TC25 Revocation of Exemption [Section 11-109-1006, C.R.S.]

A. Purpose

To identify circumstances under which an exemption granted by the Banking Board pursuant to Section 11-109-1003, C.R.S, and Banking Board Rule TC24 may be revoked, and outline the process for such revocation.

B. Definitions: For the purpose of this Rule, the definitions set forth in Section 11-109-1001, C.R.S., shall be applicable.

C. Grounds for revocation

1. The Banking Board may revoke an exemption granted pursuant to Section 11-109-1003, C.R.S, and Banking Board Rules TC23 and TC24 if the Banking Board finds that the private family trust company or any director, executive officer, or controlling shareholder has:

   a. Made a false statement on any document required to be filed pursuant to title 11, articles 101 thru 109, or any rule promulgated by the Banking Board;

   b. Withheld information from the Banking Board or Commissioner;

   c. Failed to comply with an order of the Banking Board or Commissioner;

   d. Committed any act, or been involved in any activity that would have been grounds for denial of the private trust company charter application or the requested exemption;

   e. Failed to cooperate with an investigation or examination initiated by the Division of Banking, or the Banking Board pursuant to title 11, articles 101 thru 109;

   f. Violated any provision of title 11, articles 101 thru 109, or any rule promulgated by the Banking Board for which the Private Trust Company does not have an exemption;

   g. Become insolvent in that the private family trust company has ceased to pay its debts in the ordinary course of business, is unable to pay debts as they come due, or has liabilities that exceeds its assets; or,

   h. Operated in a manner that is unsafe or unsound.

D. Notice of revocation and process for hearing

1. If the Banking Board resolves to revoke an exemption, a written notice of the proposed revocation shall be provided to the private family trust company, along with a description of the reason or reasons for the revocation.

2. The revocation shall become effective ten calendar days after delivery of the notice to the private family trust company or such later time as specified by the Banking Board, unless the company requests a hearing prior to the effective date. If such hearing is requested in a timely manner, the Banking Board shall:

a. Schedule a public hearing on the issues within thirty calendar days of receipt of the request;

b. At the hearing, the Commissioner or his or her designee will describe and support the basis for the revocation;

c. The private family trust company will be given an opportunity to refute the Commissioner's findings, and state the reason, or reasons why the exemptions should not be revoked;

d. At the conclusion of the hearing, the Banking Board will uphold or withdraw the revocation.

E. Effect of revocation

1. If the Banking Board upholds the revocation following a hearing under subparagraph C(2) of this Rule, the effective date of the revocation will be ten calendar days following the hearing.

2. Upon revocation of an exemption granted by the Banking Board pursuant to Banking Board Rules TC23 and TC24, the private trust company shall immediately, or within such time as the Banking Board approves, comply with the rule or provision from which it had been granted an exemption, or:

a. Cease conducting a trust company business and submit an application pursuant to Section 11-109-701, C.R.S., to voluntarily liquidate and dissolve the company; or;

b. Cease conducting a trust company business and apply to the Banking Board to convert to a public trust company in accordance with the procedures set forth under Banking Board Rule TC26.

3. If a private trust company is unwilling, or unable to comply with Paragraph D(2) of this Rule, the Banking Board shall take possession of the company and involuntarily liquidate it pursuant to Section 11-109-702, C.R.S.

Promulgated Effective December 30, 2008.

Promulgated to address requirements in Senate Bill 08-033, which added Part 10 – Private Family Trust Companies – to Article 109 of Title 11, C.R.S. In addition, to address a new subsection 18 the Legislature added to Section 11-102-104, C.R.S., *Powers and duties of the banking board*, which requires the Banking Board to promulgate Private Family Trust Companies rules.