



# FINANCIAL INSTITUTIONS TODAY

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

August 2020

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## Governor Kemp Signs House Bill 781

Governor Kemp signed House Bill 781 into law on July 29, 2020, and it will go into effect on January 1, 2021. The bill was introduced by Representative Bruce Williamson at the request of the Department of Banking and Finance (“Department”) and sponsored in the Senate by Senator John Kennedy. The bill revises statutory provisions governing a number of the entities regulated by the Department – banks, credit unions, trust companies, money service businesses, mortgage lenders and mortgage brokers.

Among other items, the bill:

- 1) revises the legal lending limit formula for credit unions;
- 2) authorizes the Department to approve dividends for de novo banks that are profitable on an annual basis;
- 3) authorizes the Department to modify the Georgia residency requirement for members of the Board of Directors;
- 4) codifies the de novo branch application process for credit unions;
- 5) decreases the time period for the Department to act on a bank branch application to 30 days and eliminates the Department’s publication notice for de novo branches;
- 6) provides that certain credit union extensions (ATMs, cash dispensing machines, night depositories, and point-of-sale terminals) do not have to be approved by the Department and includes night depositories in the list of bank extensions that do not have to be approved by the Department;
- 7) provides that a trust company and bank can merge or otherwise combine so long as the bank is the surviving entity;
- 8) requires a bank to register a representative office when it is first opened and to provide notification when the representative office is closed;
- 9) expressly authorizes a bank to open a representative office in another state so long as the activities are consistent with Georgia law and the laws of the host state; and
- 10) authorizes the Department to conduct background checks on directors and officers of entities that obtain control of a trust company.

The Department strongly encourages every regulated entity to review the bill to ensure a thorough understanding of all the applicable revisions. House Bill 781 can be viewed at:

<http://www.legis.ga.gov/Legislation/20192020/195221.pdf>

## Joint Statement on Enforcement of Bank Secrecy Act/Anti-Money Laundering Requirements

The Board of Governors of the Federal Reserve System (“Federal Reserve”), the Federal Deposit Insurance Corporation (“FDIC”), the National Credit Union Administration (“NCUA”), and the Office of the Comptroller of the Currency (“OCC”), (an “Agency” or collectively the “Agencies”), issued a statement setting forth the Agencies’ policy on the circumstances in which an Agency will issue a mandatory cease and desist order to address noncompliance with certain Bank Secrecy Act/Anti-money Laundering (“BSA/AML”) requirements, particularly in light of the specific BSA/AML compliance provisions in section 8(s) of the Federal Deposit Insurance Act (“FDIA”) and section 206(q) of the Federal Credit Union Act (“FCUA”) (hereafter referred to as “sections 8(s) and 206(q)”). The interagency statement also describes the circumstances in which an Agency may use its discretion to issue formal or informal enforcement actions or use other supervisory actions to address BSA-related violations or unsafe or unsound banking practices or other deficiencies. The statement does not create new expectations or standards. Rather, it is intended to further clarify the Agencies’ enforcement of the BSA and the conditions that require the issuance of a mandatory cease and desist order under sections 8(s) and 206(q). Whenever the Agencies undertake an enforcement action, whether mandatory under sections 8(s)(3) and 206(q)(3) or otherwise, they will tailor that action to address the deficiencies that are specific to the institution, as identified during the supervisory process. A link to the statement can be accessed below.

<https://www.fdic.gov/news/press-releases/2020/pr20091a.pdf>

## Joint Statement on Bank Secrecy Act Due Diligence Requirements for Customers Who May Be Considered Politically Exposed Persons

The Board of Governors of the Federal Reserve System (“Federal Reserve”), the Federal Deposit Insurance Corporation (“FDIC”), the Financial Crimes Enforcement Network (“FinCEN”), the National Credit Union Administration (“NCUA”), and the Office of the Comptroller of the Currency (“OCC”) (collectively, the Agencies) issued a joint statement to address due diligence questions raised by banks related to Bank Secrecy Act/Anti-Money Laundering (BSA/AML) regulatory requirements for customers whom banks may consider to be politically exposed persons (PEPs). Banks have requested clarification on how to apply a risk-based approach to PEPs consistent with the customer due diligence (CDD) requirements contained in FinCEN’s 2016 CDD Final Rule.

The Agencies do not interpret the term “politically exposed persons” to include U.S. public officials. BSA/AML regulations do not define PEPs, but the term is commonly used in the financial industry to refer to foreign individuals who hold or have been entrusted with a prominent public function, as well as their immediate family members and close associates. By virtue of this public position or relationship, these individuals may present a higher risk that their funds may be derived from corruption or other illicit activity. The level of risk associated with PEPs, however, varies and not all PEPs are automatically higher risk. PEPs should not be confused with the term “senior foreign political figure” (SFPF) as defined under the BSA private banking regulation, a subset of PEPs. A link to the joint statement can be accessed below.

<https://www.fdic.gov/news/press-releases/2020/pr20092a.pdf>

## FinCEN Guidance Regarding Customer Due Diligence

On August 3, 2020, the Financial Crimes Enforcement Network (“FinCEN”) issued *Frequently Asked Questions Regarding Customer Due Diligence (CDD) Requirements for Covered Financial Institutions*. The guidance addresses frequently asked questions pertaining to risk-based procedures for collecting customer information, establishing the customer risk profile, and the ongoing monitoring of customer relationships. The guidance can be accessed [here](#). For further information regarding CDD requirements, please visit FinCEN’s [CDD website](#).

## The NCUA Prompt Corrective Action Regulatory Relief Measures in Response to COVID-19 Pandemic

The NCUA Board approved additional regulatory relief measures related to the NCUA's Prompt Corrective Action (PCA) regulations anticipating that some credit unions may experience a temporary reduction in earnings and capital due to their COVID-19 response efforts. The interim final rule provides relief to federally insured credit unions during the COVID-19 pandemic, while still maintaining the safety and soundness of the credit union system.

### § 702.201 Prompt Corrective Action for adequately capitalized credit unions

The NCUA Board approved an administrative order reducing the amount of earnings retention required for credit unions classified as adequately capitalized to zero. The NCUA recognizes that some credit unions may experience a reduction in earnings and capital due to their COVID-19 response efforts (such as waived fee income, forbearance on loan payments, or an unexpected increase in expenses). The NCUA Board determined that a decrease in the earnings retention requirement is necessary to avoid a reduction of shares, to retain system liquidity, and to further the purpose of PCA.

### § 702.206(c) Contents of net worth restoration plans

Due to the COVID-19 pandemic, some credit unions may experience a substantial, short-term increase in shares from stimulus deposits or consumer flight to safety, thereby diluting their net worth ratios. For credit unions that experience a decline in their net worth ratio predominantly due to share growth, the NCUA Board will temporarily permit a credit union to submit a streamlined net worth restoration plan (NWRP). The streamlined NWRP must attest that the reduction in the credit union's net worth ratio was predominantly caused by share growth and that such share growth is a temporary condition due to COVID-19. Credit unions that become classified as undercapitalized based on June or September 2020 Call Report data may submit a streamlined NWRP under this authority if share growth is the predominant factor for the decline in the net worth ratio and the share growth is temporary. A link to the rule can be accessed [here](#).

## Regulatory Capital Rule: Temporary Changes to and Transition for the Community Bank Leverage Ratio Framework

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation adopted as final the revisions to the community bank leverage ratio framework made under the two interim final rules issued in the Federal Register on April 23, 2020. The final rule adopts these interim final rules with no changes. Under the final rule, the community bank leverage ratio will remain 8 percent through calendar year 2020, will be 8.5 percent through calendar year 2021, and will be 9 percent thereafter. The final rule also maintains a two-quarter grace period for a qualifying community banking organization whose leverage ratio falls no more than 1 percentage point below the applicable community bank leverage ratio requirement. A link to the rule can be accessed [here](#).

## Emergency Communications System

The Department and the Federal Reserve Bank of St. Louis will use the Emergency Communications System (ECS) to communicate with all state regulated financial institution during emergency situations. The annual process of reaching out to institutions without a registered contact has begun. If your institution receives a letter from the ECS Support Center, then you do not have a registered contact in the ECS. The letter will detail the necessary steps to register your institution's contact. If you have any questions, contact the ECS Support Center at [ecs.support@stls.frb.org](mailto:ecs.support@stls.frb.org) or 1-877-327-5333.

## **ACTION ON APPLICATIONS FOR THE MONTH**

The following is a summary of official action taken by the Department on applications by Georgia state-chartered financial institutions under Title 7, Chapter 1 of the O.C.G.A. and petitions for certificate of incorporation of financial institutions and other matters of interest during the month of August 2020:

### **APPLICATIONS FOR DE NOVO INSTITUTIONS**

<b><u>FINANCIAL INSTITUTION</u></b>	<b><u>APPROVAL DATE</u></b>	<b><u>BEGIN BUSINESS DATE</u></b>
Craft Bank Atlanta, GA	05-18-2020	
Classic City Bank Athens, GA	07-30-2020	

### **APPLICATIONS FOR CREDIT UNION CONVERSION**

<b><u>FINANCIAL INSTITUTION</u></b>	<b><u>APPROVAL DATE</u></b>	<b><u>EFFECTIVE DATE</u></b>
United 1st Federal Credit Union Kingsland, GA	06-10-2020	08-01-2020
Interstate Unlimited Federal Credit Union Jesup, GA	07-20-2020	08-31-2020

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

<b><u>FINANCIAL INSTITUTION</u></b>	<b><u>BRANCH OFFICE</u></b>	<b><u>APPROVAL DATE</u></b>	<b><u>EFFECTIVE DATE</u></b>
PeoplesSouth Bank Colquitt, GA	1531 US 19 South Leesburg, Georgia 31763 Lee County	08-19-2020	

### **APPLICATIONS FOR RESERVATION OF NAME**

<b><u>PROPOSED NAME</u></b>	<b><u>COUNTY</u></b>	<b><u>APPLICANT</u></b>
MyGeorgia Credit Union	Hall	Devin Phillips Weener Nathan Philips LLP, Attorneys at Law 5887 Glenridge Drive, Suite 275 Atlanta, Georgia 30328
Magnolia State Bank	Dodge	Callen A. Carroll, Esq. Nelson Mullins Riley and Scarborough LLP 201 17th Street NW Suite 1700 Atlanta, Georgia 30363
Southern Banking Corporation	Burke	Richard E. Davis Jr. Nelson Mullins Riley and Scarborough LLP 2 W. Washington Street Suite 400 Greenville, South Carolina 29601

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

<b><u>PROPOSED NAME</u></b>	<b><u>COUNTY</u></b>	<b><u>APPROVAL DATE</u></b>	<b><u>EFFECTIVE DATE</u></b>
Great Oaks Bank	Dodge	06-08-2020	06-30-2020

## ACTION ON APPLICATIONS FOR THE MONTH

<u>FINANCIAL INSTITUTION</u>	<u>CHANGE LOCATION OF</u>	<u>APPROVAL DATE</u>	<u>BEGIN BUSINESS DATE</u>
Delta Community Credit Union Atlanta, GA	From: 765 N. Terminal Drive Terminal 2 Salt Lake City, Utah 84122 Salt Lake County  To: 3920 West Terminal Drive Salt Lake City, Utah 84122 Salt Lake County	08-14-2020	09-15-2020
Georgia's Own Credit Union Atlanta, GA	From: 1117 Perimeter Center West Atlanta, Georgia 30338 Fulton County  To: 2 Perimeter Center East Atlanta, Georgia 30346 DeKalb County	08-31-2020	10-01-2020

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The Department is the state agency that regulates and examines Georgia state-chartered banks, state-chartered credit unions, state-chartered trust companies, international banking organizations, and bank holding companies that own Georgia state-chartered financial institutions. The Department also has responsibility for the supervision, regulation, and examination of Merchant Acquirer Limited Purpose Banks chartered in Georgia.

In addition, the Department has regulatory and/or licensing authority over mortgage brokers, lenders and processors, mortgage loan originators, consumer installment loan companies, check cashers, sellers-issuers of payment instruments, and money transmitters.

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

**Our Vision** is to be a willing and able partner with our regulated entities in order to support vibrant economic growth and prosperity in Georgia.