WEST VIRGINIA CODE CHAPTER 31A ARTICLE 8C

WV Legislature

§31A-8C-1. Financially related defined.

The term "financially related" includes:

(a) All products, services and activities offered or engaged in by national banks or by any federally chartered thrift institution or West Virginia state or federally chartered credit union or a bank chartered by any other state; except those excluded by subsection (f) of this section;

(b) Equity investments in real estate development activities, products and services;

(c) Securities underwriting and brokerage activities, products and services, except those excluded by subsection (f) of this section;

(d) Financial consulting activities, products and services; and

(e) Any and all other activities, products and services engaged in or offered by other providers of financial products or services which may be deemed by the Commissioner of Banking pursuant to this article to be financially related, except those excluded by subsection (f) of this section.

(f) The term "financially related" excludes products, services or activities offered or engaged in by any real estate agent, agency or broker, which products, services or activities are regulated by the state Real Estate Commission pursuant to chapter forty-seven of this code except for such activities, products and services permitted, engaged in or offered by a West Virginia state-chartered banking institution prior to the effective date of this section or permitted pursuant to subdivision (b) of this section.

WV Legislature

§31A-8C-2. Banks and bank holding companies permitted to offer financially related services.

(a) Subject to the prior approval of the Commissioner of Financial Institutions, any West Virginia state-chartered banking institution or any bank holding company headquartered in this state may, either through equity investment in other entities or through a wholly owned subsidiary or subsidiaries, or by contract or agreement with others to provide such products or services, engage in any activity, exercise any power or offer any product or service that is financially related. A state-chartered banking institution may engage in a financially related activity directly and not through an operating subsidiary, financial subsidiary or affiliate if it is permissible for a national or state bank, federal or state thrift, federal credit union, or other financial service provider operating pursuant to federal law or regulation or the laws of other states to engage in the financially related activity directly. The commissioner shall grant or deny any request under this section within sixty days of receipt unless additional information is required.

(b) In determining whether an activity is financially related, the commissioner shall consider:

(1) The ability of financial institutions to exercise any additional powers in a safe and sound manner;

(2) The authority of national or state banks, federal or state thrifts, federal credit unions and other financial service providers operating pursuant to federal law or regulation or the laws of other states to provide the financially related service; and

(3) Any specific limitations on financial institution operations or powers contained in this chapter.

(c) If a state-chartered banking institution or bank holding company must make prior application to a federal bank regulatory agency for approval to engage in a financially related activity, the banking institution or bank holding company shall file with the commissioner a copy of the application submitted to the federal agency.

(d) The commissioner shall include a list of every financially related activity authorized pursuant to this section during the previous twelve months in his or her annual report to the Legislature.

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§31A-8C-3. Limitation on permitted investment in entities offering financially related services.

No West Virginia state-chartered banking institution or bank holding company may invest or otherwise expend more, in the aggregate of the amount of its capital and surplus, on a consolidated basis, in the conduct of financially-related activities than would be allowed to a national bank.

WV Legislature

§31A-8C-4. Promulgation of rules.

The commissioner of banking, pursuant to chapter twenty-nine-a of this code, shall promulgate rules governing the provision of financially-related products and services by West Virginia state-chartered banking institutions and by any bank holding company conducting business in this state. These rules shall include the procedures applicable in connection with application to engage in financially-related activities and offer financially-related products and services and the conduct of such activities.

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§31A-8C-5. Construction, conflicting provisions.

This article shall be construed liberally to permit banks and bank holding companies to offer financially related products and services and to enable West Virginia state-chartered banking institutions and bank holding companies to compete fairly with other financial institutions and other entities providing financial services under the laws of the United States or any other state. No other provision of this code shall be deemed to prohibit such activity: Provided, That in the provision of such products and services, banks and bank holding companies are subject to the same state and federal regulation and licensing requirements as are other providers of such products and services.

WV Legislature