

INITIAL STATEMENT OF REASONS
FOR AMENDMENTS TO REGULATIONS UNDER THE
CALIFORNIA REVISED BANKING LAW

As required by Section 11346.2 of the Government Code, the California Department of Business Oversight Commissioner (Commissioner) sets forth below the reasons for the proposed adoption of Sections 10.190500 AND 10.190501, Subchapter 6, to Article 30 of Chapter 1 of Title 10 of the California Code of Regulations (10 C.C.R. Sections 10.190500 and 10.190501).

Effective July 1, 2013, the Department of Corporations and the Department of Financial Institutions merged to form the Department of Business Oversight. The Department of Business Oversight (Department) has all of the powers, authority, enforcement, jurisdiction, laws and regulations that were under the former Department of Corporations and former Department of Financial Institutions.

The Department licenses and regulates state chartered banks and savings associations under the California Revised Banking Law

SPECIFIC PURPOSE OF REGULATIONS [Government Code Section 11346.2, Subdivision (b)(1)]

The purpose of these proposed regulations is to provide state chartered banks and savings associations with different options for measuring the credit exposure of derivative transactions so that they may lawfully engage in derivative transactions. The proposed regulations provide California state chartered financial institutions parity with their federal counterparts.

BENEFITS ANTICIPATED FROM REGULATORY ACTION [Government Code Section 11346.2, Subdivision (b)(1)]

Recently enacted federal law prohibits state chartered banks and savings associations from engaging in derivative transactions unless the law with respect to lending limits of the state in which the state bank is chartered takes into consideration credit exposure to derivative transactions. While the Financial Code contemplates derivative transactions, neither it nor the California Code of Regulations (CCR) provides a method of measurement for these types of obligations. State chartered banks and savings associations need a method of measurement to calculate their credit exposure to derivative transactions in order to comply with the lending limits of the state. By allowing state chartered banks and savings associations to use the same methods of measurement that is provided by federal regulations, this rulemaking package achieves parity with federally chartered financial institutions.

The Office of the Comptroller of the Currency has adopted a final rule that sets forth the rules for calculating the credit exposure arising from a derivative transaction entered into by a national bank or savings association for purposes of determining the national bank's or savings association's compliance with federal lending limit law. The rule is set forth in Title 12 Code of Federal Regulations Part 32.9. This rulemaking package would require state chartered banks that engage in derivative

transactions to comply with that federal regulation. It also redefines certain terms in the federal regulation to make them applicable in the state context.

Proposed Regulation Section 10.190500 specifies that the scope of the regulations in Subarticle 6 includes requirements that govern derivative credit exposure as contemplated by Financial Code Sections 1480 and 1481. It also specifies that the term "obligations" is not limited to loan products but rather includes derivative transactions. Proposed Regulation Section 10.190501 requires state chartered banks and savings associations to comply with Title 12 Code of Federal Regulations Part 32.9 with respect to derivative transactions. It also defines key terms including "national bank," "bank," and "savings association" to mean a California state chartered bank or savings association. Similarly, it defines "federal banking agency" to mean the Department of Business Oversight.

POTENTIAL FOR ADVERSE ECONOMIC IMPACT ON BUSINESS AND INDIVIDUALS [Government Code Section 11346.3, Subdivision (a)]

The Commissioner has determined that the proposed regulatory action will not have an adverse economic impact or potential for an adverse economic impact on business, including the ability of California businesses to compete with businesses in other states, or individuals. The proposed regulations achieves parity with nationally chartered financial institutions by allowing California state chartered banks and savings associations to engage in derivative transactions.

ECONOMIC IMPACT ASSESSMENT [Government Code Section 11346.3, Subdivision (b)]

The Creation or Elimination of Jobs Within the State

The Commissioner has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California. The regulations will only affect California state chartered banks and savings associations by allowing them to engage in derivative transactions.

The Creation of New Businesses or the Elimination of Existing Businesses Within the State

The Commissioner has determined that this regulatory proposal will not have a significant impact on the creation of new businesses or the elimination of existing businesses in the State of California because the proposed regulations only apply to licensees under the California Revised Banking Law. This regulatory proposal would require state chartered banks and savings associations that engage in derivative transactions to comply with the federal regulations.

The Expansion of Businesses Currently Doing Business Within the State

The Commissioner has determined that this regulatory proposal will not have an impact on the expansion of existing state chartered banks and savings associations currently doing business in the state because the regulation would allow state chartered banks and savings associations to use the same method of measurement that is provided by

federal regulations, this rulemaking action achieves parity with federally chartered financial institutions.

The Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety and the State's Environment

The Commissioner has determined that this regulatory proposal may benefit the health and welfare of California residents because the regulations provide state chartered banks and savings associations a method of measurement to calculate their credit exposure to derivative transactions in order to comply with the lending limits of the state. The regulatory proposal does not benefit worker safety or the state's environment.

TECHNICAL, THEORETICAL AND/OR EMPIRICAL STUDIES, REPORTS OR DOCUMENTS [Government Code Section 11346.2, Subdivision (b)(3)]

There are no reports cited in the Specific Purpose of Regulation section, and the Economic Impact Assessment, the Department of Business Oversight did not rely upon any technical, theoretical, or empirical study, report, or other similar document in proposing this regulatory action.

REASONABLE ALTERNATIVES AND REASONS FOR REJECTING THOSE ALTERNATIVES [Government Code Section 11346.2, Subdivision (b)(5)(A)]

The Department has considered and determined that no reasonable alternative to the regulation has been identified or brought to its attention that would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Initial Statement of Reasons.

REASONABLE ALTERNATIVES THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES AND REASONS FOR REJECTING THOSE ALTERNATIVES [Government Code Section 11346.2, Subdivision (b)(5)(B)]

No reasonable alternative considered by the Department or that have otherwise been identified and brought to the attention of the Department would be as effective and less burdensome to affected private persons, or would lessen any adverse impact on small business. Under Government Code Section 11342.610, subdivision (b), a state chartered bank and a savings association is not a small business, and therefore no alternatives would lessen the impact of this rulemaking action on small business.

FACTS, EVIDENCE, DOCUMENTS, TESTIMONY OR OTHER EVIDENCE RELIED ON BY AGENCY [Government Code Section 11346.2, Subdivision (b)(6)(A)]

The Department did not rely on any information in determining that the proposed regulatory action will not have a significant adverse economic impact on business. The proposed regulations are necessary to provide California state chartered financial institutions parity with their federal counterparts.