

02-029

CHAPTER 141

Regulation #41

ASSESSMENTS - NONDEPOSITORY TRUST COMPANIES, UNINSURED BANKS, AND MERCHANT BANKS

**SUMMARY:** In January 2002, the Bureau of Financial Institutions ("Bureau") promulgated Regulation 41 setting forth the assessment which must be paid by nondepository trust companies, uninsured banks, and merchant banks. The Regulation also defined fiduciary assets under management, custody or care upon which the assessment is based. This Regulation was last revised in 2004 to provide for the transition from annual to quarterly assessments. It was revised again in 2009 to adjust assessment rates. The Regulation is now being amended to lower the assessment rate from twelve cents to nine cents per \$10,000 of assets subject to assessment and to change the minimum assessment amount. The anticipated effective date is January 1, 2022. It is routine technical rule as defined in 5 M.R.S. § 8071(2)(A).

#### **I. AUTHORITY**

Title 9-B M.R.S. §214(2-B) authorizes the Superintendent of the Bureau of Financial Institutions to define by rule fiduciary assets under management, custody or care and to set the rate of assessment.

Title 9-B M.R.S. §214(2-C) requires an uninsured bank or merchant bank that predominately engages in the business of a nondepository trust company to pay an assessment at the same rate as charged to a nondepository trust company. An uninsured bank or merchant bank that does not predominately engage in the business of a nondepository trust company must pay a quarterly assessment as prescribed in Title 9-B M.R.S. §214(2).

Title 9-B M.R.S. §215 authorizes the Superintendent to promulgate rules relating to the supervision of financial institutions or their subsidiaries.

#### **II. PURPOSE**

This amendment reduces the quarterly assessment rate and resets the minimum assessment paid by nondepository trust companies, uninsured banks, and merchant banks, beginning with the assessment for the calendar quarter ending March 31, 2022.

#### **III. DEFINITIONS**

For purposes of this regulation, the following terms have the following meanings:

- A. "Assets subject to assessment" means the monthly total of fiduciary assets under management, custody, or care averaged for the three months in that calendar quarter.
- B. "Calendar quarter" means a period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31.
- C. "Fiduciary assets under management, custody or care" means those items reported as Managed Assets, Non-Managed Assets and Custody and Safekeeping Account Assets on the institution's Report of Fiduciary and Related Services filed with the Bureau (currently FFIEC Schedule RC-T).
- D. "Financial institution" has the same meaning as Title 9-B M.R.S. §131(17).
- E. "Merchant bank" means a financial institution that is organized under the provisions of Title 9-B M.R.S. Chapter 122.
- F. "Nondepository trust company" means a financial institution that is organized under the provisions of Title 9-B M.R.S. Chapter 121.
- G. "Predominately engaged in the business of a nondepository trust company" means that the sum of fiduciary assets under management, custody or care held by an uninsured bank or merchant bank, as reported on its quarterly Report of Fiduciary and Related Services filed with the Bureau (currently FFIEC Schedule RC-T), is greater than the total assets of the uninsured bank or merchant bank as reported on its quarterly Balance Sheet filed with the Bureau of Financial Institutions.
- H. "Uninsured bank" means a financial institution that is organized under the provisions of Title 9-B M.R.S. Chapter 123.

#### **IV. GENERAL PROVISIONS**

- A. Beginning with the assessment for the calendar quarter ending March 31, 2022 and quarterly thereafter, each nondepository trust company, uninsured bank and merchant bank shall pay an assessment to the Bureau of Financial Institutions as follows:
  - 1. Each nondepository trust company shall pay an assessment which shall be the greater of (a) \$1,000 or (b) 2.25¢ for every \$10,000 of the assets subject to assessment.
  - 2. Each uninsured bank and merchant bank that predominately engages in the business of a nondepository trust company shall pay an assessment which shall be the greater of (a) \$1,000 or (b) 2.25¢ for every \$10,000 of the assets subject to assessment.

3. Each uninsured bank and merchant bank that does not predominately engage in the business of a nondepository trust company shall pay an assessment calculated in accordance with Title 9-B M.R.S. §214(2)(A) and any rules promulgated thereunder.
  - B. Each nondepository trust company, uninsured bank, and merchant bank shall file, in the manner required by the Bureau of Financial Institutions, a report that fully provides information in support of any assessment being paid.

EFFECTIVE DATE: January 1, 2022.

Primary sources of information relied on by the Bureau in adopting the rule: Bureau of Financial Institutions Chapter 141 (Regulation 41): Current Rule 141 (Reg. 41) ASSESSMENTS – NONDEPOSITORY TRUST COMPANIES, UNINSURED BANKS, AND MERCHANT BANKS; Title 9-B M.R.S. §§ 214 (2-B), (2-C); Agency Expertise / Professional Judgment

**BASIS STATEMENT:** This Regulation was promulgated to establish the assessments paid by nondepository trust companies, uninsured banks, and merchant banks and to provide for the transition from annual to quarterly payment of assessments. It is amended to reduce the rate paid and to set a new minimum assessment amount. The Maine Banking Code permits the Superintendent to define fiduciary assets under management, custody, or care and to change the minimum assessment whenever economic conditions warrant such a change. The Superintendent has determined that in light of current economic conditions the Bureau may accept reduced fees and continue to fulfill its duties under Title 9-B M.R.S.

**Comments and Responses to comments:** The Bureau received no comments to this proposed rulemaking. Accordingly, there were no changes made to the adopted rule following the comment period, except that an effective date has been added.