://www.ecfr.gov/cgi-bin/text-idx?SID=cb59b820da3e668ebb333139d429ce0c&node=pt12.5.323&rgn=div5> at no cost.
- (5) Certificate of Title. A title opinion furnished by an attorney at law, a title report or title insurance policy issued by a company licensed by the Commissioner of Insurance, or other insurance coverage that provides the savings institution with similar protection against loss from title defects, errors, or omissions at closing or other loan-related risks shall be obtained in connection with each deed of trust or mortgage given as security on each real estate-secured loan when:
- (a) the loan is primarily secured by real property and only secondarily by the borrower's general credit-worthiness; and
 - (b) the amount of the loan secured by the real property is fifty thousand dollars (\$50,000) or more.
- (6) Stock Certificate and Stock Powers. Where stock certificates or similar negotiable securities are accepted as collateral for a loan, each certificate shall be either endorsed and witnessed or accompanied by a stock power signed and witnessed. Where such collateral is in the name of someone other than the maker or endorser of the note, there shall be on file in the savings institution written authority from the collateral owner permitting the hypothecation of the collateral.
- (7) Corporate Resolutions. A loan made to a corporation shall be supported by a certified copy of a resolution of the board of directors of the corporation authorizing the loan transaction.
- (8) Partnership Declaration. A loan made to a partnership shall be supported by a declaration of the general partners showing the composition of the partnership, and unless all partners sign the note, the authority of the partner(s) executing the note to bind the partnership.
- (9) Limited Liability Company Certification. A loan made to a limited liability company shall be supported by a certification of a manager thereof that the loan has been duly authorized by the limited liability company.
- (10) Unlisted Securities. Full credit information on all unlisted securities, now owned or hereafter acquired, shall be kept on file in the savings institution.

History Note: Authority G.S. 54C-53; 54C-128; Temporary Adoption Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;

Eff. February 15, 1992;
Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16E .0404 UNSECURED LOANS LIMIT
04 NCAC 16E .0405 LOANS TO ONE BORROWER

History Note: Filed as a Temporary Adoption Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Authority G.S. 54C-53; 54C-121; 54C-128;
Eff. February 15, 1992;
Amended Eff. December 1, 2011;
Repealed Eff. November 1, 2017.

SECTION .0500 - DEPOSIT ACCOUNTS

04 NCAC 16E .0501 SIGNATURE CARDS

History Note: Filed as a Temporary Adoption Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Authority G.S. 54C-53; 54C-164;
Eff. February 15, 1992;
Repealed Eff. November 1, 2017.

04 NCAC 16E .0502 HOLDING OF CERTIFICATE OR PASSBOOK

An unpledged savings certificate or passbook shall not be held by a savings institution for the convenience of an account holder.

History Note: Authority G.S. 54B-55; 54B-121; 54C-53; 54C-164;
Temporary Adoption Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Eff. February 15, 1992;
Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

SECTION .0600 - LIQUIDITY AND NET WORTH

04 NCAC 16E .0601 LIQUIDITY
04 NCAC 16E .0602 NET WORTH

History Note: Filed as a Temporary Adoption Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Authority G.S. 54C-53; 54C-162; 54C-163;
Eff. February 15, 1992;
Repealed Eff. November 1, 2017.

SECTION .0700 - INVESTMENTS

04 NCAC 16E .0701 SECURITIES
04 NCAC 16E .0702 STOCK IN OTHER DEPOSITORY INSTITUTIONS

History Note: Authority G.S. 54C-53; 54C-141;
Temporary Adoption Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Eff. February 15, 1992;
Amended Eff. December 1, 2011;

Repealed Eff. November 1, 2017.

SUBCHAPTER 16F - SERVICE CORPORATIONS AND FINANCE SUBSIDIARIES

04 NCAC 16F .0101 PERMITTED ACTIVITIES

The service corporation of a savings institution may engage in activities that are approved by the federal regulatory authority pursuant to 12 C.F.R. 5.59(f) for service corporations owned by federal associations that have principal offices in this State and may engage in any other activity authorized for state-chartered savings institutions and approved in advance in writing by the Commissioner of Banks upon a showing by the savings institution that the activity enhances the safe and sound operation of the savings institution, is well managed, is subject to adequate controls, and is not otherwise violative of . North Carolina law. 12 C.F.R. 5.59(f) 1831o is hereby incorporated by reference, including subsequent amendments or editions, and may be found free of charge as follows: https://www.ecfr.gov/cgi-bin/text-idx?SID=b1cbbe0d7d8194e47523927417a42a03&mc=true&node=se12.1.5_159&rgn=div8.

History Note: Authority G.S. 54B-55; 54B-194; 54C-53; 54C-144;
Eff. August 31, 1981;
Amended Eff. July 1, 1990; October 1, 1987;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; May 11, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16F .0102 INVESTMENT LIMITATION

Investments in a service corporation include not only stock and other securities of a service corporation, such as notes, bonds and debentures, but also any loans, secured or unsecured, to the service corporation. The investment limitation established by G.S. 54B-194 and G.S. 54C-144 applies to the total investment that a savings institution can make in one or in any number of service corporations. A secured loan to a state-wide multi-owned service corporation shall not be included in the assets investment limitation.

History Note: Authority G.S. 54B-55; 54B-194; 54C-53; 54C-144;
Eff. August 31, 1981;
Amended Eff. July 1, 1990; October 1, 1982;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. May 11, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16F .0103 DEBT LIMITATION FOR WHOLLY-OWNED SERVICE CORPORATIONS

The aggregate amount of secured and unsecured debt that a wholly-owned service corporation may have outstanding at any one time to the savings institution and to non-stockholders shall not exceed:

- (1) ten times the total of the service corporation's net worth and unsecured debt to the savings institution; or
- (2) twenty times the total if the service corporation engages in originating, investing in, selling, purchasing, servicing, or otherwise dealing in (including brokerage or warehousing) loans and participations in loans, that are underwritten in accordance with the savings institution's lending policy and secured by real estate or liens on mobile homes.

History Note: Authority G.S. 54B-55; 54B-194; 54C-53; 54C-144;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Eff. August 31, 1981;

Amended Eff. November 1, 2017; May 11, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16F .0104 STOCK IN A SERVICE CORPORATION

History Note: Authority G.S. 54B-55; 54B-194;
Eff. August 31, 1981;
Repealed Eff. July 1, 1990.

04 NCAC 16F .0105 AMENDMENTS TO ARTICLES OF INCORPORATION OR BYLAWS

(a) Prior to filing with the Secretary of State of North Carolina, a service corporation shall file with the Commissioner of Banks copies of any proposed amendment to its articles of incorporation. The Commissioner of Banks must approve the form and content of the proposed amendment.

(b) Before the bylaws or any amendments to the bylaws of a service corporation shall become effective, a certified copy of the bylaws or amendments shall be filed with and approved by the Commissioner of Banks. If the Commissioner of Banks fails to act upon the bylaws or amendment within 60 days of receipt, the bylaws or amendment shall be deemed approved.

History Note: Authority G.S. 54B-55; 54B-194; 54C-53; 54C-144;
Eff. August 31, 1981;
Amended Eff. November 1, 2017; December 1, 2011; July 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16F .0106 ESTABLISHMENT OF FINANCE SUBSIDIARIES

04 NCAC 16F .0107 BOARD ACTION REQUIRED

04 NCAC 16F .0108 FINANCE SUBSIDIARY TRANSACTIONS WITH PARENT

04 NCAC 16F .0109 ISSUANCE OF SECURITIES BY FINANCE SUBSIDIARIES

04 NCAC 16F .0110 TRANSFER OF PROCEEDS

04 NCAC 16F .0111 HOLDING COMPANY SUBSIDIARIES AND FINANCE SUBSIDIARIES

04 NCAC 16F .0112 NOTIFICATION TO THE COMMISSIONER OF BANKS

04 NCAC 16F .0113 EXAMINATION OF FINANCE SUBSIDIARIES

History Note: Filed as a Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Authority G.S. 54B-55; 54B-77; 54B-195; 54C-53; 54C-144; 54C-146;
Eff. October 1, 1984;
Amended Eff. December 1, 2011; May 11, 1992;
Repealed Eff. November 1, 2017.

SUBCHAPTER 16G - MUTUAL TO STOCK CONVERSIONS

SECTION .0100 - SCOPE

04 NCAC 16G .0101 GENERAL

04 NCAC 16G .0102 PROVISIONS OF PRESCRIBED FORMS

History Note: Authority G.S. 54B-33;
Eff. January 1, 1980;
Transferred From 4 NCAC 9I Eff. August 31, 1981;
Amended Eff. September 1, 1983;

Repealed Eff. January 1, 1986.

04 NCAC 16G .0103 DEFINITIONS

As used in this Subchapter the words and phrases defined by G.S. 54C-4 and the following definitions apply:

- (1) "An affiliate of," or "a person affiliated with" used in connection with another specified person shall mean a person that directly, or indirectly through one or more intermediaries, controls or is under common control with the person specified.
- (2) "Amount," when used in regard to securities, shall mean the principal amount if relating to evidences of indebtedness, the number of shares if relating to shares of stock, or the number of units if relating to any other kind of security.
- (3) "Applicant" shall mean a savings institution that has applied to convert to stock ownership pursuant to this Subchapter.
- (4) "Broker" shall mean any person engaged in the business of effecting transactions in securities for the account of others.
- (5) "Dealer" shall mean any person who engages either for all or part of their time, directly or indirectly, as agent, broker, or principal, in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.
- (6) "Deposit account" shall mean that part of the liability of the savings institution that is credited to the account of the holder including certificates of deposit.
- (7) "Eligibility record date" shall mean the record date for determining eligible account holders of a converting savings institution.
- (8) "Eligible account holder" shall mean any person holding a qualifying deposit as determined in accordance with Rule .0313 of this Subchapter.
- (9) "Employee" shall not mean a director or executive officer of a savings institution.
- (10) "Equity security" shall mean the following:
 - (a) any stock or similar security;
 - (b) any security convertible, with or without considerations, into a security, or carrying any warrant or right to subscribe to or purchase a security; or
 - (c) any warrant or right to subscribe to or purchase a security.
- (11) "Executive Officer" shall mean any person performing a policy-making function with respect to any organization, whether incorporated or unincorporated.
- (12) "Investment representative" shall mean a professional investment advisor acting as agent for the purchaser and independent of the seller and not acting on behalf of the seller in connection with the transaction.
- (13) "Market maker" shall mean a dealer who, with respect to a particular security:
 - (a) regularly publishes bona fide, competitive bid, and offer quotation in a recognized inter-dealer quotation system or furnishes bona fide competitive bid and offer quotations on request; and
 - (b) is ready, willing, and able to effect transactions in reasonable quantities at the quoted prices with other brokers or dealers.
- (14) "Material," when used to qualify a requirement to provide information as to any subject, limits the information required to those matters as to which an average prudent investor ought reasonably to be informed before purchasing an equity security of the applicant, or matters as to which an average prudent savings institution member ought reasonably to be informed in voting upon the plan of conversion of the applicant.
- (15) "Negotiated transactions" shall mean transactions in which the securities are offered and the terms and arrangements relating to any sale of the securities are arrived at through direct communications between the seller or any person acting in its behalf and the purchaser or his investment representative.
- (16) "Offer," "offer to sell," or "offer of sale" shall mean every attempt or offer to dispose of or solicitation of an offer to buy a security or interest in a security for value. These terms shall not include preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are or will be in privity of contract with an applicant.
- (17) "Person" is defined in G.S. 55-1-40.

- (18) "Proxy" shall mean every form of authorization by which a person is, or may be deemed to be, designated to act for a savings institution member in the exercise of his or her voting rights in the affairs of a savings institution. An authorization may take the form of failure to dissent or object.
- (19) "Purchase" and "buy" shall mean every contract to acquire a security or interest in a security for value.
- (20) "Sale" and "sell" shall mean every contract to dispose of a security or interest in a security for value.
- (21) "Security" shall mean any note, stock, treasury stock, bond, debenture, transferable share, investment contract, voting-trust certificate, or in general, any instrument commonly known as a "security." It shall also include any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing.
- (22) "Solicitation" and "solicit" shall mean:
 - (a) any request for a proxy whether or not accompanied by or included in a form of proxy;
 - (b) any request to execute, not execute, or revoke a proxy; or
 - (c) providing a form of proxy or other communication to savings institution members under circumstances calculated to result in the procurement, withholding, or revocation of a proxy. The terms shall not apply to the furnishing of a form of proxy to a savings institution member upon the unsolicited request of the member or to the performance by any person of ministerial acts on behalf of a person soliciting a proxy.
- (23) "Subscription offering" shall mean offering shares of capital stock, through nontransferable subscription rights, to:
 - (a) eligible account holders as required by Rule .0311(2) of this Subchapter;
 - (b) supplemental eligible account holders as required by Rule .0311(4) of this Subchapter;
 - (c) members entitled to vote at the meeting called to consider the conversion as required by Rule .0311(5) of this Subchapter;
 - (d) directors, executive officers, and employees, as permitted by Rule .0312(2) of this Subchapter; or
 - (e) eligible account holders, supplemental eligible account holders, and voting members as permitted by Rule .0312(3) of this Subchapter.
- (24) "Subsidiary" of a specified person shall mean a person controlled, directly or indirectly, through one or more intermediaries by the specified person.
- (25) "Supplemental eligible account holder" shall mean any person holding a qualifying deposit, except executive officers, directors, and their associates, as of the supplemental eligibility record date required by Rule .0311 of this Subchapter.
- (26) "Underwriter" shall mean any person who has purchased from an applicant with a view to, or any person who offers or sells for an applicant in connection with, the distribution of any security; or participates or has a direct or indirect participation in the direct or indirect underwriting of any undertaking. Underwriting shall not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers' commission. The term "principal underwriter" shall mean an underwriter in privity of contract with the applicant or other issuer of securities as to which he or she is the underwriter.

History Note: Authority G.S. 54C-33; 54C-53;
 Eff. February 15, 1992;
 Amended Eff. November 1, 2017;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16G .0104 GENERAL REQUIREMENTS

- (a) No application for conversion shall be approved by the Commissioner of Banks unless:
 - (1) The conversion shall be conducted in compliance with G.S. 54B or G.S. 54C, and this Subchapter and pursuant to a plan of conversion approved by the Commissioner of Banks; and
 - (2) The conversion shall not result in a taxable reorganization under the Internal Revenue Code.
- (b) The converted savings bank shall be deemed to be a continuation of the savings institution so converted.

History Note: Authority G.S. 54C-33; 54C-53;

Eff. February 15, 1992;
Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16G .0105 APPLICATION FOR CONVERSION

History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992.
Repealed Eff. November 1, 2017.

04 NCAC 16G .0106 CONFIDENTIAL INFORMATION

An applicant that submits information as part of an application may request that the information be confidential by separately binding and labeling the information as "confidential," and a statement shall be submitted setting forth the grounds on which the information should be treated as confidential pursuant to G.S. 54C-60. Only general reference to the confidential information shall be made in that portion of the application that the applicant requests not to be confidential. The Commissioner of Banks shall review the request of the applicant and determine if the documents are confidential pursuant to G.S. 54C-60. Applications under this Subchapter shall be made available for inspection by the public, except for portions that are bound and labeled "confidential" and that the Commissioner of Banks determines to be confidential pursuant to G.S. 54C-60. Preliminary copies of proxy-soliciting materials shall be confidential regardless of whether they are bound and labeled as "confidential." The applicant shall be advised of any decision by the Commissioner of Banks to make public information designated as "confidential" by the applicant. Notwithstanding the provisions of this Rule and to the extent permitted by G.S. 54C-60, the Commissioner of Banks may comment on the confidential submissions in any public statement in connection with any decision regarding the application without prior notice to the applicant.

History Note: Authority G.S. 53C-2-7; 54C-33; 54C-53;
Eff. January 15, 1992;
Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

SECTION .0200 - DEFINITIONS

04 NCAC 16G .0201 DEFINITIONS
04 NCAC 16G .0202 OTHER TERMS

History Note: Authority G.S. 54B-33;
Eff. January 1, 1980;
Transferred With Change From 4 NCAC 9I Eff. August 31, 1981;
Amended Eff. September 1, 1983; October 1, 1982;
Repealed Eff. January 1, 1986.

SECTION .0300 - GENERAL PRINCIPLES FOR CONVERSIONS

04 NCAC 16G .0301 GENERAL REQUIREMENTS
04 NCAC 16G .0302 REQUIRED PROVISIONS IN PLAN OF CONVERSION
04 NCAC 16G .0303 OPTIONAL PROVISIONS IN PLAN OF CONVERSION
04 NCAC 16G .0304 AMOUNT OF DEPOSIT: PREDECESSOR AND SUCCESSOR ACCOUNTS
04 NCAC 16G .0305 LIQUIDATION ACCOUNT
04 NCAC 16G .0306 RESTRICTIONS: REPURCHASE OF STOCK: PAYMENT OF DIVIDENDS
04 NCAC 16G .0307 MANIPULATIVE AND DECEPTIVE DEVICES

History Note: Authority G.S. 54B-33;
Eff. January 1, 1980;
Transferred With Change From 4 NCAC 9I Eff. August 31, 1981;

*Amended Eff. September 1, 1983; February 1, 1983; October 1, 1982; July 1, 1982;
Repealed Eff. January 1, 1986.*

04 NCAC 16G .0308 ACQUISITION OF CONVERTED ASSOCIATION

*History Note: Authority G.S. 54-24; 54-24.1; 54-33.2; 54A-13; 150A-12;
Eff. January 1, 1980;
Transferred From 4 NCAC 9I Eff. August 31, 1981;
Repealed Eff. October 1, 1982.*

04 NCAC 16G .0309 MERGER OF CONVERTED ASSOCIATIONS

*History Note: Authority G.S. 54B-33;
Eff. December 15, 1980;
Amended Eff. January 14, 1981;
Transferred From 4 NCAC 9I Eff. August 31, 1981;
Amended Eff. September 1, 1983;
Repealed Eff. January 1, 1986.*

04 NCAC 16G .0310 ACQUISITION/SECURITIES: CONVERTING/CONVERTED ASSOCIATION

*History Note: Authority G.S. 54B-33;
Eff. October 1, 1982;
Repealed Eff. September 1, 1983.*

04 NCAC 16G .0311 REQUIRED PROVISIONS IN PLAN OF CONVERSION

The plan of conversion shall:

- (1) Provide that the converting savings institution shall issue and sell its capital stock at a total price equal to the estimated pro forma market value of the stock in the converted savings institution, based on an independent valuation, as provided in Rule .0717 of this Subchapter.
- (2) Provide that each eligible account holder shall receive, without payment, nontransferable subscription rights to purchase capital stock. Subscription rights shall be allocated among the eligible account holders on an equitable basis in an amount not greater than the maximum purchase limitation established for the public offering or the direct community offering. The plan of conversion shall provide a comprehensive description of this allocation including a detailed description of the allocation in the event of an oversubscription of the capital stock. In the event of an oversubscription, shares shall be allocated on an equitable basis that is related to the amount of the subscriber's qualifying deposits.
- (3) Provide that nontransferable subscription rights to purchase capital stock received by executive officers and directors of the applicant and their associates, based on their increased deposits in the applicant savings institution in the one-year period preceding the eligibility record date, shall be subordinated to all other subscriptions involving the exercise of nontransferable subscription rights to purchase shares pursuant to Item (2) of this Rule.
- (4) In plans involving an eligibility record date that is more than 15 months prior to the date of the latest amendment to the application for conversion filed prior to the Commissioner of Banks' approval, provide that a supplemental eligibility record date shall be determined whereby each supplemental eligible account holder of the applicant shall receive, without payment, nontransferable subscription rights to purchase capital stock in an amount related to his or her respective qualifying deposits.
 - (a) Subscription rights received pursuant to Item (4) of this Rule shall be subordinated to all rights received by eligible account holders to purchase shares pursuant to Items (2) and (3) of this Rule.
 - (b) Any nontransferable subscription rights to purchase shares received by an eligible account holder in accordance with Item (2) of this Rule shall be applied in partial satisfaction of the subscription rights to be distributed pursuant to this Item.

- (c) In the event of an oversubscription for supplemental shares pursuant to this Item, shares shall be allocated among the subscribing supplemental eligible account holders on an equitable basis, related to the amounts of their respective qualifying deposits, as may be provided in the plan of conversion.
- (5) Provide that voting members who are not either eligible account holders or supplemental eligible account holders shall receive, without payment, nontransferable subscription rights to purchase capital stock on an equitable basis defined in the plan of conversion. Subscription rights received pursuant to this Item shall be subordinated to all rights received by eligible account holders and supplemental eligible account holders to purchase shares pursuant to Items (2), (3), and (4) of this Rule. In the event of an oversubscription of capital stock pursuant to this Item, shares shall be allocated among the subscribing voting members on such equitable basis as may be provided in detail in the plan of conversion.
- (6) Provide that any shares of the applicant not sold to persons with subscription rights shall either be sold in a public offering through an underwriter or directly by the applicant in a direct community offering, subject to the applicant demonstrating to the Commissioner of Banks the feasibility of the method of sale and of conditions as may be provided in the plan of conversion. Conditions may include the following:
 - (a) limiting purchases in the public offering or the direct community offering by any person together with any associate or group of persons acting in concert to a percentage of the total offering of shares not exceeding five percent; except that:
 - (i) any one or more tax-qualified employee stock benefit plans of the applicant may purchase in the aggregate not more than ten percent of the total offering of shares and shall be entitled to purchase that amount regardless of the number of shares to be purchased by other parties; and
 - (ii) that shares held by one or more tax-qualified employee stock benefit plans and attributed to a person shall not be aggregated with other shares purchased directly by or otherwise attributable to that person.
 - (b) requiring that orders for stock in any public offering or direct community offering shall first be filled up to a maximum of two percent of the conversion stock per order and thereafter remaining shares shall be allocated on an equal number of shares basis per order until all orders have been filled;
 - (c) requiring that stock to be offered and sold in the public offering or the direct community offering shall be offered and sold in a manner requiring that will achieve the widest distribution of the stock; or
 - (d) any direct community offering by the applicant shall give a preference to a person residing in the counties in which the applicant has an office.
- (7) Provide that the number of shares that any person together with any associate or group of persons acting in concert may subscribe or purchase in the conversion shall not exceed five percent of the total offering of shares, except that any one or more tax-qualified employee stock benefit plans of the applicant may purchase in the aggregate not more than 10 percent of the total offering of shares. Shares held by one or more tax-qualified or non-tax-qualified employee stock benefit plans and attributed to a person shall not be aggregated with shares purchased directly by or otherwise attributable to that person. For purpose of this Item the members of the converting savings institution's board of directors shall not be deemed to be associates or a group of persons acting in concert solely as a result of their board membership.
- (8) Provide that for a period of three years following the conversion no executive officer or director or any associate of an executive officer or director shall purchase without the prior written approval of the Commissioner of Banks the capital stock of the converted savings institution except from a broker or dealer registered with the Secretary of State of North Carolina or the Securities and Exchange Commission. This provision shall not apply to negotiated transactions involving more than one percent of the outstanding capital stock of the converted savings institution or to purchases of stock made by and held by any one or more tax qualified or non-tax-qualified employee stock benefit plans of the applicant that may be attributable to executive officers or directors.

- (9) Provide that the sales price of the shares of capital stock to be sold in the conversion shall be a uniform price and specify the underwriting and other marketing arrangements to be made to assure the sale of any shares not sold in the subscription offering.
- (10) Provide that each deposit account holder of the converting savings institution shall receive, without payment, a deposit account or accounts in the converted savings institution equal in amount to the value of the account holder's deposit account or accounts in the converting savings institution.
- (11) Provide for the establishment and maintenance of a liquidation account for the benefit of eligible account holders and supplemental eligible account holders in the event of a subsequent complete liquidation of the converted savings institution.
- (12) Provide for an eligibility record date that shall be not less than 90 days prior to the date of adoption of the plan by the converting savings institution's board of directors.
- (13) Provide that the holders of the capital stock of the converted savings institution shall have exclusive voting rights.
- (14) Provide that the plan of conversion adopted by the applicant's board of directors may be amended by the board of directors prior to the solicitation of proxies from members to vote on the plan and at any time thereafter with the concurrence of the Commissioner of Banks, and that the conversion may be terminated by the board of directors at any time prior to the meeting of members called to consider the plan of conversion and at any time thereafter with the concurrence of the Commissioner of Banks.
- (15) Establish a time period within which the conversion shall be completed prior to termination. This time period shall not be more than 12 months from the date the members approve the plan of conversion. This time period may be extended an additional 12 months by a plan amendment.
- (16) Provide that all shares of capital stock purchased by directors and executive officers on original issue in the conversion either directly from the applicant (by subscription or otherwise) or from an underwriter of shares, shall be subject to the restriction that such shares shall not be sold for a period of not less than one year following the date of purchase, except in the event of death of the director or executive officer. The Commissioner of Banks may grant permission for the transfer of restricted stock upon a determination that the restriction imposes a substantial personal financial hardship on the individual due to changed unforeseeable circumstances outside the control of the individual.
- (17) Provide that, in connection with shares of capital stock subject to restriction on sale under Item (16) of this Rule:
 - (a) Each certificate for such stock shall bear a legend giving appropriate notice of the applicable restrictions;
 - (b) Instructions shall be issued to the transfer agent for the converted savings institution's capital stock with respect to applicable restrictions on transfer of any restricted stock; and
 - (c) Any shares issued as a stock dividend, stock split, or otherwise with respect to any restricted stock shall be subject to the same restrictions as may apply to the restricted stock.
- (18) Provide that the converting savings institution shall:
 - (a) encourage a market maker to establish and maintain a market for the securities issued in connection with the conversion; and
 - (b) list those shares issued in connection with the conversion on a national or regional securities exchange, or on the NASDAQ system.
- (19) Provide that the expenses incurred in the conversion shall be reasonable.
- (20) Contain no provision that the Commissioner of Banks finds to be inequitable or detrimental to the applicant, its account holders or other savings banks or to be contrary to the public interest.
- (21) Contain no provision that the Commissioner of Banks finds will harm the community and public served by the savings institution.
- (22) Provide that the converting savings bank shall not loan funds or otherwise extend credit on an unsecured basis or upon the security of the savings institution's capital stock to any person to purchase the capital stock of the converting savings institution.
- (23) Provide that the savings institution may make scheduled discretionary contributions to a tax-qualified employee stock benefit plan provided the contributions do not cause the savings institution to fail to meet its net worth requirements.

*History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Amended Eff. November 1, 2017; May 3, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.*

04 NCAC 16G .0312 OPTIONAL PROVISIONS IN PLAN OF CONVERSION

The plan of conversion may provide any of the following:

- (1) The applicant may commence the direct community offering or the public offering, or both, concurrently with or at any time during the subscription offering. The subscription offering may be commenced concurrently with or at any time after the mailing to members of the proxy statement authorized for use by the Commissioner of Banks. The subscription offering may be closed before the meeting of the members held to vote on the plan of conversion, provided that the offer and sale of capital stock shall be conditioned upon the approval of the plan of conversion by the members.
- (2) Directors, executive officers, and employees of the converting savings institution shall receive, without payment, nontransferable subscription rights to purchase shares of capital stock, to the extent that shares are available after satisfying the subscriptions of eligible account holders, supplemental eligible account holders, and voting members provided for under Items (2), (4) and (5) of Rule .0311 of this Section. The shares shall be allocated among directors, officers, and employees on an equitable basis such as by giving weight to length of service, compensation, and position, subject to the limitation in Item (7) of Rule .0311 of this Section on the amount of shares that may be purchased by any person, associate, or group of affiliated persons or group of persons otherwise acting in concert.
- (3) Any account holder receiving rights to purchase stock in the subscription offering shall also receive, without payment, nontransferable subscription rights to purchase up to one percent of the total offering of shares of capital stock, to the extent that the shares are available after satisfying the subscriptions provided for under Items (2), (4), and (5) of Rule .0311 of this Section, subject to conditions as may be provided in the plan of conversion. In the event of an oversubscription for the additional shares, the shares available shall be allocated among the subscribing eligible account holders, supplemental eligible account holders, and voting members on an equitable basis related to the amounts of their respective subscriptions, as may be provided in the plan of conversion.
- (4) The applicant may require members to return by a date certain a postage-paid written communication provided by the applicant, requesting receipt of a subscription offering circular or a preliminary or final offering circular in an offering pursuant to Item (10) of this Rule, in order to be entitled to receive an offering circular from the applicant; provided, that the subscription offering or the offering pursuant to Item (10) of this Rule shall not be closed until 30 days after the mailing by the applicant to members of the postage-paid written communication. If the subscription offering or the offering pursuant to Item (10) of this Rule is not commenced within 45 days after the meeting of members, any converting savings institution adopting this optional provision shall transmit, not more than 30 days prior to the commencement of the subscription offering or the offering pursuant to Item (10) of this Rule to each member who had been furnished with proxy solicitation materials, written notice of the commencement of the offering that shall state that the converting savings institution is not required to furnish an offering circular to a member unless the member returns by a date certain the postage-paid written communication provided by the converting savings institution requesting receipt of an offering circular.
- (5) The applicant may require eligible account holders and supplemental eligible account holders who are not voting members to return by a date certain a postage-paid written communication in accordance with the procedure established in Item (4) of this Rule.
- (6) Any residue of shares of the converting savings institution not sold in the subscription offering, in a public offering, or direct community offering may be sold as provided in the plan of conversion with the written consent of the Commissioner of Banks.

- (7) The number of shares that any person or group of persons affiliated with each other or otherwise acting in concert may subscribe for in the subscription offering may be made subject to a limit of not less than one percent of the total offering of the shares.
- (8) Any person exercising subscription rights to purchase capital stock shall be required to purchase a minimum number of shares, but the aggregate price for any minimum share purchase shall not exceed five hundred dollars (\$500.00).
- (9) The converted savings institution shall issue and sell, in lieu of shares of its capital stock, units of securities consisting of capital stock and long-term warrants or other equity securities, in which event any reference in the provisions of this Subchapter to capital stock shall apply to units of equity securities unless the context otherwise requires.
- (10) Instead of a separate subscription offering, all subscription rights issued in connection with the conversion shall be exercisable by delivery of completed and executed order forms to the underwriters or selling group for the public offering or pursuant to any other procedure, subject to the applicant demonstrating to the Commissioner of Banks the feasibility of the method of exercising such right and to such conditions as shall be provided in the plan of conversion.
- (11) The Commissioner of Banks may approve other equitable provisions as necessary to avert injury to the converting savings institution.
- (12) The proxy statement authorized by G.S. 54B-33 or G.S. 54C-33 may be in summary form, provided the proxy meets the requirements.

The date on which the summary proxy statement is mailed to members shall be deemed the date on which notice is given. Without the prior written consent of the Commissioner of Banks, the meeting of members shall not be held less than 20 days after the date on which the supplemental information statement is mailed to requesting members.

- (13) In the event that the converting institution is establishing a tax-qualified employee stock ownership plan (ESOP) for the benefit of its employees, then notwithstanding the priorities established under Items (2), (4), and (5) of Rule .0311 of this Section, the plan of conversion may provide that the ESOP may purchase up to 10 percent of the aggregate shares offered in the conversion prior to offering shares to eligible account holders, supplemental eligible account holders, or other voting members.
- (14) Eligible account holders shall be divided into two subcategories for purposes of determining the aggregate number of shares of conversion stock allocated to be purchased by account holders in each subcategory: those whose permanent residence is within the market area of the converting institution and those whose permanent residence is outside the market area of the converting institution. A plan of conversion that divides account holders into subcategories shall provide:
 - (a) That each eligible account holder who resides within the applicant's market area shall receive nontransferable subscription rights to purchase a number of shares based on the account holder's qualifying deposit balance up to the maximum purchase limitation established pursuant to Rule .0311(7) of this Section, provided that the aggregate number of shares of conversion stock to be allocated for purchase by eligible account holders within the converting institution's market area shall equal that number of shares (rounded to the nearest whole number) determined by multiplying the total number of shares of stock to be sold in the offering times a fraction the numerator of which is the sum of qualifying deposits held by eligible account holders residing inside the market area and the denominator of which is the sum of all qualifying deposits.
 - (b) That each eligible account holder who resides outside the applicant's market area shall receive nontransferable subscription rights to purchase a number of shares based on the account holder's qualifying deposit balance up to the maximum purchase limitations established pursuant to Rule .0311(7) of this Section, provided that the aggregate number of shares of conversion stock to be allocated for purchase by eligible account holders outside the converting institution's market area shall equal that number of shares (rounded to the nearest whole number) determined by multiplying the total number of shares of stock to be sold in the offering times a fraction the numerator of which is the sum of qualifying deposits held by eligible account holders residing outside the converting institution's market area and the denominator of which is the sum of all qualifying deposits.

- (c) Within each subcategory, a formula to be used in the event of an oversubscription for the equitable allocation of shares of stock within the subcategory that relates to an eligible account holder's qualifying deposit balance.
- (d) For the purposes of this Item, a converting institution shall define its "market area" to include each county in which it has an office and may include additional counties contiguous to those counties in which it maintains an office, regardless of whether such counties are in the State of North Carolina.

History Note: Authority G.S. 54B-33; 54C-33; 54C-53;
Eff. February 15, 1992;
Amended Eff. November 1, 2017; September 1, 1993; April 15, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16G .0313 RECORD DATES FOR QUALIFYING DEPOSITS

The amount of the qualifying deposit of an eligible account holder or supplemental eligible account holder shall be the total of the deposit balances in the eligible account holder's or supplemental eligible account holder's deposit accounts in the converting savings institution as of the close of business on the eligibility record date or supplemental eligibility record date. The plan of conversion may provide that any deposit accounts with total deposit balances of less than fifty dollars (\$50.00) shall not constitute a qualifying deposit.

History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16G .0314 LIQUIDATION ACCOUNT

History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Repealed Eff. November 1, 2017.

04 NCAC 16G .0315 MANIPULATIVE AND DECEPTIVE DEVICES

In the offer, sale, or purchase of securities issued incident to its conversion, no savings institution, director, executive officer, attorney, agent, or employee shall:

- (1) employ any device, scheme, or artifice to defraud;
- (2) obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances that they were made, not misleading; or
- (3) engage in any act, transaction, practice, or course of business that operates or would operate as a fraud or deceit upon a purchaser or seller.

History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16G .0316 MERGER OF CONVERTED SAVINGS BANKS

History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Repealed Eff. November 1, 2017.

SECTION .0400 - NOTICE OF FILING: PUBLIC STATEMENTS: CONFIDENTIALITY

04 NCAC 16G .0401 INFORMATION PRIOR TO APPROVAL OF PLAN OF CONVERSION
04 NCAC 16G .0402 NOTICE OF FILING
04 NCAC 16G .0403 CONFIDENTIAL INFORMATION

History Note: *Authority G.S. 54B-33;*
 Eff. January 1, 1980;
 Transferred With Change From 4 NCAC 9I Eff. August 31, 1981;
 Amended Eff. October 1, 1982;
 Repealed Eff. January 1, 1986.

04 NCAC 16G .0404 INFORMATION PRIOR TO APPROVAL OF PLAN OF CONVERSION

History Note: *Authority G.S. 54C-33; 54C-53;*
 Eff. February 15, 1992;
 Repealed Eff. November 1, 2017.

04 NCAC 16G .0405 NOTICE OF FILING

(a) Upon determination that an application for conversion is complete, the Commissioner of Banks shall advise the applicant to publish a notice of the filing of the application. The applicant shall publish the notice in a newspaper having general circulation in the community that the home office of the applicant is located, and the notice shall state the following:

**NOTICE OF FILING OF AN APPLICATION FOR CONVERSION
TO A STOCK SAVINGS BANK**

Notice is hereby given that, pursuant to General Statute 54C-33,

(fill in name of applicant)

has filed an application with the Office of the Commissioner of Banks for approval to convert to the stock form of organization. Copies of the application have been delivered to the North Carolina Office of the Commissioner of Banks, 316 W. Edenton Street, Raleigh, North Carolina 27603.

Written comments, including objections to the plan of conversion and materials supporting the objections, from any member of the applicant or aggrieved person shall be considered by the Commissioner of Banks if filed within 14 business days after the date of this notice. Comments or objections shall be sent to the Commissioner of Banks at the address noted above. A copy of the plan may be obtained from the applicant.

(b) After publication of the notice prescribed in Paragraph (a) of this Rule, the applicant shall file a copy of the notice with the Commissioner of Banks. The applicant shall also file a copy of an affidavit of publication from each newspaper publisher.

History Note: *Authority G.S. 54B-33; 54C-33; 54C-53;*
 Eff. February 15, 1992;
 Amended Eff. November 1, 2017;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November
 22, 2018.

SECTION .0500 - SOLICITATION OF PROXIES: PROXY STATEMENT

- 04 NCAC 16G .0501 SOLICITATIONS TO WHICH RULES APPLY**
- 04 NCAC 16G .0502 USE OF PROXY SOLICITING MATERIAL TO BE AUTHORIZED**
- 04 NCAC 16G .0503 INFORMATION TO BE FURNISHED ASSOCIATION MEMBERS**
- 04 NCAC 16G .0504 REQUIREMENTS AS TO PROXY**
- 04 NCAC 16G .0505 MATERIAL REQUIRED TO BE FILED**
- 04 NCAC 16G .0506 MAILING COMMUNICATIONS FOR ASSOCIATIONS MEMBERS**
- 04 NCAC 16G .0507 FALSE OR MISLEADING STATEMENTS**

04 NCAC 16G .0508 PROHIBITION OF CERTAIN SOLICITATIONS

History Note: Authority G.S. 54B-33;
Eff. January 1, 1980;
Transferred From With Change 4 NCAC 9I Eff. August 31, 1981;
Amended Eff. September 1, 1983;
Repealed Eff. January 1, 1986.

04 NCAC 16G .0509 SOLICITATIONS TO WHICH RULES APPLY

This Section applies to every solicitation of a proxy from a member of a savings institution for the meeting that a plan of conversion will be voted upon, except the following:

- (1) any solicitation made otherwise than on behalf of the management of the savings institution where the total number of persons solicited is not more than 50; or
- (2) any solicitation through the medium of a newspaper advertisement that informs members, following approval of the plan of conversion, of a source from which they may obtain copies of a proxy statement, form of proxy, or any other solicitation material and shall contain no more than:
 - (a) name the savings institution;
 - (b) state the reason for the advertisement;
 - (c) identify the proposal or proposals to be acted upon by members; and
 - (d) urge members to vote at the meeting.

History Note: Authority G.S. 54B-33; 54C-33; 54C-53;
Eff. February 15, 1992;
Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16G .0510 USE OF PROXY SOLICITING MATERIAL TO BE AUTHORIZED

Proxy solicitation material shall not be furnished to members or distributed until the material has been authorized, in writing by the Commissioner of Banks. Proxy solicitation material authorized for use by the Commissioner of Banks shall be mailed to the members within 10 days of authorization or within 10 days of the date that the material is declared effective by the Securities and Exchange Commission, if applicable, whichever is later. The Commissioner of Banks may approve in writing to extend the date upon a showing that adherence to the 10-day rule would cause a hardship upon the savings institution and that the delay would not be disadvantageous to any interested party.

History Note: Authority G.S. 54B-33; 54C-33; 54C-53;
Eff. February 15, 1992;
Amended Eff. November 1, 2017; April 15, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16G .0511 INFORMATION TO BE FURNISHED TO MEMBERS

No solicitation shall be made unless each person solicited is furnished, or has previously been furnished, a written proxy statement that has been authorized by the Commissioner of Banks.

History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16G .0512 REQUIREMENTS AS TO PROXY

- (a) The form of proxy shall:
- (1) indicate in bold face type whether the proxy is solicited on behalf of management;
 - (2) provide blank spaces for dating and signing the proxy;
 - (3) identify each matter or group of related matters intended to be acted upon;

- (4) be labeled "Revocable Proxy" in bold face type;
 - (5) describe any charter or state law restricting or conditioning voting by proxy;
 - (6) contain an acknowledgement by the person giving the proxy that the person has received a proxy statement prior to signing the form of proxy;
 - (7) contain the date, time, and place of meeting, if practicable;
 - (8) provide, by a box or otherwise, a means whereby the person solicited is afforded an opportunity to specify by ballot a choice between approval or disapproval of each matter intended to be acted upon; and
 - (9) indicate in bold face type how the proxy shall be voted on each matter if no choice is specified.
- (b) No proxy obtained pursuant to the conversion shall confer authority to vote at any meeting other than the meeting, or any adjournment thereof, to vote on the plan of conversion. A proxy may be deemed to confer authority to vote with respect to matters incident to the conduct of the meeting. If the plan of conversion is considered at an annual meeting, existing proxies may be voted with respect to matters not related to the plan of conversion.
- (c) The proxy statement or form of proxy shall provide that the votes represented by the proxy will be voted. Where the person solicited specifies by means of a ballot provided pursuant to Subparagraph (a)(8) of this Rule a choice with respect to any matter to be acted upon, the votes shall be voted in accordance with the specifications. If no choice is specified, the votes shall be cast as indicated in bold face type on the form of proxy.

*History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.*

04 NCAC 16G .0513 MATERIAL REQUIRED TO BE FILED

- (a) An applicant shall file a preliminary copy of the proxy materials to be used by the applicant as a part of the application for conversion filed with the Commissioner of Banks.
- (b) A copy of the proxy statement, a copy of the form of proxy, and all other solicitation material in the form that the material is furnished to members shall be filed with or mailed for filing to the Commissioner of Banks not later than the date the material is first sent or given to members. All materials filed pursuant to this Paragraph shall be accompanied by a statement of the date that copies of the materials are to be released to members.
- (c) All preliminary copies of material filed pursuant to Paragraph (a) of this Rule shall be marked on the cover page "Preliminary Copy." Preliminary copies shall be for the information of the Commissioner of Banks only.
- (d) Unless requested by the Commissioner of Banks, copies of replies to inquiries from members and copies of communications that do no more than request that forms of proxy solicited be signed and returned shall not be filed pursuant to this Rule.
- (e) Where any proxy statement, form of proxy, or other material filed pursuant to this Rule is amended or revised, a copy of the amended or revised material filed with the Commissioner of Banks shall be marked to indicate all changes effected subsequent to the previous filing, prior to use of the amended or revised material.

*History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Amended Eff. November 1, 2017; April 15, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.*

04 NCAC 16G .0514 MAILING COMMUNICATIONS FOR MEMBERS

*History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Repealed Eff. November 1, 2017.*

04 NCAC 16G .0515 FALSE OR MISLEADING STATEMENTS

- (a) Any solicitation of a proxy for the meeting to vote on the plan of conversion by the applicant, its management, or any other person shall not contain written or oral statements, including misleading statements by intentional

omission or by misstatement, that when made is false or misleading with respect to any material fact of the conversion.

(b) The fact that a proxy statement, form of proxy, or other solicitation material has been filed with or examined by the Commissioner of Banks and authorized for use shall not be a finding by the Commissioner of Banks that the material is accurate or complete, not false or misleading, or that the Commissioner of Banks has passed upon the merits of or approved any proposal contained therein. No representation to the contrary shall be made by any person.

(c) If a solicitation by management or the applicant violates any provision of this Rule, the Commissioner of Banks may require remedial measures, including:

- (1) correction of any such violation by means of a retraction and new solicitation;
- (2) rescheduling of the meeting for a vote on the plan of conversion; or
- (3) any other actions that are appropriate under the circumstances in order to ensure a fair vote.

History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16G .0516 PROHIBITION OF CERTAIN SOLICITATIONS

No person soliciting a proxy from a member for the meeting to vote on the plan of conversion shall solicit:

- (1) any undated or post-dated proxy;
- (2) any proxy that provides that it shall be deemed to be dated as of any date subsequent to the date that it is signed by the member;
- (3) any proxy that is not revocable at will by the member giving it; or
- (4) any proxy that is part of any other document or instrument, such as an account card.

History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

SECTION .0600 - VOTE BY MEMBERS

- 04 NCAC 16G .0601 VOTE AT SPECIAL MEETING**
- 04 NCAC 16G .0602 DETERMINING MEMBERS ELIGIBLE TO VOTE**
- 04 NCAC 16G .0603 NOTICE TO MEMBERS**
- 04 NCAC 16G .0604 REQUIRED VOTE**

History Note: Authority G.S. 54B-33;
Eff. January 1, 1980;
Transferred From 4 NCAC 9I Eff. August 31, 1981;
Amended Eff. September 1, 1983;
Repealed Eff. January 1, 1986.

04 NCAC 16G .0605 NOTICE TO ELIGIBLE AND SUPPLEMENTAL ACCOUNT HOLDERS

History Note: Authority G.S. 54B-33;
Eff. October 1, 1982;
Repealed Eff. January 1, 1986.

- 04 NCAC 16G .0606 VOTE AT MEMBERS MEETING**
- 04 NCAC 16G .0607 NOTICE TO MEMBERS**
- 04 NCAC 16G .0608 ELECTIVE NOTICE TO NON-VOTING ACCOUNT HOLDERS**

History Note: Authority G.S. 54C-33; 54C-53;

Eff. February 15, 1992;
Repealed Eff. November 1, 2017.

SECTION .0700 - PRICING AND SALE OF SECURITIES

04 NCAC 16G .0701	GENERAL
04 NCAC 16G .0702	DISTRIBUTION OF OFFERING MATERIALS
04 NCAC 16G .0703	ESTIMATED PRICE INFORMATION: PROXY STATEMENTS
04 NCAC 16G .0704	PROHIBITED REPRESENTATIONS
04 NCAC 16G .0705	UNDERWRITING EXPENSES
04 NCAC 16G .0706	PRICING MATERIALS
04 NCAC 16G .0707	ORDER FORMS FOR PURCHASE OF CAPITAL STOCK
04 NCAC 16G .0708	WITHDRAWAL FROM CERTIFICATE ACCOUNTS
04 NCAC 16G .0709	PERIOD FOR COMPLETION OF SALE

History Note: Authority G.S. 54B-33;
Eff. January 1, 1980;
Transferred With Change From 4 NCAC 9I Eff. August 31, 1981;
Amended Eff. September 1, 1983; October 1, 1982;
Repealed Eff. January 1, 1986.

04 NCAC 16G .0710	INTEREST/SUBSCRIPTION/COMMUNITY PURCHASE ORDERS
04 NCAC 16G .0711	EXTENSIONS OF TIME TO COMPLETE OFFERINGS

History Note: Authority G.S. 54B-33;
Eff. October 1, 1982;
Amended Eff. September 1, 1983;
Repealed Eff. January 1, 1986.

04 NCAC 16G .0712 GENERAL

No offer to sell securities of an applicant pursuant to a plan of conversion may be made until the Commissioner of Banks has approved the plan of conversion and authorized the use of the proxy statement. No sale of securities may be made except by means of a final offering circular that meets the requirements of this Section and that has been approved by the Commissioner of Banks. This Rule shall not apply to preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are to be in privity of contract with the applicant.

History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16G .0713 DISTRIBUTION OF OFFERING MATERIALS

Any preliminary offering circular that has been filed with the Commissioner of Banks may be distributed in connection with the offering at the same time as or after the proxy statement is mailed to members. No final offering circular shall be distributed until it has been approved by the Commissioner of Banks. The approval of the final offering circular by the Commissioner of Banks shall not extend beyond the maximum time period specified for the completion of the sale of all the capital stock, pursuant to Rule .0720 of this Section, or beyond the period of time the Commissioner of Banks shall establish upon a subsequent declaration of effectiveness in the event of the granting of an extension of time pursuant to Rule .0722 of this Section.

History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Amended Eff. November 1, 2017;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16G .0714 ESTIMATED PRICE INFORMATION: PROXY STATEMENTS

*History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Repealed Eff. November 1, 2017.*

04 NCAC 16G .0715 PROHIBITED REPRESENTATIONS

No representations shall be made in any manner that the price information has been approved by the Commissioner of Banks, that the shares of capital stock sold pursuant to the plan of conversion have been approved or disapproved by the Commissioner of Banks, or that the Commissioner of Banks has opined on the accuracy or adequacy of any offering circular covering the shares.

*History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.*

04 NCAC 16G .0716 UNDERWRITING EXPENSES

*History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Repealed Eff. November 1, 2017.*

04 NCAC 16G .0717 PRICING MATERIALS

(a) In considering the pricing information, the Commissioner of Banks shall apply the following guidelines:

- (1) the materials shall be prepared by persons independent of the applicant who are experienced and expert in the area of corporate appraisal;
- (2) the materials shall contain a brief summary of data that is sufficient to support the conclusions reached; and
- (3) to the extent that the appraisal is based on the capitalization of the pro forma income of the converted savings bank, the materials shall indicate the basis for determination of the income to be derived from the proceeds of the sale of stock and demonstrate the appropriateness of the earnings multiple used, including assumptions made as to future earnings growth. To the extent that the appraisal is based on a comparison of the capital stock of the applicant with the outstanding capital stock of existing stock savings banks, the existing stock savings banks shall be comparable to the applicant in terms of such factors as size, market area, competitive conditions, profit history, and expected future earnings.

(b) In addition to the information required in Paragraph (a) of this Rule, the applicant shall submit information demonstrating to the Commissioner of Banks the independence and expertise of any person preparing materials under this Rule. A person shall not be considered as lacking independence for the reason that the person will participate in effecting a sale of capital stock under the plan of conversion or will receive a fee from the applicant for services rendered in connection with the appraisal.

*History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.*

04 NCAC 16G .0718 ORDER FORMS FOR PURCHASE OF CAPITAL STOCK

(a) After the Commissioner of Banks has authorized the offering circular for the subscription offering, the applicant shall distribute order forms for the purchase of shares of capital stock in the offering to all eligible account holders,

supplemental eligible account holders (if applicable), voting members, and other persons who may subscribe for shares of capital stock under the plan of conversion. If the applicant has adopted in its plan of conversion the optional provisions set forth in Items (4), (5) or (10) of Rule .0312 of this Subchapter, the applicant shall deliver order forms to the eligible account holders, supplemental eligible account holders, and voting members who requested receipt of the offering circular.

(b) Each order form shall be accompanied or preceded by the final offering circular for the subscription offering or the public offering and a set of detailed instructions explaining how to complete the order forms. The offering circular and order form instructions may be included in the same document.

(c) The maximum subscription price stated on each order form shall be the amount to be paid when the order form is returned. The maximum subscription price and the actual subscription price shall be within the subscription price range stated in the offering circular approved by the Commissioner of Banks. If either the maximum subscription price or the actual subscription price is not within the approved subscription price range, the applicant shall obtain the written consent of the Commissioner of Banks for the change in price. Based on the magnitude of the difference the Commissioner of Banks may condition the amended approval by requiring a resolicitation of proxies, order forms, or both. If the actual public offering price is less than the maximum subscription price stated on the order form, the actual subscription price shall be correspondingly reduced and the difference shall be refunded to those who have paid the maximum subscription price unless the subscribers affirmatively elect to have the difference applied to the purchase of additional shares of capital stock.

(d) Each order form shall be prepared so as to indicate to the person receiving it, in as simple, clear, and intelligible a manner as possible, the actions that are required or available to him or her with respect to the form and the capital stock offered for purchase thereby. Each order form shall:

- (1) indicate the maximum number of shares that may be purchased pursuant to the subscription offering;
- (2) indicate the period of time that the subscription rights must be exercised, which shall not be less than 20 days and no more than 45 days following the date of the mailing of the subscription offering order form;
- (3) state the maximum subscription price per share of capital stock;
- (4) indicate any requirements as to the minimum number of shares of capital stock that must be purchased;
- (5) provide a designated blank space or spaces for indicating the number of shares of capital stock that the eligible account holder or other person wishes to purchase;
- (6) indicate the manner of required payment and, if the payment may be made by withdrawal from a certificate of deposit, indicate that the withdrawal may be made without penalty. If payment is to be made by a withdrawal from a deposit account or certificate of deposit, a box to check shall be provided;
- (7) provide designated blank spaces for dating and signing the order form;
- (8) contain an acknowledgement by the account holder or other person signing the order form that the person has received the final offering circular for the subscription offering prior to signing the order form; and
- (9) indicate the consequences of failing to complete and return the order form, including a statement to which the subscription rights are nontransferable and shall become void at the end of the subscription period. The order form may, and the set of instructions shall, indicate the place or places that the order forms are to be returned and when the order forms shall be deemed to be received.

(e) The order form may provide that it shall not be modified without the applicant's consent after the order form has been returned to the applicant. If payment is to be made by withdrawal from a deposit account or certificate of deposit, the applicant may cause the withdrawal to be made upon receipt of the order form. If the withdrawal is made at any time prior to the closing date of the public offering, the applicant shall pay interest to the account holder on the amount withdrawn as if the amount had remained in the account from which it was withdrawn until the closing date.

*History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.*

04 NCAC 16G .0719 WITHDRAWAL FROM CERTIFICATE ACCOUNTS

History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Repealed Eff. November 1, 2017.

04 NCAC 16G .0720 PERIOD FOR COMPLETION OF SALE

The applicant shall complete all sales of stock within 45 days after the last day of the subscription period, unless the time period is extended as provided in Rule .0722 of this Section.

History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16G .0721 INTEREST: SUBSCRIPTION/COMMUNITY PURCHASE ORDERS

History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Repealed Eff. April 15, 1993.

04 NCAC 16G .0722 EXTENSIONS OF TIME TO COMPLETE OFFERINGS

(a) The applicant may request and the Commissioner of Banks may grant one or more extensions of time required to complete the sale of all shares of capital stock, pursuant to Rule .0720 of this Section, provided that no single extension of time shall exceed 90 days. No extension shall be granted unless the savings institution shows that the circumstances leading to the request for an extension were beyond the control of the savings institution and that the investors who purchased stock during the initial subscription period will not be disadvantaged by the extension.

(b) Upon granting an extension of time pursuant to Paragraph (a) of this Rule, the applicant shall distribute to each subscriber in the offering and, if applicable, to each person who has ordered stock in the direct community offering a post-effective amendment to the offering circular filed under an amendment to the application for conversion and approved by the Commissioner of Banks pursuant to Paragraph (d) of this Rule. The applicant shall notify each subscriber and each ordering person of the extension of time and of the right of each subscriber and each ordering person to increase, decrease, or rescind their subscription at any time prior to 20 days before the end of the extension period or at any time prior to the date of the commencement of the public offering or the direct community offering, provided that the public offering or the direct community offering is not completed within 20 days after its commencement. All instructions from subscribers and ordering persons to increase, decrease, or rescind their subscriptions or orders received during the 20-day offering period shall be honored by the applicant.

(c) For the purpose of this Rule, the public offering shall be deemed to commence upon the filing with the Commissioner of Banks of the preliminary offering circular for the public offering. The direct community offering shall be deemed to commence upon approval by the Commissioner of Banks of the final offering circular.

(d) After the expiration of the subscription rights, the converting savings institution shall file with and have approved by the Commissioner of Banks a post-effective amendment to the offering circular upon the occurrence of any event, circumstance, or change of circumstance that would be material to the investment decision of a subscriber or, if applicable, a person who has ordered capital stock in the direct community offering.

(e) Any post-effective amendment to an offering circular shall be distributed by the converting savings institution within two business days after approval. It shall be distributed to each subscriber, and, if applicable, each person who has ordered stock in the direct community offering. The converting savings institution shall grant to each subscriber and ordering person the right to increase, decrease, or rescind their subscription or order for a period which shall be the greater of 10 days from the date of the mailing of the post-effective amendment or the period remaining in an extension of time granted by the Commissioner of Banks pursuant to the provisions of Paragraph (b) of this Rule.

History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;

*Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.*

SECTION .0800 - PROCEDURAL REQUIREMENTS

04 NCAC 16G .0801	FILING AN APPLICATION FOR CONVERSION
04 NCAC 16G .0802	IMPROPERLY EXECUTED OR MATERIALLY INCOMPLETE FILINGS
04 NCAC 16G .0803	ADDITIONAL FILING REQUIREMENTS
04 NCAC 16G .0804	NUMBER OF COPIES: PLACE OF FILING: BINDING: SIGNATURES
04 NCAC 16G .0805	REQUIREMENTS AS TO PAPER AND PRINTING
04 NCAC 16G .0806	METHOD OF PREPARATION
04 NCAC 16G .0807	INTERPRETATION OF REQUIREMENTS
04 NCAC 16G .0808	ADDITIONAL INFORMATION
04 NCAC 16G .0809	INFORMATION UNKNOWN OR NOT REASONABLY AVAILABLE
04 NCAC 16G .0810	INCORPORATION OF CERTAIN INFORMATION BY REFERENCE
04 NCAC 16G .0811	SUMMARIES OR OUTLINES OF DOCUMENTS
04 NCAC 16G .0812	LEGIBILITY OF MATERIALS
04 NCAC 16G .0813	PRESENTATION OF INFORMATION
04 NCAC 16G .0814	APPLICATION OF AMENDMENTS TO REGULATIONS AND FORMS
04 NCAC 16G .0815	CONSENTS OF EXPERTS
04 NCAC 16G .0816	CONSENTS OF PERSONS ABOUT TO BECOME DIRECTORS
04 NCAC 16G .0817	DATE OF FILING
04 NCAC 16G .0818	AMENDMENTS
04 NCAC 16G .0819	PRE-FILING CONFERENCES WITH APPLICANTS
04 NCAC 16G .0820	REVIEW OF THE COMMISSION ACTION
04 NCAC 16G .0821	POST-CONVERSION REPORTS

*History Note: Authority G.S. 54B-33;
Eff. January 1, 1980;
Transferred From 4 NCAC 91 Eff. August 31, 1981;
Amended Eff. September 1, 1983; October 1, 1982;
Repealed Eff. January 1, 1986.*

04 NCAC 16G .0822 IMPROPERLY EXECUTED OR MATERIALLY INCOMPLETE FILINGS

*History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Repealed Eff. November 1, 2017.*

04 NCAC 16G .0823 ADDITIONAL FILING REQUIREMENTS

An applicant whose plan of conversion has been approved by the Commissioner of Banks shall fulfill the following requirements:

- (1) After the meeting of members called to consider the plan of conversion, the applicant shall file with the Commissioner of Banks a certified copy of each resolution adopted at the meeting relating to the plan of conversion, together with the following information:
 - (a) the total number of votes eligible to be cast;
 - (b) the total number of votes represented in person or by proxy at the meeting;
 - (c) the total number of votes cast in favor of and against each matter; and
 - (d) the percentage of votes necessary to approve each matter.

The compilation of the votes cast at the meeting may be prepared by an independent public accountant or by an independent transfer agent.

- (2) After the meeting of members called to consider the plan of conversion, the applicant shall file with the Commissioner of Banks an opinion of counsel to the effect that:
 - (a) the meeting of members was duly held in accordance with all requirements of applicable State and federal law and regulation;

- (b) all requirements of State and federal law applicable to the conversion have been complied with; and
- (c) if the savings bank has used proxies executed prior to the proxy solicitation required by Rule .0511 of this Subchapter, the authority conferred by such proxies includes authority to vote on this plan of conversion.

History Note: Authority G.S. 54C-33; 54C-53;
 Eff. February 15, 1992;
 Amended Eff. November 1, 2017;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

- 04 NCAC 16G .0824 APPLICATION SIGNATURES**
- 04 NCAC 16G .0825 REQUIREMENTS AS TO PAPER AND PRINTING**
- 04 NCAC 16G .0826 METHOD OF PREPARATION**
- 04 NCAC 16G .0827 INFORMATION UNKNOWN OR NOT REASONABLY AVAILABLE**
- 04 NCAC 16G .0828 INCORPORATION OF CERTAIN INFORMATION BY REFERENCE**
- 04 NCAC 16G .0829 PRESENTATION OF INFORMATION**

History Note: Authority G.S. 54C-33; 54C-53;
 Eff. February 15, 1992;
 Repealed Eff. November 1, 2017.

- 04 NCAC 16G .0830 CONSENT OF EXPERTS**
- 04 NCAC 16G .0831 CONSENT OF PERSONS ABOUT TO BECOME DIRECTORS**
- 04 NCAC 16G .0832 AMENDMENTS**
- 04 NCAC 16G .0833 POST-CONVERSION REPORTS**

History Note: Authority G.S. 54C-33; 54C-53;
 Eff. February 15, 1992;
 Repealed Eff. November 1, 2017.

SECTION .0900 - ACQUISITIONS OF SECURITIES OF CONVERTED ASSOCIATIONS

- 04 NCAC 16G .0901 DEFINITIONS**
- 04 NCAC 16G .0902 PROHIBITED TRANSFERS**
- 04 NCAC 16G .0903 PROHIBITION OF OFFERS AND CERTAIN ACQUISITIONS**
- 04 NCAC 16G .0904 PROHIBITION OF OFFERS TO ACQUIRE AND ACQUISITIONS OF STOCK**
- 04 NCAC 16G .0905 EXCEPTIONS**

History Note: Authority G.S. 54B-33;
 Eff. January 1, 1980;
 Transferred From 4 NCAC 9I Eff. August 31, 1981;
 Amended Eff. December 1, 1984; May 1, 1984; September 1, 1983;
 Repealed Eff. January 1, 1986.

- 04 NCAC 16G .0906 CRITERIA FOR DENIAL**
- 04 NCAC 16G .0907 OPTIONAL CHARTER PROVISION**

History Note: Authority G.S. 54B-33;
 Eff. September 1, 1983;
 Amended Eff. December 1, 1984; May 1, 1984;
 Repealed Eff. January 1, 1986.

- 04 NCAC 16G .0908 DEFINITIONS**
- 04 NCAC 16G .0909 PROHIBITED TRANSFERS**

- 04 NCAC 16G .0910 PROHIBITION OF OFFERS AND CERTAIN ACQUISITIONS**
04 NCAC 16G .0911 EXCEPTIONS
04 NCAC 16G .0912 CRITERIA FOR DENIAL

*History Note: Authority G.S. 54C-33; 54C-53;
Eff. February 15, 1992;
Repealed Eff. November 1, 2017.*

SECTION .1000 - FORMS

- 04 NCAC 16G .1001 FACING SHEET**
04 NCAC 16G .1002 FORM AC: APPLICATION FORM
04 NCAC 16G .1003 FORM PS: PROXY STATEMENT
04 NCAC 16G .1004 FORM OC: OFFERING CIRCULAR FORM

*History Note: Authority G.S. 54B-33;
Eff. January 1, 1980;
Transferred From 4 NCAC 9I Eff. August 31, 1981;
Repealed Eff. September 1, 1983.*

SECTION .1100 - SALE-OF-CONTROL CONVERSIONS

- 04 NCAC 16G .1101 DEFINITIONS**
04 NCAC 16G .1102 SALE-OF-CONTROL CONVERSION OF AN ASSOCIATION
04 NCAC 16G .1103 ADDITIONAL REQUIREMENTS FOR SALE-OF-CONTROL CONVERSION
04 NCAC 16G .1104 ADDITIONAL NOTICE REQUIREMENTS
04 NCAC 16G .1105 RECORD DATE/NOTICE REQUIREMENTS
04 NCAC 16G .1106 COMPETING SALE-OF-CONTROL OFFERS
04 NCAC 16G .1107 MANAGEMENT'S PROXY/MAILING COMMUNICATIONS FOR PROPONENTS
04 NCAC 16G .1108 ADDITIONAL DISCLOSURE REQUIREMENTS

*History Note: Authority G.S. 54B-33;
Eff. September 1, 1983;
Repealed Eff. April 1, 1984.*

SECTION .1200 - CONVERSION: MERGERS: ACQUISITIONS

- 04 NCAC 16G .1201 CONVERSION IN CONNECTION WITH ACQUISITION OR MERGER**
04 NCAC 16G .1202 RIGHTS OF MEMBERS

*History Note: Authority G.S. 54B-33; 54B-55;
Eff. February 1, 1984;
Repealed Eff. January 1, 1986.*

- 04 NCAC 16G .1203 CONVERSION IN CONNECTION WITH ACQUISITION**
04 NCAC 16G .1204 CONVERSION IN CONNECTION WITH MERGER

*History Note: Authority G.S. 54C-33; 54C-53; 54C-195;
Eff. February 15, 1992;
Amended Eff. April 15, 1993;
Repealed Eff. November 1, 2017.*

SUBCHAPTER 16H - SUPERVISORY ACTIONS

04 NCAC 16H .0101 DEFINITIONS

As used in this Subchapter, the words and phrases defined by G.S. 54C-4 and the following definitions apply:

- (1) "Savings institution" shall mean all savings institutions converting, merging, or consolidating pursuant to G.S. 54B-44 or G.S. 54C-45 and this Subchapter.
- (2) "Consolidation" shall mean a supervisory acquisition pursuant to G.S. 54B-44 or G.S. 54C-45 and this Subchapter.
- (3) "Merger" shall mean a supervisory merger pursuant to G.S. 54B-44 or G.S. 54C-45 and this Subchapter.
- (4) "Plan of merger" or "plan of consolidation" shall mean a detailed outline of the terms, conditions, and procedure of combining one savings institution, by merger or consolidation, with another savings institution.
- (5) "Short form conversion" shall mean a supervisory conversion of a savings institution from mutual to stock form of ownership, pursuant to G.S. 54B-44 or G.S. 54C-45 and this Subchapter.
- (6) "Combination merger and conversion" shall mean a supervisory conversion of a savings institution from mutual to stock form of ownership combined with a supervisory merger, pursuant to G.S. 54B-44 or G.S. 54C-45 and this Subchapter.
- (7) "Plan of combination merger and conversion" shall mean a detailed outline of the terms, conditions, and procedures of the short form conversion of a savings institution from mutual to stock form of ownership and combining the savings institution, by merger, with another savings institution.

History Note: *Authority G.S. 54B-44; 54C-45;*
Eff. December 1, 1981;
Amended Eff. July 1, 1990; October 1, 1982;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16H .0102 GROUNDS

History Note: *Filed as a Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;*
Statutory Authority G.S. 54B-44; 54C-45;
Eff. December 1, 1981;
Amended Eff. November 1, 1985; October 1, 1982;
Repealed Eff. February 15, 1992.

04 NCAC 16H .0103 NOTICE TO SAVINGS INSTITUTION

The Commissioner of Banks shall give written notice to the Board of Directors of a savings institution when a finding is made pursuant to G.S. 54B-44 or G.S. 54C-45. The notice shall set forth the basis for the finding and shall authorize or require the board of directors to adopt a plan of conversion, a plan of merger or consolidation, a plan of combination merger and conversion, or based upon the interest of the depositors, the institution, and the general public, any other action specified by the Commissioner of Banks. The Commissioner of Banks may specify provisions that shall be included in the plan.

History Note: *Authority G.S. 54B-44; 54C-45;*
Eff. December 1, 1981;
Amended Eff. November 1, 1985; October 1, 1982;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16H .0104 ADOPTION OF PLAN

The board of directors shall adopt a plan of conversion, merger, consolidation, combination merger and conversion, or any other action as authorized or required by the Commissioner of Banks. A plan of conversion, merger, consolidation, combination merger and conversion, or any other action adopted pursuant to this Rule shall be submitted to the Commissioner of Banks for approval.

History Note: Authority G.S. 54B-44; 54C-45;
Eff. December 1, 1981;
Amended Eff. November 1, 2017; November 1, 1985; October 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16H .0105 APPROVAL BY COMMISSIONER OF BANKS

The savings institution shall submit to the Commissioner of Banks for review an executed copy of the savings institution's proposed articles of incorporation, articles of merger or consolidation, or evidence of other action. Upon finding that all requirements of the short form conversion, merger, consolidation, combination merger and conversion, or other action have been satisfied, the Commissioner of Banks shall certify to the Secretary of State that the certificate of incorporation, articles of merger or consolidation, or evidence of other action has been approved for filing in the Office of the Secretary of State.

History Note: Authority G.S. 54B-44; 54C-45;
Eff. December 1, 1981;
Amended Eff. November 1, 1985; October 1, 1982;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16H .0106 SHORT FORM MUTUAL TO STOCK CONVERSION
04 NCAC 16H .0107 LIQUIDATION ACCOUNT

History Note: Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Authority G.S. 54B-44; 54C-45;
Eff. December 1, 1981;
Amended Eff. February 15, 1992; July 1, 1990; November 1, 1985;
Repealed Eff. November 1, 2017.

04 NCAC 16H .0108 WAIVER

The Commissioner of Banks may waive or alter any requirements set forth in this Subchapter to promote the best interests of the public or the savings institution by assuring the safe and sound operation of the savings institution or when the application of any rule would have an unintended negative impact upon the public or a savings institution.

History Note: Authority G.S. 54B-44; 54C-45;
Eff. December 1, 1981;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

SUBCHAPTER 16I - ACQUISITION OF CONTROL

SECTION .0100 - SCOPE

04 NCAC 16I .0101 GENERAL
04 NCAC 16I .0102 DEFINITIONS AND OTHER TERMS

History Note: Authority G.S. 54B-55; 54B-261; 54B-262;
 Eff. December 1, 1981;
 Amended Eff. February 1, 1983;
 Repealed Eff. July 1, 1983.

SECTION .0200 - ACQUISITIONS

04 NCAC 16I .0201 PRIOR WRITTEN APPROVAL REQUIRED FOR ACQUISITIONS
04 NCAC 16I .0202 APPLICATION FEES
04 NCAC 16I .0203 REQUIRED ACQUISITION APPLICATIONS AND AMENDMENTS
04 NCAC 16I .0204 STANDARDS FOR APPROVAL OF ACQUISITION
04 NCAC 16I .0205 LIMITATIONS ON APPROVAL OF ACQUISITIONS
04 NCAC 16I .0206 LIMITATIONS ON OWNERSHIP OF CAPITAL STOCK
04 NCAC 16I .0207 CONFIDENTIAL INFORMATION

History Note: Authority G.S. 54B-55; 54B-63; 54B-261; 54B-262;
 Eff. December 1, 1981;
 Amended Eff. October 1, 1982; July 1, 1982;
 Repealed Eff. July 1, 1983.

SECTION .0300 - NOTICE OF FILING: HEARINGS AND REVIEW

04 NCAC 16I .0301 NOTICE OF FILING: HEARINGS
04 NCAC 16I .0302 REVIEW BY COMMISSION
04 NCAC 16I .0303 JUDICIAL REVIEW

History Note: Authority G.S. 54B-55; 54B-261; 54B-262;
 Eff. December 1, 1981;
 Amended Eff. October 1, 1983;
 Repealed Eff. July 1, 1983.

SECTION .0400 - SUPERVISION: INVESTMENTS

04 NCAC 16I .0401 SUPERVISION: EXAMINATION AND REGULATION BY ADMINISTRATOR
04 NCAC 16I .0402 ACTIVITIES AND INVESTMENTS OF HOLDING COMPANIES

History Note: Authority G.S. 54B-55; 54B-261; 54B-262;
 Eff. December 1, 1981;
 Amended Eff. July 1, 1982;
 Repealed Eff. July 1, 1983.

SECTION .0500 - REGISTRATION: REPORTS: FILINGS: BOOKS AND RECORDS

04 NCAC 16I .0501 REGISTRATION
04 NCAC 16I .0502 ANNUAL REPORTS
04 NCAC 16I .0503 FILING AND APPROVAL: AMENDMENTS TO ARTICLES AND BYLAWS
04 NCAC 16I .0504 REPORTS
04 NCAC 16I .0505 BOOKS AND RECORDS
04 NCAC 16I .0506 APPOINTMENT OF AGENT

04 NCAC 16I .0507 PLACE OF FILING: RECEIPT

History Note: Authority G.S. 54B-55; 54B-261; 54B-262;
Eff. December 1, 1981;
Repealed Eff. July 1, 1983.

SECTION .0600 - APPLICATIONS AND OTHER FILINGS

04 NCAC 16I .0601 REGISTRATION STATEMENT AND APPLICATIONS
04 NCAC 16I .0602 OTHER FILINGS

History Note: Authority G.S. 54B-55; 54B-261; 54B-262;
Eff. December 1, 1981;
Repealed Eff. July 1, 1983.

SECTION .0700 - GENERAL

04 NCAC 16I .0701 GENERAL

History Note: Authority G.S. 54B-55; 54B-261; 54B-262;
Eff. July 1, 1983;
Amended Eff. November 1, 1985;
Repealed Eff. July 1, 1990.

04 NCAC 16I .0702 DEFINITIONS AND OTHER TERMS

As used in this Subchapter, the words and phrases defined by G.S. 54C-4 and the following definitions apply:

- (1) "Acquisition" shall mean a transaction in which a person or holding company acquires control of a stock savings institution by means of an exchange of its capital stock for the capital stock of the stock savings institution or by means of a purchase of the capital stock of the stock savings institution.
- (2) "Applicant" shall mean a person or holding company that has filed with the Commissioner of Banks an application pursuant to this Subchapter.
- (3) "Holding Company" means any company that directly or indirectly controls a savings institution or controls any other company that is a holding company of a savings institution.
- (4) "Person" shall mean an individual or group acting in concert, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization similar company, or a syndicate.
- (5) "Plan of Reorganization" shall mean a plan duly adopted in accordance with the requirements of G.S. 54B-261 or 54C-195 and this Subchapter that sets out all relevant terms and conditions pertaining to a stock savings institution's reorganization of its ownership to provide for a holding company.
- (6) "Registrant" shall mean any holding company that has filed a registration statement with the Commissioner of Banks pursuant to this Subchapter.
- (7) "Tax Free Exchange" shall mean an exchange of stock that would result in no tax consequences to the holding company, the stock savings institution, and its stockholders under State or federal law.

History Note: Authority G.S. 54B-55; 54B-261; 54B-262; 54C-53; 54C-195; 54C-196;
Eff. July 1, 1983;
Amended Eff. July 1, 1990; November 1, 1985;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16I .0703 STANDARDS FOR APPROVAL OF ACQUISITION: DUTIES AND CONDUCT

A savings institution may be controlled by a person or a holding company. In evaluating an application for control, the Commissioner of Banks shall consider:

- (1) whether the person or holding company is qualified by character, experience, and financial responsibility to control the savings institution in a legal and responsible manner;
- (2) the applicant's financial and managerial resources;
- (3) the organizational structure and future prospects and plans of both the applicant and the savings institution; and
- (4) whether the business and activities of the applicant, or its officers and directors, or any other person controlling, controlled by, or associated with the applicant by having a common controller, would create a material deterioration of confidence in the safety, soundness, and financial integrity of the institution to be controlled.

History Note: Authority G.S. 53-227.1; 54B-43; 54B-55; 54B-261; 54B-262; 54C-53; 54C-195; 54C-196; Eff. July 1, 1983;
Amended Eff. July 1, 1990; November 1, 1985;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16I .0704 INVESTMENT ACTIVITIES OF HOLDING COMPANIES

History Note: Filed as a Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Authority G.S. 54B-55; 54B-261; 54B-262; 54C-53; 54C-195; 54C-196;
Eff. July 1, 1990;
Amended Eff. February 15, 1992;
Repealed Eff. November 1, 2017.

SECTION .0800 - ACQUISITIONS

04 NCAC 16I .0801 PRIOR WRITTEN APPROVAL REQUIRED

A person or holding company shall not acquire control of any savings institution without having filed with the Commissioner of Banks an application and without the written approval of the Commissioner of Banks after consideration of the application and any amendments. The application shall contain identifying information for the applicant and the information set forth in the Interagency Notice of Change in Bank Control. The Interagency Notice of Change in Bank Control is hereby incorporated by reference, including subsequent amendments or editions, and may be found free of charge as follows: <https://www.fdic.gov/formsdocuments/interag2.pdf>.

History Note: Authority G.S. 54B-55; 54B-261; 54B-262; 54C-53; 54C-195; 54C-196;
Eff. July 1, 1983;
Amended Eff. July 1, 1990;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16I .0802 APPLICATION FEES: FILINGS

An application may be obtained from the Office of the Commissioner of Banks at its mailing address specified in 04 NCAC 03A .0101. Applications shall be accompanied by an application fee in the amount prescribed by the fee schedule specified in 04 NCAC 03C .1601(a)(4). The fee shall be non-refundable.

History Note: Authority G.S. 54B-55; 54B-57; 54B-261; 54B-262; 54C-53; 54C-195; 54C-196;
Eff. July 1, 1983;

Amended Eff. November 1, 2017; July 1, 1990; August 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16I .0803 CONFIDENTIAL INFORMATION

An applicant that submits information may request that the information be confidential regarding the answer to any item or a part of an exhibit included in any application for filing pursuant to this Subchapter, by separately binding and labeling the information as "confidential" and a statement shall be submitted setting forth the grounds on which the information should be treated confidential pursuant to G.S. 54B-63, G.S. 54B-63.1. or G.S. 54C-60. Filings pursuant to this Subchapter shall be made available for inspection by the public, except for portions that are bound and labeled "confidential" and that the Commissioner of Banks determines to be confidential pursuant to the provisions of G.S. 54B-63, G.S. 54B-63.1, or G.S. 54C-60.

History Note: Authority G.S. 54B-55; 54B-63; 54B-63.1; 54B-261; 54B-262; 54C-53; 54C-60; 54C-195; 54C-196;
Eff. July 1, 1983;
Amended Eff. July 1, 1990;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

SECTION .0900 - REORGANIZING STOCK ASSOCIATION INTO HOLDING COMPANY

04 NCAC 16I .0901 REQUIRED APPLICATION

A stock savings institution may be controlled by a holding company by means of a plan of reorganization. An applicant shall file one executed copy of an application with the Commissioner of Banks. For the purposes of filing the application, the applicant shall be considered a holding company, even though it may not yet control a stock savings institution.

History Note: Authority G.S. 54B-55; 54B-261; 54B-262; 54C-53; 54C-195; 54C-196;
Eff. July 1, 1983;
Amended Eff. July 1, 1990;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16I .0902 ACQUISITION PROCEDURE

(a) Upon determining that an application is executed and is not incomplete, the Commissioner of Banks shall process the application. The application shall include a Plan of Reorganization. If the Plan of Reorganization is not approved, the Commissioner of Banks shall notify the applicant and state the reasons for its disapproval.

(b) If the Commissioner of Banks approves the Plan of Reorganization, the Commissioner shall notify the applicant. A regular or special meeting of the stockholders of the savings institution shall be called to approve reorganization of ownership of the savings institution to provide for ownership by a holding company after advance written notice to the stockholders of not less than 20 days specifying the time, place, and purpose for the meeting. Notice shall be published in at least one newspaper of general circulation in each county where the savings institution has an office. After publication of the notice, the applicant shall file a copy of the notice with the Commissioner of Banks. The applicant shall file the publisher's affidavits with the Commissioner of Banks to confirm the publication of notice.

(c) The results of the stockholder's meeting shall be confirmed to the Commissioner of Banks by filing attested minutes of the meeting. If the stockholders approve reorganization of ownership of the savings institution to provide for ownership by a holding company, the Commissioner of Banks shall enter a final order approving the reorganization.

(d) The Commissioner of Banks may waive or alter any requirements set forth in this Rule upon a finding that compliance would work an undue financial hardship on the applicant, would adversely affect the operation of the applicant, or would have an unintended negative impact upon the public or the applicant.

History Note: Authority G.S. 54B-55; 54B-261; 54B-262; 54C-53; 54C-195; 54C-196;
Eff. July 1, 1983;
Amended Eff. July 1, 1990;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16I .0903 INVESTMENT ACTIVITIES
04 NCAC 16I .0904 NOTICE OF FILING: HEARINGS

History Note: Authority G.S. 54B-54; 54B-55; 54B-261; 54B-262;
Eff. July 1, 1983;
Amended Eff. June 1, 1988; November 1, 1985; September 1, 1983;
Repealed Eff. July 1, 1990.

SECTION .1000 - ACQUISITIONS OF STOCK ASSOCIATIONS

04 NCAC 16I .1001 REQUIRED APPLICATION

A person seeking to acquire control of any stock savings institution shall file with the Commissioner of Banks one executed copy of an application.

History Note: Authority G.S. 54B-55; 54B-261; 54B-262; 54C-53; 54C-195; 54C-196;
Eff. July 1, 1983;
Amended Eff. July 1, 1990;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16I .1002 FOREIGN APPLICANTS

If the applicant is a corporation for profit or having capital stock, but not created under any general or special act of the State of North Carolina, then that corporation shall procure a Certificate of Authority from the Secretary of State under the provisions of Article 15 of Chapter 55 of the North Carolina General Statutes before it shall be approved by the Commissioner of Banks to obtain control of a stock savings institution. The applicant shall file a copy of the Certificate of Authority from the Secretary of State as evidence of compliance.

History Note: Authority G.S. 54B-55; 54C-53; 54C-195; 54C-196;
Eff. July 1, 1983;
Amended Eff. September 1, 1983;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16I .1003 ACQUISITION PROCEDURE

(a) Upon determining that an application is executed and complete, the Commissioner of Banks shall process the application. If the application is not approved, the Commissioner of Banks shall notify the applicant and state the reasons for its disapproval.

(b) If the Commissioner of Banks approves the application, the applicant shall be notified. The notice shall include any requirements or stipulations the Commissioner of Banks may require prior to the applicant's execution of the acquisition.

History Note: Authority G.S. 54B-55; 54B-261; 54B-262; 54C-53; 54C-195; 54C-196;
Eff. July 1, 1983;
Amended Eff. July 1, 1990; June 1, 1988;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

SECTION .1100 - REGISTRATION: SUPERVISION: REPORTS: FILINGS: BOOKS AND RECORDS

04 NCAC 16I .1101 REGISTRATION

History Note: Filed as a Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Authority G.S. 54B-55; 54B-261; 54B-262; 54C-53; 54C-195; 54C-196;
Eff. July 1, 1983;
Amended Eff. February 15, 1992; July 1, 1990; November 1, 1985;
Repealed Eff. November 1, 2017.

04 NCAC 16I .1102 SUPERVISION

(a) Officers, directors, and employees of holding companies have the same duties and responsibilities, express or implied, as officers, directors, and employees of savings institutions.

(b) Each holding company shall be subject to examination by the Office of the Commissioner of Banks. The cost of examination shall be paid by the holding company.

History Note: Authority G.S. 54B-55; 54B-57; 54B-261; 54B-262; 54C-53; 54C-195; 54C-196;
Eff. July 1, 1983;
Amended Eff. July 1, 1990; November 1, 1985;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16I .1103 ANNUAL REPORTS

Each registrant shall file an annual report with the Commissioner of Banks.

History Note: Authority G.S. 54B-55; 54B-261; 54B-262; 54C-53; 54C-195; 54C-196;
Eff. July 1, 1983;
Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16I .1104 FILING AND APPROVAL: AMENDMENTS TO ARTICLES AND BYLAWS

(a) Prior to any filing with the Secretary of State of the State of North Carolina, a holding company shall file with the Commissioner of Banks copies of any proposed amendment to its articles of incorporation. The Commissioner of Banks must give his or her approval to the content and form of the proposed amendments.

(b) Before any amendments to the bylaws of a holding company shall become effective, a copy of the amendments shall be filed with and approved by the Commissioner of Banks.

History Note: Authority G.S. 54B-55; 54B-261; 54B-262; 54C-53; 54C-195; 54C-196;

Eff. July 1, 1983;
Amended Eff. July 1, 1990;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16I .1105 REPORTS

Each registrant shall file simultaneously with the Commissioner of Banks copies of any filings, documents, statements, or reports required to be filed with the federal regulatory authority.

History Note: Authority G.S. 54B-55; 54B-261; 54B-262; 54C-53; 54C-195; 54C-196;
Eff. July 1, 1983;
Amended Eff. July 1, 1990;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16I .1106 BOOKS AND RECORDS

History Note: Filed as a Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Authority G.S. 54B-55; 54B-261; 54B-262; 54C-53; 54C-195; 54C-196;
Eff. July 1, 1983;
Amended Eff. February 15, 1992; July 1, 1990;
Repealed Eff. November 1, 2017.

SECTION .1200 - CONVERSION OF MUTUAL ASSOCIATION INTO HOLDING COMPANY

04 NCAC 16I .1201 REQUIRED ACQUISITION APPLICATION

04 NCAC 16I .1202 CONVERSION PROCEDURE

04 NCAC 16I .1203 PLAN OF CONVERSION REQUIREMENTS

History Note: Filed as a Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Authority G.S. 54B-55; 54B-261; 54B-262; 54C-53; 54C-195; 54C-196;
Eff. July 1, 1990;
Amended Eff. February 15, 1992;
Repealed Eff. November 1, 2017.

SECTION .1300 - HOLDING COMPANY ACQUISITIONS

04 NCAC 16I .1301 REQUIRED APPLICATION

A person seeking to acquire control of any holding company shall file with the Commissioner of Banks one executed copy of an application.

History Note: Authority G.S. 54B-55; 54B-262; 54C-53; 54C-195;
Eff. July 1, 1990;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16I .1302 ACQUISITION PROCEDURE

(a) Upon determining that an application is executed and complete, the Commissioner of Banks shall process the application. If the application is not approved, the Commissioner of Banks shall notify the applicant and state the reasons for its disapproval.

(b) If the Commissioner of Banks approves the application, the applicant shall be notified. The notice shall include any requirements or stipulations the Commissioner of Banks may require prior to the applicant's execution of the acquisition.

(c) The Commissioner of Banks may waive or alter any requirements set forth in this Rule upon a finding that compliance would work as undue financial hardship on the applicant, would adversely affect the safe and sound operation of the applicant, or would have an unintended negative impact upon the public or the applicant.

*History Note: Authority G.S. 54B-55; 54B-262; 54C-53; 54C-195;
Eff. July 1, 1990;
Amended Eff. November 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.*

SUBCHAPTER 16J - MERGER OF STATE AND FEDERAL ASSOCIATIONS

04 NCAC 16J .0101 MERGER OF A STATE INSTITUTION INTO A FEDERAL INSTITUTION

04 NCAC 16J .0102 MERGER OF A FEDERAL INSTITUTION INTO A STATE INSTITUTION

04 NCAC 16J .0103 WAIVER

*History Note: Filed as a Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Filed as a Temporary Rule Eff. July 30, 1982, for a period of 120 days to expire on November 26, 1982;
Authority G.S. 54B-39; 54C-39; 54C-53;
Eff. October 1, 1982;
Amended Eff. February 15, 1992; July 1, 1990;
Repealed Eff. November 1, 2017.*

SUBCHAPTER 16K - TRUST POWERS

04 NCAC 16K .0101 DEFINITIONS

For purposes of this Section:

- (1) "Account" shall mean the trust, estate, or other fiduciary relationship that has been established with a savings institution.
- (2) "Custodian Under the Uniform Transfers to Minors Act" shall mean an account established pursuant to the North Carolina Uniform Transfers to Minors Act codified in Chapter 33A of the North Carolina General Statutes.
- (3) "Fiduciary" shall mean a savings institution undertaking to act alone or jointly with others for the benefit of another in all matters connected with its undertaking and includes acting as trustee, executor, administrator, guardian, receiver, managing agent, registrar of stocks and bonds, escrow, transfer or paying agent, trustee of employee pension, welfare and profit sharing trusts, and any other similar capacity.
- (4) "Fiduciary Records" shall mean all matters that are written, transcribed, recorded, received, or otherwise coming into the possession of a savings institution and are necessary to preserve information concerning the actions and events relevant to the fiduciary activities of the savings institution.

- (5) "Guardian" shall mean the conservator or committee of the estate of an infant, an incompetent individual, or a competent individual over whose estate a court has taken jurisdiction other than under bankruptcy or insolvency laws.
- (6) "Investment Authority" shall mean the responsibility conferred by action of law or a provision of an appropriate governing instrument to make, select, or change investments, review investment decisions made by others, or to provide investment advice or counsel to others.
- (7) "Managing Agent" shall mean the fiduciary relationship assumed by a savings institution upon the creation of an account that names the savings institution as agent and confers investment discretion upon the savings institution.
- (8) "Trust Department" shall mean that group or groups of officers and employees of a savings institution who perform fiduciary services by the savings institution.
- (9) "Trust Powers" shall mean the power to act in any fiduciary capacity authorized under this Section.

History Note: Authority G.S. 54B-55; 54B-77; 54C-53; 54C-146; Eff. November 1, 1982; Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992; Amended Eff. November 1, 2017; February 15, 1992; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16K .0102 APPLICATIONS

(a) A savings institution desiring to exercise fiduciary powers shall submit to the Commissioner of Banks a letter indicating which trust services it wishes to offer, together with the information required under Paragraph (b) of this Rule.

(b) The Commissioner of Banks, in determining whether to authorize the exercise of trust powers, shall consider the following:

- (1) the financial condition of the savings institution, provided that in no event shall trust powers be granted to a savings institution if its financial condition is such that the savings institution does not meet the requirements of the federal regulatory authority;
- (2) the general character and ability of the management of the savings institution;
- (3) the nature of the supervision to be given to the fiduciary activities, including the qualifications, experience, and character of the proposed officer or officers of the trust department; and
- (4) whether the savings institution has available legal counsel to advise and review fiduciary matters when necessary.

(c) Approval by the Commissioner of Banks of an application under this Section authorizes the applicant to exercise only those trust powers specified in the approval.

History Note: Authority G.S. 54B-55; 54B-77; 54C-53; 54C-146; Eff. November 1, 1982; Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992; Amended Eff. November 1, 2017; February 15, 1992; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16K .0103 CONSOLIDATION OR MERGER OF TWO OR MORE SAVINGS INSTITUTIONS

When two or more savings institutions consolidate or merge, and any one of the savings institutions prior to the consolidation or merger, has a valid approval from the Commissioner of Banks to exercise trust powers, the rights existing under the approval shall pass to the resulting savings institution.

History Note: Authority G.S. 54B-55; 54B-77; 54C-53; 54C-146; Eff. November 1, 1982;

Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16K .0104 ADMINISTRATION OF TRUST POWERS

- (a) The board of directors shall be responsible for the exercise of fiduciary powers by the savings institution. All matters pertinent including the determination of policies, the investment and disposition of property held in a fiduciary capacity, and the direction and review of the actions of all officers, employees, and committees utilized by the savings institution in the exercise of its fiduciary powers, shall be the responsibility of the board of directors. In discharging this responsibility, the board of directors may assign, by action duly entered in the minutes, the administration of the savings institution's trust powers to directors, officers, employees, or committees.
- (b) No fiduciary account shall be accepted without the prior approval of the board of directors, officers, or committees to whom the board of directors may have assigned the performance of that responsibility. A written record shall be made of the acceptances and of the relinquishment or closing out of all fiduciary accounts. Upon the acceptance of an account for which the savings institution has investment responsibilities, a review of the assets shall be made. The board of directors shall also ensure that at least once during every calendar year and within 15 months of the last review, all the assets in each fiduciary account over which the savings institution has investment responsibilities shall be reviewed to determine the advisability of retaining or disposing of such assets. The board of directors shall act to ensure that all investments have been made in accordance with the terms and purposes of the governing instrument.
- (c) The trust department may use personnel and facilities of other departments of the savings institution, and other departments of the savings institution may use personnel and facilities of the trust department only to the extent not prohibited by North Carolina law.
- (d) Every savings institution exercising trust powers shall adopt written policies and procedures to ensure that the federal securities laws are complied with in connection with any decision or recommendation to purchase or sell any security. The policies and procedures, shall ensure that the savings institution's trust department shall not use material inside information in connection with any decision or recommendation to purchase or sell any security.
- (e) Every savings institution exercising fiduciary powers shall designate, employ, or retain legal counsel who shall be available to review fiduciary matters and to advise the savings institution and its trust department.
- (f) The directors, officers, and employees of a savings institution engaged in the operation of a trust department shall acquire additional bond coverage as the Commissioner of Banks may require.
- (g) The savings institution shall comply with rules applicable to State Trust Entities in 04 NCAC 03D and the FDIC Statement of Principles on Trust Department Management, which is hereby incorporated by reference and shall include any later amendments and editions of the referenced material available free of charge, at the time of publication, at: <https://www.fdic.gov/news/news/inactivefinancial/1998/fi198100b.html>.

History Note: Authority G.S. 54B-55; 54B-77; 54C-53; 54C-146;
Eff. November 1, 1982;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16K .0105 BOOKS AND ACCOUNTS

- (a) Every savings institution exercising trust powers shall keep its fiduciary records separate and distinct from other records of the savings institution. The fiduciary records shall contain full information relative to each account. The record retention schedule set forth in 04 NCAC 03D .0303 shall apply to the fiduciary records of a savings institution exercising trust powers.
- (b) Every savings institution shall keep a record of all pending litigation to which it is a party in connection with its exercise of trust powers.

History Note: Authority G.S. 54B-55; 54B-77; 54C-53; 54C-146;
Eff. November 1, 1982;

Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16K .0106 AUDIT OF TRUST DEPARTMENT

At least once during each calendar year, the savings institution's trust department shall be audited by independent auditors. A copy of the report of the audit shall be filed with the Commissioner of Banks.

History Note: Authority G.S. 54B-55; 54B-77; 54C-53; 54C-146;
Eff. November 1, 1982;
Amended Eff. July 1, 1990;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16K .0107 FUNDS AWAITING INVESTMENT OR DISTRIBUTION

(a) Unless prohibited by the instrument creating the trust, funds held in trust by a savings institution, including managing agency accounts, awaiting investment or distribution may be deposited in other departments of the savings institution. The savings institution shall first set aside under control of the trust department collateral security of a kind and in an amount as specified in G.S. 53-163.1(b) for funds held in trust by a bank, except that no collateral shall be required to the extent that the funds are insured by an agency of the United States government.

(b) Any funds held by a savings institution as fiduciary awaiting investment or distribution and deposited in other departments of the savings institution shall be placed in an interest-bearing account.

History Note: Authority G.S. 54B-55; 54B-77; 54C-53; 54C-146;
Eff. November 1, 1982;
Amended Eff. July 1, 1990;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16K .0108 INVESTMENT OF FUNDS HELD AS FIDUCIARY

(a) Funds held by a savings institution in a fiduciary capacity shall be invested in accordance with the instrument establishing the fiduciary relationship. When the instrument does not specify the character or class of investments to be made and does not vest investment discretion in the matter in the savings institution, its directors, or its officers, funds held pursuant to the instrument shall be invested in accordance with Article 7 of Chapter 32 of the North Carolina General Statutes.

(b) A savings institution appointed as a fiduciary by a court may invest funds of the account in any investment permitted to be made by fiduciaries by Article 7 of Chapter 32 of the North Carolina General Statutes unless the appointing court limits the investment authority of the fiduciary. If the investment authority of the fiduciary is limited by the court, the savings institution shall make all investments of funds in these accounts consistent with the terms of the order of that court. The orders in either case shall be preserved with the fiduciary records of the savings institution.

History Note: Authority G.S. 54B-55; 54B-77; 54C-53; 54C-146;
Eff. November 1, 1982;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16K .0109 SELF-DEALING

(a) Unless authorized by the instrument creating the relationship or by court order, property held by a savings institution as fiduciary shall not be sold or transferred, by loan or otherwise, to the savings institution or its affiliates; or the directors, executive officers, or employees of either of them; or to individuals with whom there exists a connection or organizations in which there exists an interest as might affect the exercise of the best judgment of the savings institution in selling or transferring the property, except:

- (1) in cases in which the savings institution has been advised by its counsel in writing that it has incurred as fiduciary a contingent or potential liability, and it desires to relieve itself from the liability, a sale or transfer may be made with the approval of the board of directors and the Commissioner of Banks, provided that, in all such cases, the savings institution, upon the consummation of the sale or transfer, shall make reimbursement in cash at no loss to the account;
- (2) as provided G.S. 53-163.5, et seq. governing collective investment; or
- (3) when required by the Commissioner of Banks.

(b) If the purchase or retention of stock or obligations of the savings institution is authorized by the instrument creating the relationship or by court order, it may exercise rights to purchase its own stock, or securities convertible into its own stock, when offered pro rata to stockholders. When the exercise of rights or receipt of a stock dividend results in fractional share holdings, additional fractional shares may be purchased to complement the fractional shares so acquired. In elections of directors, a savings institution's share held by the savings institution as sole trustee, whether in its own name as trustee or in the name of its nominee, shall not be voted by the registered owner unless, under the terms of the trust, the manner in which such shares shall be voted may be determined by a donor or beneficiary of the trust and the donor or beneficiary directs how the shares will be voted.

*History Note: Authority G.S. 54B-55; 54B-77; 54C-53; 54C-146;
Eff. November 1, 1982;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.*

04 NCAC 16K .0110 CUSTODY OF INVESTMENTS

(a) The investments of each fiduciary account shall be kept separate from the assets of the savings institution and shall be placed in the joint custody or control of not fewer than two of the officers or employees of the savings institution designated for that purpose either by the board of directors of the savings institution or by one or more officers designated by the board of directors of the savings institution. All officers and employees designated as custodians of trust investments shall be bonded. To the extent permitted by G.S. 53-159.1, a savings institution may permit the investments of a fiduciary account to be deposited elsewhere.

(b) The investment of each fiduciary account shall be either:

- (1) kept separate from those of all other accounts, except as provided in Rule .0112 of this Section; or
- (2) identified as the property of the relevant account.

*History Note: Authority G.S. 54B-55; 54B-77; 54C-53; 54C-146;
Eff. November 1, 1982;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.*

04 NCAC 16K .0111 COMPENSATION OF SAVINGS INSTITUTION

(a) If the amount of the compensation for acting in a fiduciary capacity is not provided for in the instrument creating the fiduciary relationship, set forth in Chapter 32 of the General Statutes, or otherwise agreed to by the parties, a savings institution acting in such capacity may charge or deduct a reasonable compensation for its services. When

the savings institution is acting in a fiduciary capacity under appointment by a court, it shall receive compensation as may be allowed or approved by the court.

(b) No savings institution shall, permit any of its officers or employees, while serving as such, to act as co-fiduciary with the savings institution in the administration of any account undertaken by it.

(c) No savings institution shall permit an officer or employee engaged in the operation of its trust department to accept a bequest or gift of trust assets unless the bequest or gift is directed or made by a relative of the officer or employee or is approved by the Board of Directors of the savings institution.

History Note: Authority G.S. 54B-55; 54B-77; 54C-53; 54C-146;
Eff. November 1, 1982;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16K .0112 COLLECTIVE INVESTMENT

(a) Funds held as fiduciary may be held in:

- (1) a common trust fund maintained by the savings institution for the collective investment and reinvestment of moneys contributed thereto by the savings institution in its capacity as trustee, executor, administrator, guardian, or custodian under the North Carolina Uniform Transfers to Minors Act; or
- (2) a fund consisting solely of assets of retirement, pension, profit sharing, stock bonus, or other trusts that are exempt from Federal income taxation pursuant to the Internal Revenue Code.

(b) Collective investments of funds or other property by a savings institution under Paragraph (a) of this Rule shall be administered in accordance with Comptroller of the Currency Regulation 9.18, 12 C.F.R. 9.18, which is hereby incorporated by reference and shall include any later amendments and editions of the referenced material. This information is available at the U.S. Printing Office website at http://www.ecfr.gov/cgi-bin/text-idx?SID=10db9d6d7ecd62689d768e1b0c9a2199&node=se12.1.9_118&rgn=div8. Any documents filed with the Comptroller of the Currency pursuant to 12 C.F.R 9.18 shall also be filed with the Commissioner of Banks.

History Note: Authority G.S. 54B-55; 54B-77; 54C-53; 54C-146;
Eff. November 1, 1982;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16K .0113 SURRENDER OF TRUST POWERS

04 NCAC 16K .0114 EFF. OF APPT.: CONSERVATOR/RECEIVER: VOLUNTARY DISSOLUTION

04 NCAC 16K .0115 REVOCATION OF TRUST POWERS

04 NCAC 16K .0116 APPLICABILITY OF GENERAL LAWS REGARDING TRUST OPERATIONS

History Note: Filed as a Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Authority G.S. 54B-55; 54B-77; 54C-53; 54C-146;
Eff. November 1, 1982;
Amended Eff. February 15, 1992;
Repealed Eff. November 1, 2017.

04 NCAC 16K .0117 REPORTS AND FEES

Savings institutions engaging in trust operations shall make reports regarding those operations as the Commissioner of Banks requires to evaluate the integrity of the operations. In addition to any other fees, savings institutions acting as fiduciaries shall pay an examination fee for examination of its fiduciary activities, in an amount to be determined by the Commissioner of Banks in accordance with G.S. 54B-57 or 54C-55.

History Note: Authority G.S. 54B-55; 54B-57; 54B-77; 54C-53; 54C-55; 54C-146;
Eff. November 1, 1982;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

SUBCHAPTER 16L - VOLUNTARY DISSOLUTION

04 NCAC 16L .0101 PLAN OF LIQUIDATION

History Note: Authority G.S. 54B-42; 54B-55; 54C-42; 54C-53;
Eff. October 1, 1987;
Repealed Eff. November 1, 2017.

04 NCAC 16L .0102 DISPOSITION OF ASSETS

(a) After approval of the plan of liquidation by the Commissioner of Banks, the savings institution shall, except in case of dissolution under G.S. 54B-40 or G.S. 54C-41, mail a notice of the dissolution to each known creditor of the savings institution and to the Secretary of Revenue, and the notice shall be published once a week for four successive weeks in a newspaper published in the county where the savings institution has its principal office, however, if there be no newspaper published in the county, then in some newspaper of general circulation in that county. After publication of the notice, the applicant shall file a copy of the notice with the Commissioner of Banks.

(b) After approval of the plan of liquidation by the Commissioner of Banks, the savings institution shall:

- (1) collect its assets;
- (2) convey and dispose of its properties that are not to be distributed in kind to its members or shareholders;
- (3) pay, satisfy, and discharge its liabilities and obligations; and
- (4) do all other acts required to liquidate its business and affairs, including the collection of unpaid subscriptions necessary to equalize the agreed payments by subscribers of its shares.

(c) After paying or providing for the payment of all its obligations, the savings institution shall distribute the remainder of its assets, either in cash or in kind, among its members or shareholders according to their respective rights and interests.

History Note: Authority G.S. 54B-42; 54B-55; 54C-42; 54C-53;
Eff. October 1, 1987;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16L .0103 RESCISSION AND CANCELLATION OF DISSOLUTION

(a) At any time after the filing of the plan of liquidation and prior to the filing of a certificate of dissolution, a voluntary dissolution may be rescinded by filing a statement of revocation of dissolution. The contents of the statement and the proceedings taken to revoke a dissolution shall conform with the adaptations as are appropriate to revocation pursuant to either G.S. 54B-41 or G.S. 54C-42.

(b) Upon the filing of the statement of rescission of dissolution, the rescission of the voluntary dissolution proceedings shall become effective and the savings institution shall be authorized to carry on business.

History Note: Authority G.S. 54B-42; 54B-55; 54C-42; 54C-53;
Eff. October 1, 1987;

Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16L .0104 WAIVER

The Commissioner of Banks may waive or alter any requirements set forth in this Section to promote the best interests of the public or the savings institution by assuring the safe and sound operation of the savings institution, or when the application of any rule would have an unintended negative impact upon the public or a savings institution.

History Note: Authority G.S. 54B-42; 54B-55; 54C-42; 54C-53;
Eff. October 1, 1987;
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;
Amended Eff. November 1, 2017; February 15, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.