



# FINANCIAL INSTITUTIONS TODAY

*News and topics of interest to financial institutions regulated by the Department of Banking and Finance*

Monthly Bulletin #9

September 2012

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## Georgia Department of Banking and Finance Adopts Final Rules

On September 18, 2012, the Department adopted Final Rules. **They were filed with the Secretary of State on September 18, 2012 and will be effective 20 days following or October 8, 2012.** These rules were proposed and distributed on August 14, 2012.

We received one written comment letter. There were no changes to the Proposed Rules. The Department believes these Final Rules encourage safety and soundness, safe and fair mortgage lending, and conform to the law.

View or download the Final Rules from our website at:

<http://dbf.georgia.gov/documents/2012-dbf-final-rulemaking-9-18-2012>

The rule changes noted below may be of particular interest to depository financial institutions:

- ◇ Changes were made to the following rules to eliminate references to the Report of Publisher (Form 8040/36) requirement which is outdated and no longer needed:
  - 80-1-6-.01 Reports to Department;
  - 80-1-6-.02(2)(a)(i) Reports to Shareholders. Amended; and,
  - 80-1-11-.01(a) Public Access to Records.
- ◇ The following rule was considered unnecessary and potentially inconsistent with Generally Accepted Accounting Principles (GAAP) and was deleted in its entirety:
  - 80-1-10-.06 Depreciation and Amortization of Fixed Asset Investments. Amended.
- ◇ Conflicting language was deleted from the following rule to clarify that "per loan" fees are due on residential property only, as defined by statute:
  - 80-5-1-.04(a) Levy, Collection, Remittance and Refunds of Georgia Residential Mortgage Act Per Loan Fee.
- ◇ Clarification was made to the following rule regarding loan note retention requirements. Specifically, credit files are to be retained for 5 years after payout on loans of \$5,000 or more and on all loans secured by real estate. All others for the life of the loan:
  - 80-10-1-.01(5)(j) Minimum Records Retention Periods.

## Revised Authorization Form to Retain Real Estate (Form 19-24)

The year 2007 was a defining year for Other Real Estate in the Georgia banking industry. The economy took its toll on many borrowers, and financial institutions began to foreclose on properties with greater frequency than in years past. Now it is 2012, and the Department has received an increase in the requests for holding Other Real Estate beyond five years to remain in compliance with the requirements of the State of Georgia. While many of our financial institutions have had assets move to Other Real Estate in the past, most have not experienced those properties remaining on the books beyond even one year, much less five years. Additionally, institutions that have converted from a national charter may not be aware of the laws and regulations governing these properties.

The Board and management should review Section 7-1-263 of the Official Code of Georgia Annotated (for banks) and Section 7-1-650(9) of the Official Code of Georgia Annotated (for credit unions) that define Other Real Estate and also, in part, outline requirements for valuation, periodic Board review and approval, and prior regulatory approval by the five year mark. This law is further interpreted by Department of Banking and Finance Rule 80-1-10.-09, which should also be reviewed. Additionally, accounting guidance for these transactions is generally provided by FAS-15 "Accounting for Debtors and Creditors for Troubled Debt Restructurings" and FAS-66 "Accounting for Sales of Real Estate." Management and the Board are reminded that there are differences between reporting Other Real Estate in accordance with Generally Accepted Accounting Principles and the quarterly Call Reports, each of which must be adhered to as appropriate. Additionally, management is attesting to the accuracy of the Call Reports with each quarterly submission, so the balances in the Other Real Estate account should reflect appropriate values as required by FDIC Rule 304.3.

The Department's website provides [Form 19-24](#), which is designed to assist institutions in their requests to hold Other Real Estate. **This [form](#) has been recently revised to streamline the process and should be used for such requests.**

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## Federal Banking Regulatory Agencies Release a Regulatory Capital Estimation Tool to Assist in Assessing the Potential Effects of Recently Proposed Regulatory Capital Rules

On September 24, 2012, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency announced the availability of a regulatory capital estimation tool to help community banking organizations and other interested parties evaluate recently published regulatory capital proposals.

According to the joint press release issued by the federal banking regulatory agencies, the tool is intended to help institutions estimate the potential effects on their capital ratios of the agencies' Basel III Notice of Proposed Rulemaking (NPR) and Standardized Approach NPR. The joint press release further clarified that the tool should not be relied on as an indicator of an institution's actual regulatory capital ratios and is not part of the NPRs nor of any final rule(s) that the agencies may adopt.

- The joint press release can be viewed in its entirety at: <http://www.fdic.gov/news/news/press/2012/pr12109.html>
- The estimation tools are available for banks, savings associations and their holding companies at: <http://www.fdic.gov/regulations/capital/calculator.html>
- The proposals are available in the Federal Register at:  
Basel III NPR: <http://www.gpo.gov/fdsys/pkg/FR-2012-08-30/pdf/2012-16757.pdf>  
Standardized Approach NPR: <http://www.gpo.gov/fdsys/pkg/FR-2012-08-30/pdf/2012-17010.pdf>

## Cyber Threat to the Financial Industry

In recent days there have been news reports regarding disruption to the banking operations at several of the nation's largest banking institutions, resulting in customers being unable to access the bank's website. Recent FBI reporting also indicates a new trend in which cyber criminals are using spam and phishing e-mails, keystroke loggers, and Remote Access Trojans to compromise financial institution networks and obtain employee login credentials.

These recent events draw attention to the broader threat posed by electronic crimes and the susceptibility of financial targets. Financial institutions should maintain a heightened level of awareness and ensure constant diligence in monitoring and quickly responding to any malicious events.



### Recommendations to Financial Institutions:

- ◆ Educate employees on the dangers associated with opening attachments or clicking on links in unsolicited e-mails
- ◆ Do not allow employees to access personal or work e-mails on the same computers used to initiate payments
- ◆ Do not allow employees to access the Internet freely on the same computers used to initiate payments
- ◆ Do not allow employees to access administrative accounts from home computers or laptops connected to home networks
- ◆ Ensure employees do not leave USB tokens in computers used to connect to payment systems
- ◆ Review anti-malware defenses and ensure the use of reputation based content and website access filters
- ◆ Ensure that workstations utilize host-based Intrusion Prevention System (IPS) technology and/or application white-listing to prevent the execution of unauthorized programs
- ◆ Monitor employee logins that occur outside of normal business hours
- ◆ Consider implementing time-of-day login restrictions for the employee accounts with access to payment systems
- ◆ Restrict access to wire transfer limit settings
- ◆ Reduce employee wire limits in automated wire systems to require a second employee to approve larger wire transfers.

*(Continued on page 4)*



## HOLIDAY CLOSING

This is a reminder that the Department will be closed on  
Monday, October 8th for Columbus Day.

## Cyber Threat to the Financial Industry

(Continued from page 3)

- ◆ If wire transfer anomaly detection systems are used, consider changing “rules” to detect this type of attack and, if possible, create alerts to notify bank administrators if wire transfer limits are modified
- ◆ Secure and/or store manuals offline or restrict access to the training system manuals with further security, such as enhanced access controls and/or segregation from the payment systems themselves
- ◆ Monitor for spikes in website traffic that may indicate the beginning of a distributed denial of service (DDoS) attack and implement a plan to ensure that when potential DDoS activity is detected, the appropriate authorities handling wire transfers are notified so wire transfer requests will be more closely scrutinized
- ◆ Strongly consider implementing an “out-of-band”<sup>1</sup> authentication prior to allowing wire transfers to execute
- ◆ Limit systems from which credentials used for wire authorization can be utilized
- ◆ Review intrusion detection and incident response procedures and consider conducting a mock scenario testing exercise to ensure familiarity with the plan

The FBI encourages victims of cybercrime to contact their local FBI field office, <http://www.fbi.gov/contact/fo/fo.htm>, or file a complaint online at [www.IC3.gov](http://www.IC3.gov).

Financial institutions’ compliance or anti-money laundering team(s) should submit a Suspicious Activity Report (SAR) utilizing the [Account Takeover guidance](#) issued by the Financial Crimes Enforcement Network (FinCEN).

<sup>1</sup> *Out-of-band authentication means that a transaction that is initiated via one delivery channel (e.g., Internet) must be re-authenticated or verified via an independent delivery channel (e.g., telephone) in order for the transaction to be completed. The use of out-of-band authentication or verification, for administrative changes to online business accounts, can be an effective control to reduce fraudulent funds transfers.*

### OTHER REFERENCES:

- FFIEC IT Handbooks <http://ithandbook.ffiec.gov>
- Supplement to Authentication in an Internet Banking Environment [http://www.ffiec.gov/pdf/Auth-ITS-Final-6-22-11 \(FFIEC Formated\).pdf](http://www.ffiec.gov/pdf/Auth-ITS-Final-6-22-11%20(FFIEC%20Formatted).pdf)

## DBF Outreach AND UPCOMING SPEAKING ENGAGEMENTS

- ❖ Commissioner Braswell spoke at the Georgia Bankers Association's Bank Counsel Conference on **October 2nd** at the Ritz Carlton, Greensboro, GA.

## Action on Applications for the Month of September:

The following is a summary of official action taken on applications by State Financial Institutions under Chapter 7-1 of the Code of Georgia and petitions for Certificate of Incorporation of Financial Institutions and other matters of interest during the month of September 2012.

### **APPLICATIONS TO ESTABLISH A BRANCH OFFICE**

<b><u>FINANCIAL INSTITUTION</u></b>	<b><u>BRANCH OFFICE</u></b>	<b><u>APPROVAL</u></b>	<b><u>BEGIN BUSINESS</u></b>
Community & Southern Bank Atlanta	Brookhaven Branch Office Town Brookhaven 105 Town Boulevard, Suite A-110 Atlanta, GA 30319 DeKalb County	05-10-2012	09-04-2012
Community & Southern Bank Atlanta	Buford Branch Office 3350 State Road 20 Suite A100 Buford, GA 30519 Gwinnett County	09-19-2012	
Community & Southern Bank Atlanta	Sugar Hill In-Store Branch Office 6001 Cumming Highway Sugar Hill, GA 30518 Forsyth County	05-10-2012	08-01-2012
Morris Bank Dublin	Gray Branch Office 110 Highway 18 Connector Gray, GA 31032 Jones County	07-23-2012	09-10-2012
Ameris Bank Moultrie	Downtown Tallahassee Branch Office 150 South Monroe Street Suites 100 & 200 Tallahassee, FL 32301 Leon County	09-04-2012	

### **APPLICATIONS TO CHANGE LOCATION**

<b><u>FINANCIAL INSTITUTION</u></b>	<b><u>CHANGE LOCATION OF</u></b>	<b><u>APPROVAL</u></b>	<b><u>EFFECTIVE</u></b>
Fidelity Bank Norcross	From: Powers Ferry Branch Office 1642 Powers Ferry Road Marietta, GA 30067 Cobb County To: 2401 Windy Ridge Parkway Atlanta, GA 30339 Cobb County	07-11-2011	09-24-2012

### **NOTICE OF CHANGE IN NAME**

<b><u>PREVIOUS NAME</u></b>	<b><u>NEW NAME</u></b>	<b><u>APPROVAL</u></b>	<b><u>EFFECTIVE</u></b>
First Citizens Bank Glennville	S Bank	09-19-2012	09-19-2012

**APPLICATIONS FOR RESERVATION OF A NAME****PROPOSED NAME**

Foothills Community Bank

**COUNTY**

Dawson County

**APPLICANT**

Ms. Jeannie B. Osborne  
 Bryan Cave, LLP  
 1201 West Peachtree Street, NW  
 Atlanta, GA 30309-3488

**APPLICATIONS TO BECOME A BANK HOLDING COMPANY  
AND/OR TO ACQUIRE VOTING STOCK OF A FINANCIAL INSTITUTION****BANK HOLDING COMPANY**

SCBT Financial Corporation  
 Columbia, SC

**TO ACQUIRE**

The Savannah Bancorp, Inc.  
 Savannah, GA

**APPROVAL**

Pending

**FINANCIAL INSTITUTION MERGERS****FINANCIAL INSTITUTION  
(SURVIVOR)**

First Volunteer Bank  
 Chattanooga, TN

**MERGED INSTITUTION**

Gateway Bank & Trust  
 Ringgold, GA

**APPROVAL**

07-30-2012

**EFFECTIVE**

09-17-2012

SCBT  
 Columbia, SC

Bryan Bank & Trust  
 Richmond Hill, GA

Pending

**NOTIFICATION OF APPROVAL OF APPLICATION  
TO SERVE A RESIDENTIAL GROUP COMMON BOND****CREDIT UNION**

Georgia United Credit Union  
 Duluth

**RESIDENTIAL GROUP COMMON BOND**

Rockdale County, GA

**APPROVAL**

09-28-2012

**CHECK CASHER LICENSES ISSUED****CITY**

McDonough  
 Dalton  
 Dalton  
 Atlanta  
 Thomasville  
 Duluth  
 Tunnel Hill  
 Stone Mountain  
 Charleston  
 Brooks  
 College Park

**APPLICANT NAME**

\* 42 BP, Inc.  
 \* Baltazar, Inc.  
 Check Into Cash of Georgia, LLC  
 Fulton Bottle Shop, Inc.  
 Hope Financial Services LLC  
 \* Manakamana Sai, Inc.  
 National Title Pawn of Tunnel Hill, Inc.  
 PQV, LLC  
 Piggly Wiggly Retail Stores, Inc.  
 RBC-5, Inc.  
 We In Control, Inc.

**TRADE NAME**

Magana's Liquor  
 Check Into Cash  
 Flag Package Store  
 Kash Check N Title Pawn  
 Chevron Food Mart  
 National Title Pawn  
 C & D Package  
 Piggly Wiggly  
 Huckaby's  
 Check Cashing of Georgia

\* =Registered (O.C.G.A. 7-1-700 et al)

**GEORGIA  
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The Department is the state agency that regulates and examines banks, credit unions, and trust companies chartered by the State of Georgia. The Department also has regulatory and/or licensing authority over mortgage brokers/processors, lenders and loan originators, money service businesses, international banking organizations, and bank holding companies conducting business in Georgia.

Our **Mission** is to promote safe, sound, competitive financial services in Georgia through innovative, responsive regulation and supervision.

Our **Vision** is to be the best financial services industry regulator in the country – Progressive. Proactive. Service-Oriented.

**We're on the Web!**

**Visit our website at:  
[dbf.georgia.gov](http://dbf.georgia.gov)**

*Our Motto is: "Safeguarding Georgia's Financial Services"*

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