

BUREAU OF FINANCIAL INSTITUTIONS
Department of Professional and Financial Regulation
State of Maine
December 11, 2009

BULLETIN #25 AUDIT REQUIREMENTS

To the Chief Executive Officer Addressed:

Title 9-B M.R.S.A. § 453 requires the board of directors of a financial institution to employ an independent public accountant to conduct an annual audit. The duty of the public accountant shall be to audit the books, accounts, notes, operating systems, etc., and to make a written report of the condition of the financial institution to the president and chairman of the board, for the board. Under the statute, the Superintendent has the authority to review the annual audit and to comment on its adequacy.

The Bureau of Financial Institutions continues to interpret § 453 such that "independent public accountant" is construed to mean "independent certified public accountant," and "written report of condition" is construed to mean "audited financial statements prepared in accordance with generally accepted accounting principles, and a management letter detailing the internal control weaknesses and exceptions found during the course of the annual audit." Audit engagements that do not contemplate issuance of a management letter addressing internal control weaknesses, if any, are deemed not to meet the requirements of Title 9-B M.R.S.A. § 453.

The Federal Deposit Insurance Corporation ("FDIC") at 12 C.F.R Part 363 of FDIC Rules and Regulations adopted a final rule on July 20, 2009 incorporating certain audit, reporting, and audit committee practices from the Sarbanes-Oxley Act of 2002. 12 C.F.R. Part 363 was originally promulgated on May 11, 1993 to implement the audit and reporting guidelines of the Federal Deposit Insurance Improvement Act. 12 C.F.R. Part 363 exempts all financial institutions with less than \$500 million in assets from the requirements of the regulation; however, the regulation does not pre-empt Title 9-B M.R.S.A. § 453. All financial institutions remain obligated to provide for an annual audit in accordance with Title 9-B M.R.S.A. § 453. Financial institutions with \$500 million or more in assets will also need to comply with the additional requirements of 12 CFR Part 363 regarding audit committees, internal control attestation, compliance attestation, etc.

In order to facilitate the Bureau of Financial Institutions' review of annual

audits, the Bureau requires that each financial institution file with the Bureau of Financial Institutions a copy of its audited financial statements, including notes thereto, and the management letter. In addition, each financial institution with \$500 million or more in assets shall file with the Bureau of Financial Institutions a copy of the management report required pursuant to 12 C.F.R. Section 363.2(b) of FDIC Rules and Regulations. Each financial institution with \$1 billion or more in assets also shall file with the Bureau of Financial Institutions a copy of the internal control attestation required of the financial institution's independent public accountant pursuant to 12 C.F.R. Part 363.3(b). Financial institutions shall file with the Bureau copies of their audit report, management letter, and the management report and internal control attestation report required under 12 C.F.R. Part 363 of FDIC Rules and Regulations, as applicable, within 120 days of the close of its fiscal year.

Financial institutions that are subsidiaries of holding companies are not required to have a separate annual audit provided that the holding company is audited by a certified public accountant on an annual basis and the subsidiary bank has, or is subject to, a holding company internal audit program that is deemed satisfactory by the Bureau of Financial Institutions, provided that the financial institution qualifies for consolidated treatment under 12 C.F.R. Part 363.1(b) of FDIC Rules and Regulations. Under this circumstance, the holding company shall file copies of its audit report, management letter, and the management report and attestation report required under 12 C.F.R. Part 363 of FDIC Rules and Regulations, as applicable, with the Bureau of Financial Institutions within 120 days of the close of its fiscal year.

If a financial institution with less than \$1 billion of consolidated total assets as of the beginning of its fiscal year, or its parent holding company, is required to file a management assessment of the effectiveness of internal control over financial reporting with the Securities and Exchange Commission or an appropriate federal banking agency in accordance with Section 404 of the Sarbanes-Oxley Act of 2002, the financial institution or parent company shall file with the Bureau of Financial Institutions a copy of its management assessment along with its audit report, management letter, and management report as additional information.

During examinations, the Bureau of Financial Institutions shall be given access to the working papers of the financial institution's independent public accountant, if requested. If refused, the Superintendent may conclude that the audit does not satisfy the requirements of Title 9-B M.R.S.A. § 453.

If a financial institution changes independent public accountants, the financial institution shall notify the Superintendent of this fact in writing within ten days and provide an explanation for the change.

Credit unions are reminded that Title 9-B M.R.S.A. § 844 requires that the Supervisory Committee audit the books and records of the credit union annually, and perform a 100% verification of shares and deposits at least every three years, or more frequently if required by NCUA Rules and Regulations. Credit unions are also reminded that credit unions with \$100 million or more in assets must employ an independent public accountant to perform an annual audit in accordance with Title 9-B M.R.S.A. § 453 and this bulletin, and that credit unions also shall file with the Bureau of Financial Institutions a copy of their audit report and management letter with 120 days of their fiscal year end.

/s/Lloyd P. LaFountain III
Superintendent