

This rule was filed as 12 NMAC 16.2.2.

TITLE 12 TRADE, COMMERCE AND BANKING
CHAPTER 16 BANKING
PART 22 CAPITAL AND SURPLUS

12.16.22.1 ISSUING AGENCY: Financial Institutions Division of the Regulation and Licensing Department, P.O. Box 25101, Santa Fe, New Mexico 87504
[6/15/98; Recompiled 10/15/01]

12.16.22.2 SCOPE: All New Mexico state chartered banks.
[6/15/98; Recompiled 10/15/01]

12.16.22.3 STATUTORY AUTHORITY: Section 58-1-51 NMSA 1978.
[6/15/98; Recompiled 10/15/01]

12.16.22.4 DURATION: Five years beginning on the effective date.
[6/15/98; Recompiled 10/15/01]

12.16.22.5 EFFECTIVE DATE: June 15, 1998, unless a later date is cited at the end of a section or paragraph.
[6/15/98; Recompiled 10/15/01]

[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

12.16.22.6 OBJECTIVE: The objective of this sub-part [now part] is to establish a uniform and appropriate method of determining statutory limits that are based on the amount of a bank's "capital and surplus".
[6/15/98; Recompiled 10/15/01]

12.16.22.7 DEFINITIONS: [RESERVED]

12.16.22.8 CAPITAL AND SURPLUS:

A. For the purpose of determining statutory limits that are based upon the bank's "capital and surplus" or equivalent terms the calculations shall be done using the bank's tier 1 and tier 2 capital plus the balance of the bank's allowance for loan and lease losses not included in the bank's tier 2 capital, as these components are prescribed by federal regulations, plus subordinated debt.

B. Statutory limits shall be calculated as of the most recent of the following dates: (1) the date of the most recently required federal financial institution examination council report of condition and income; or (2) when there is a change in the bank's capital category for the purposes of federal prompt corrective action regulations. The bank may also choose to calculate a statutory limit concurrently with a transaction.

C. The provisions of this sub-part [now part] apply to transactions originating after the effective date. Transactions originating prior to the effective date, including renewals of credit originated prior to the effective date, shall be governed by the applicable limit at the time of origination.

[6/15/98; Recompiled 10/15/01]

HISTORY OF 12.16.22 NMAC:

Pre-NMAC Regulatory Filing History. The material in this part amends that previously filed with the State Records Center and Archives under:
Regulation 93-1B, Capital and Surplus, filed November 8, 1993.

History of Repealed Material: [RESERVED]