

BUREAU OF BANKING

Department of Professional and Financial Regulation

State of Maine

October 7, 1991

BULLETIN #52 REPORTS OF EXAMINATION

To the Chief Executive Officer Addressed:

Title 9-B M.R.S.A. § 221 requires that the superintendent shall examine each state-chartered financial institution at least once every 36 months, or more frequently as he may determine. Title 9-B M.R.S.A. § 226 prescribes that information derived by or communicated to the superintendent may not be disclosed or made public.

A copy of the Bureau's Report of Examination is furnished to the Board of Directors of each financial institution and financial institution holding company for their use. Past practice has permitted internal copying of the Report of Examination to facilitate a comprehensive review by the Board of Directors. Once that review is completed, such additional copies should be collected and destroyed.

It has recently come to the Bureau's attention that Reports of Examination are being distributed and retained by financial institutions' external audit firms. While the Bureau recognizes the need to make examinations available for inspection by an audit firm in order to provide for a comprehensive review of the financial institution, State law dictates that the Report of Examination is the property of the Bureau of Banking with concomitant responsibility to protect the confidential nature of the information so derived. Third party providers of audit services may not be bound by law to protect the contents of the Report of Examination.

The Bureau is concerned that dissemination of copies of the Report of Examination places the receiver in a position that may facilitate disclosure of these confidential documents. Indeed we are aware of attempts being made by litigates, against a bank through the court system, to access Reports of Examination through such third party contractors.

Therefore, every state-chartered financial institution should review its practice of receiving and disseminating Reports of Examination in order to ensure:

1. Any additional copies of the Report of Examination are accumulated and destroyed upon completion of review by the Board of Directors;

2. Any copies that have been distributed to third party contractors, such as external audit firms, be retrieved and destroyed; and
3. Steps be taken to assure that the Report of Examination, which is the property of the Bureau of Banking and furnished for your confidential use, be maintained as a permanent record in your files only.

/s/ H. Donald DeMatteis
Superintendent