



**Via e mail: [regulations@dfpi.ca.gov](mailto:regulations@dfpi.ca.gov)**

January 21, 2021

Department of Financial Protection and Innovation  
Attn: Sandra Sandoval  
300 S. Spring Street, Suite 15513  
Los Angeles, CA 09913  
PRO 01/20

**RE: PRO 01/20-Notice of Proposed Rulemaking Regarding Subchapter 10, Chapter 1, of Title 10 of the California Code of Regulations**

I wish to comment and gain some clarity on the rules proposed by the Department of Financial Protection and Innovation (DFPI).

It appears that parts of the proposed regulations are an attempt to define what “local agency” means in the context of the legislation. It appears that proposed rules will allow any public entity the ability to join the efforts of another public jurisdiction, if that public jurisdiction becomes a “member” under Section 10.141. In fact, for a public bank to operate in any jurisdiction, it is mandatory to become a “member.” This section states that the local agency or local agencies “own the public bank.” Can you clarify if this means that the local agency or local agencies *in total* “own the public bank?” In other words, if a local agency wishes to join the public bank of another public agency, it simply needs to become a stockholder?

If this is correct, this makes sense. And, I assume, if this is correct, it would not cause a problem with proposed Section 10.140.6, which states that a financial institution must have “a physical presence within the jurisdiction of the public bank at issue.” For example, if the County of Alameda wished to pursue a public bank and, say, another local agency wanted to be a part of it, they could join at a later time by becoming a “member” and, presumably, a “stockholder.”

It would be more flexible if the bank could operate in the jurisdiction of local agencies that were not “members” or “stockholders.” It will take an enormous effort to create a public bank, and it makes sense to allow other jurisdictions to “join” without becoming a “member.” A mechanism could be created whereby a local agency can join through an ordinance, without having to contribute any funds in order to become a legal “member.”

I can understand why the DFPI may feel that that is contrary to the meaning of the law. And, if a public bank can determine the minimum contribution for a local agency it would take to become a "member," then I feel the proposed rules are adequate.

I appreciate the clarification, and I hope that my question is clear.

Thank you.

Sincerely yours,

Henry C. Levy, CPA, CFE  
Treasurer-Tax Collector  
Alameda County