

MAINE BUREAU OF FINANCIAL INSTITUTIONS  
SUPERINTENDENT'S  
NOTICE TO INTERESTED PARTIES

In January 2002, the Bureau of Financial Institutions promulgated Chapter 141 (Regulation 41). That rule set forth the assessment which must be paid by nondepository trust companies, uninsured banks and merchant banks. That rule also defined fiduciary assets under management, custody or care upon which the assessment is based. Public Law 2003, c.322 amended the statute governing assessments paid by nondepository trust companies, uninsured banks, and merchant banks to the Bureau of Financial Institutions and changed the frequency of assessment payment from annually to quarterly. Public Law 2003, c.322 did not change the minimum assessment rate or the type of assets upon which an assessment is based, nor did it provide for a statutory transition for payment of assessments from the annual to quarterly frequency. This regulation was last promulgated in 2004 to provide for the transition from annual to quarterly assessments paid to the Bureau of Financial Institutions by nondepository trust companies, uninsured banks, and merchant banks. The rule's anticipated effective date is January 1, 2009. It is amended to delete dated assessments that had been, or will be, paid by nondepository trust companies, uninsured banks, and merchant banks until December 31, 2008, and to establish the quarterly assessments paid by nondepository trust companies, uninsured banks, and merchant banks beginning with the assessment for the calendar quarter ending March 31, 2009. It is a routine technical rule as defined in Title 5, chapter 375, subchapter 2-A.

Notice of this proposed Rule is being published by the Secretary of State. Interested parties may submit written comments or requests for a hearing to the Bureau of Financial Institutions, 36 State House Station, Augusta, Maine 04333-0036 by October 17, 2008. Electronic comments or requests for a hearing may be submitted by accessing the Internet Home Page of the Bureau of Financial Institutions at <http://www.maine.gov/financialinstitutions>.

A copy of the proposed rule is attached.

/s/ Lloyd P. LaFountain III  
Superintendent of Financial Institutions  
Gardiner, Maine  
September 17, 2008

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION  
029 BUREAU OF FINANCIAL INSTITUTIONS  
CHAPTER 141: ASSESSMENTS - NONDEPOSITORY TRUST COMPANIES,  
UNINSURED BANKS, AND MERCHANT BANKS (REG. 41)

**SUMMARY**

In January 2002, the Bureau of Financial Institutions promulgated Regulation 41 setting forth the assessment which must be paid by nondepository trust companies, uninsured banks and merchant banks. The Regulation also defined fiduciary assets under management, custody or care upon which the assessment is based. This Regulation was last promulgated in 2004 to provide for the transition from annual to quarterly assessments. The Regulation is being amended to replace dated assessment that had been, or will be, paid by nondepository trust companies, uninsured banks, and merchant banks until December 31, 2008 and to establish the quarterly assessment required beginning with the calendar quarter ending March 31, 2009. Its anticipated effective date is January 1, 2009. It is a routine technical rule as defined in 5 M.R.S.A. § 8071(2)(A).

**I. AUTHORITY**

Title 9-B MRSA §214(2-B) authorizes the Superintendent of the Bureau of Financial Institutions to define by rule fiduciary assets under management, custody or care and to set the rate of assessment.

Title 9-B MRSA §214(2-C) requires an uninsured bank or merchant bank that predominately engages in the business of a nondepository trust company to pay an assessment at the same rate as charged to a nondepository trust company. An uninsured bank or merchant bank that does not predominately engage in the business of a nondepository trust company must pay a quarterly assessment as prescribed in Title 9-B MRSA §214(2).

Title 9-B MRSA §215 authorizes the Superintendent to promulgate rules relating to the supervision of financial institutions or their subsidiaries.

**II. PURPOSE**

This amendment deletes dated assessments that had been, or will be, paid by nondepository trust companies, uninsured banks, and merchant banks until December 31, 2008 and establishes the quarterly assessments paid by those institutions beginning with the assessment for the calendar quarter ending March 31, 2009.

### **III. DEFINITIONS**

For purposes of this regulation, the following terms have the following meanings:

- A. "Assets subject to assessment" means the monthly total of fiduciary assets under management, custody, or care averaged for the three months in that calendar quarter.
- B. "Calendar quarter" means a period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31.
- C. "Fiduciary assets under management, custody or care" means those items reported as Managed Assets, Non-Managed Assets and Custody and Safekeeping Account Assets on the institution's Report of Fiduciary and Related Services (currently FFIEC Schedule RC-T).
- D. "Financial institution" has the same meaning as Title 9-B MRSA §131(17).
- E. "Merchant bank" means a financial institution that is organized under the provisions of Title 9-B MRSA Chapter 122.
- F. "Nondepository trust company" means a financial institution that is organized under the provisions of Title 9-B MRSA Chapter 121.
- G. "Predominately engaged in the business of a nondepository trust company" means that the sum of fiduciary assets under management, custody or care held by an uninsured bank or merchant bank, as reported on its quarterly Report of Fiduciary and Related Services (currently FFIEC Schedule RC-T), is greater than the total assets of the uninsured bank or merchant bank as reported on its quarterly Balance Sheet filed with the Bureau of Financial Institutions.
- H. "Uninsured bank" means a financial institution that is organized under the provisions of Title 9-B MRSA Chapter 123.

### **IV. GENERAL PROVISIONS**

- A. Beginning with the assessment for the calendar quarter ending March 31, 2009 and quarterly thereafter, each nondepository trust company, uninsured bank and merchant bank shall pay an assessment to the Bureau of Financial Institutions as follows:
  - 1. Each nondepository trust company shall pay an assessment which shall be the greater of (a) \$500 or (b) 2.5¢ for every \$10,000 of the assets subject to assessment.
  - 2. Each uninsured bank and merchant bank that predominately engages in the business of a nondepository trust company shall pay an assessment which shall be the greater of (a) \$500 or (b) 2.5¢ for every \$10,000 of the assets subject to assessment.

3. Each uninsured bank and merchant bank that does not predominately engage in the business of a nondepository trust company shall pay an assessment calculated in accordance with Title 9-B MRSA §214(2)(A) and any rules promulgated thereunder.
- B. Beginning with the assessment for the calendar quarter ending March 31, 2010 and quarterly thereafter, each nondepository trust company, uninsured bank and merchant bank shall pay an assessment to the Bureau of Financial Institutions as follows:
1. Each nondepository trust company shall pay an assessment which shall be the greater of (a) \$500 or (b) 3.0¢ for every \$10,000 of the assets subject to assessment.
  2. Each uninsured bank and merchant bank that predominately engages in the business of a nondepository trust company shall pay an assessment which shall be the greater of (a) \$500 or (b) 3.0¢ for every \$10,000 of the assets subject to assessment.
  3. Each uninsured bank and merchant bank that does not predominately engage in the business of a nondepository trust company shall pay an assessment calculated in accordance with Title 9-B MRSA §214(2)(A) and any rules promulgated thereunder.
- C. Each nondepository trust company, uninsured bank, and merchant bank shall file, in the manner required by the Bureau of Financial Institutions, a report that fully provides information in support of any assessment being paid.

STATUTORY AUTHORITY: 9-B MRSA §§ 214(2-B), 214(2-C) and 215