

**TITLE 12 TRADE, COMMERCE AND BANKING**  
**CHAPTER 15 FINANCIAL INSTITUTIONS - GENERAL**  
**PART 15 LINKED DEPOSIT PROGRAM**

**12.15.15.1 ISSUING AGENCY:** Financial Institutions Division of the Regulation and Licensing Department.  
[12.15.15.1 NMAC - N, 11/30/07]

**12.15.15.2 SCOPE:** Insured banks, (trust and) thrift institutions, and credit unions participating in and/or desiring to participate in the Linked Deposit Program.  
[12.15.15.2 NMAC - N, 11/30/07]

**12.15.15.3 STATUTORY AUTHORITY:** Section 6-10-24.2 NMSA 1978.  
[12.15.15.3 NMAC - N, 11/30/07]

**12.15.15.4 DURATION:** Permanent.  
[12.15.15.4 NMAC - N, 11/30/07]

**12.15.15.5 EFFECTIVE DATE:** November 30, 2007 unless a later date is cited at the end of a section.  
[12.15.15.5 NMAC - N, 11/30/07]

**12.15.15.6 OBJECTIVE:** The objective of this rule is to provide rules implementing Section 6-10-24.2 NMSA 1978, including eligibility criteria, application procedures, and verification criteria.  
[12.15.15.6 NMAC - N, 11/30/07]

**12.15.15.7 DEFINITIONS:**

A. "Depository institution" means any bank, [trust institution,] savings and loan association (thrift), or credit union whose deposits, including but not limited to deposits of public money, are insured by an agency of the United States.

B. "Linked deposit program" means a qualified depository institution's participation in the deposit program established pursuant to Section 6-10-24.2 NMSA 1978.

C. "Qualified depository institution" means a depository institution qualified pursuant to Section 6-10-15 NMSA 1978.

D. "Qualifying branch" means an office of a qualified depository institution that is regularly open five days a week (except for federal holidays), has a night deposit box, and provides banking services to residents of a financially at risk rural community.

E. "Financially at risk rural community" means a community in New Mexico with the following characteristics:

(1) no more than one depository institution within the community;

(2) a population not exceeding three thousand five hundred (3500); and either

(3) a declining population, as evidenced by a decrease in population as shown by the two most recent federal decennial censuses; or

(4) a median household income less than 80% of the state median household income.

F. "residents" of a financially at risk rural community include individuals living there.

G. "market rate" means the rate of return established by the state board of finance for deposits held by qualified depository institutions.

H. "state deposits" means public funds under the control of the state treasurer or the state treasurer's designee, and held by qualified depository institutions.

[12.15.15.7 NMAC - N, 11/30/07]

**12.15.15.8 ELIGIBILITY CRITERIA:** To participate in the linked deposit program a qualified depository institution must have a qualifying branch located in a financially at risk rural community.  
[12.15.15.8 NMAC - N, 11/30/07]

**12.15.15.9 APPLICATION PROCEDURES:** Qualified depository institutions desiring to participate in the linked deposit program must submit the following information to the director of the financial institutions division of the regulation and licensing department (the "director"):

- A. a letter from the depository institution requesting certification of eligibility to participate in the linked deposit program;
- B. an affidavit from an officer of the depository institution verifying the following information:
  - (1) that the depository institution is a qualified depository institution pursuant to Section 6-10-15 NMSA 1978;
  - (2) that the depository institution has a qualifying branch (an office that is regularly open five days a week [except for federal holidays], has a night deposit box, and provides banking services to residents of a financially at risk rural community);
  - (3) that the qualifying branch is located in a financially at risk rural community (as that term is used in Section 6-10-24.2 NMSA 1978); and (4) that the depository institution and the qualifying branch are meeting the banking service needs of the rural community where the qualifying branch is located;
- C. some sort of documentation reasonably acceptable to the director indicating:
  - (1) that the population of the financially at risk rural community does not exceed 3500 people,
  - (2) that the financially at risk rural community has either a declining population (as shown by the two most recent federal decennial censuses) or a median household income less than 80% of the state median household income;
  - (3) the address and phone number of the qualifying branch; and
  - (4) that the depository institution and the qualifying branch are meeting the banking service needs of the rural community where the qualifying branch is located; meeting the banking service needs of the financially at risk rural community may be shown by a summary statement listing the current number of deposit accounts at the depository institution held by residents of said rural community, the number of current loans to residents of said rural community, and a summary of other services provided to residents of the rural community by the depository institution.

[12.15.15.9 NMAC - N, 11/30/07]

**12.15.15.10 VERIFICATION CRITERIA:** Upon receipt of an application from a qualified depository institution the director shall promptly review the application and the documentation submitted therewith. The director may request additional information or clarification from an applicant. The director may, but shall not be required to, investigate any fact alleged in an application and/or obtain additional information from any source.

[12.15.15.10 NMAC - N, 11/30/07]

**12.15.15.11 CERTIFICATION TO STATE TREASURER:** Based upon the information provided by a qualified depository institution, and any additional information obtained by the director from any source, if the director reasonably believes that the qualified depository institution is eligible to participate in the linked deposit program the director shall promptly certify said eligibility to the state treasurer. Unless a qualified depository institution is decertified by the director, any such certification of eligibility shall remain effective without any need for recertification by the director.

[12.15.15.11 NMAC - N, 11/30/07]

**12.15.15.12 ANNUAL REPORTING BY QUALIFIED DEPOSITORY INSTITUTIONS:** Each qualified depository institution certified by the director as eligible to participate in the linked deposit program shall on an annual basis after certification of eligibility provide the director with the following information.

- A. An affidavit from an officer of the depository institution verifying the following information:
  - (1) that the depository institution is a qualified depository institution pursuant to Section 6-10-15 NMSA 1978;
  - (2) that the depository institution has a qualifying branch (an office that is regularly open five days a week [except for federal holidays], has a night deposit box, and provides banking services to residents of a financially at risk rural community);
  - (3) that the qualifying branch is located in a financially at risk rural community (as that term is used in Section 6-10-24.2 NMSA 1978); and
  - (4) that the depository institution and the qualifying branch are meeting the banking service needs of the rural community where the qualifying branch is located.
- B. Documentation reasonably acceptable to the director indicating:

- (1) that the population of the financially at risk rural community does not exceed 3500 people;
- (2) that the financially at risk rural community has either a declining population (as shown by the two most recent federal decennial censuses) or a median household income less than 80% of the state median household income;
- (3) the address and phone number of the qualifying branch; and
- (4) that the depository institution and the qualifying branch are meeting the banking service needs of the rural community where the qualifying branch is located.

[12.15.15.12 NMAC - N, 11/30/07]

**12.15.15.13 ANNUAL REVIEW BY DIRECTOR; AND DECERTIFICATION:** Upon receipt of annual reporting information from a qualified depository institution the director shall promptly review the information and the documentation submitted therewith. The director may request additional information or clarification. The director may, but shall not be required to, investigate any fact alleged and/or obtain additional information from any source. No further action is required if the director reasonably believes that the qualified depository institution is eligible to participate in the linked deposit program. However, if after written request by the director a qualified depository institution fails to provide the required annual reporting information, or if the director reasonably believes the depository institution is no longer eligible to participate in the linked deposit program, the director shall so notify the state treasurer and the depository institution of said decertification.

[12.15.15.13 NMAC - N, 11/30/07]

**HISTORY OF 12.15.15 NMAC:** [RESERVED]