

This rule was filed as 12 NMAC 16.4.10.

TITLE 12 TRADE, COMMERCE AND BANKING
CHAPTER 16 BANKING
PART 60 OPERATING SUBSIDIARIES

12.16.60.1 ISSUING AGENCY: Financial Institutions Division of the Regulation and Licensing Department, Post Office Box 25101, Santa Fe, New Mexico 87504.
[11/15/96; Recompiled 10/15/01]

12.16.60.2 SCOPE: All banks chartered by the state of New Mexico.
[11/15/96; Recompiled 10/15/01]

12.16.60.3 STATUTORY AUTHORITY: Sections 58-1-51 and 58-1-54 NMSA 1978.
[11/15/96; Recompiled 10/15/01]

12.16.60.4 DURATION: Permanent.
[11/15/96; Recompiled 10/15/01]

12.16.60.5 EFFECTIVE DATE: October 31, 1996, unless a later date is cited at the end of a section or paragraph.
[11/15/96; 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[Compiler's note: The words *or paragraph*, above, are no longer applicable.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.]

12.16.60.6 OBJECTIVE: The objective of this regulation is to provide New Mexico state banks with authority to establish operating subsidiary corporations to conduct only business the bank could conduct directly. This authority is provided to national banks by 12 C.F.R. Section 5.34, Operating Subsidiaries.
[11/15/96; Recompiled 10/15/01]

12.16.60.7 DEFINITIONS:

A. "Activities that are part of the business of banking" means activities authorized by the New Mexico Banking Act.

B. "Activities that are incidental to the business of banking" means activities permissible under paragraphs 1863 and 1864(f) of the Bank Service Corporation Act (12 U.S.C. Sections 1861-1867), except as otherwise restricted by applicable state law; and other activities approved by the director of the financial institutions division.
[11/15/96; Recompiled 10/15/01]

12.16.60.8 OPERATING SUBSIDIARIES:

A. New Mexico state banks may engage in activities which are part of or incidental to the business of banking by means of an operating subsidiary corporation. In order to qualify as an operating subsidiary, the parent bank must own at least eighty percent of the voting stock of the corporation.

B. A state bank which intends to acquire, establish or perform new activities in an operating subsidiary shall apply for the prior approval of the director of the financial institutions division. The application shall include a strategic business plan for the proposed organization or activity, with form and content acceptable to the director. If the application is approved the director may impose one or more legal or supervisory conditions in connection with the approval.

C. All provisions of banking laws and regulations applicable to the operations of the parent bank shall be equally applicable to the operations of its operating subsidiaries.

D. Pertinent book figures of the parent bank and its operating subsidiaries shall be consolidated for the purpose of applying applicable statutory limitations.

E. Each operating subsidiary shall be subject to examination and supervision by the director of the financial institutions division in the same manner and to the same extent as the parent bank, and shall be assessed a fee determined by the director to cover the cost of examination. If, upon examination, the director finds that the

subsidiary is created or operated in violation of law or regulation or that the manner of operation is unsafe or unsound, the bank will be directed to take appropriate remedial action, which may include disposing of all or part of the subsidiary.

[11/15/96; Recompiled 10/15/01]

HISTORY OF 12.16.60 NMAC: [RESERVED]