

**TC27**      **Change of Control of a Private Family Trust Company** [Section 11-109-1007, C.R.S.]

A.      Purpose

To clarify private family trust company ownership transfer requirements and set forth notice and application procedures for permissible ownership transfers.

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

C.      Change of control notice

1.      Any person owning twenty-five percent or more of a private family trust company who desires to transfer ownership interests to another person to whom he or she is related within the second degree of affinity or consanguinity, shall provide the following information to the Division of Banking:
  - a.      Written notice of the proposed change at least thirty calendar days prior to any such transfer;
  - b.      The name, address, place of residence, and principal occupation of the related family member(s) who will buy or otherwise acquire the ownership interest;
  - c.      A description of the familial relationship between the transferring party and the recipient(s).
  - d.      Financial and biographical statements on a form provided by the Commissioner containing sufficient detail to substantiate the background and net worth of any recipient of the transfer whose ownership interest in the company will exceed twenty-five percent after the transaction is consummated; and,
  - e.      A pro forma stock register for the company with the names, addresses, principal places of business, and principal occupations of all shareholders who will own five percent or more of the company following the transfer.
2.      Banking Board approval is not required and any exemption previously granted pursuant to Section 11-109-1003, C.R.S., shall remain effective for any stock transfers that comply with the requirements and limitations of paragraph C of this Rule.

D.      Change of control application

1.      Any person owning twenty-five percent or more of a private family trust company who desires to transfer ownership interests to another person to whom he or she is not related within the second degree of affinity or consanguinity, but is related within the fourth degree of affinity or consanguinity, and whose ownership interest would exceed twenty-five percent upon consummation of the transfer, shall provide the following information to the Division of Banking:
  - a.      Written notice, signed by all members of the board of directors, of the proposed change at least sixty calendar days prior to any such transfer;
  - b.      The name, address, place of residence, and principal occupation of the related family member(s) who will buy or otherwise acquire the ownership interest;

- c. A description of the familial relationship between the transferring party and the recipient(s).
  - d. Financial and biographical statements on a form provided by the Commissioner containing sufficient detail to substantiate the net worth and background of any recipient of the transfer whose ownership interest in the company will exceed twenty-five percent after the transaction is consummated; and,
  - e. A written acknowledgment, signed by all members of the board of directors, that any exemptions granted pursuant to Section 11-109-1003, C.R.S., shall be revoked upon the date of the transfer, unless prior approval of the Banking Board has been obtained in accordance with Paragraph D(2) of this Rule.
2. Any transfer that meets the criteria set forth under Paragraph D(1) of this Rule shall result in the revocation of all exemptions previously granted pursuant to Section 11-109-1003, C.R.S., upon the effective date of the transfer, unless an application for continuation of the exemptions has been submitted to the Banking Board and approval obtained in accordance with Banking Board Rule TC23 prior to the date of transfer. If a transfer occurs without notice to the Banking Board, or Banking Board approval to retain the exemptions is not obtained, the revocation procedures set forth under Banking Board Rule TC25 shall be followed.
- E. Any transfer of an ownership interest in a private family trust company to a person who is not a "family member" as that term is defined at Section 11-109-1001(3), C.R.S., is prohibited and will result in the revocation of all exemptions. In addition, the Banking Board may seek enforcement action as deemed appropriate, up to and including revocation of the charter.

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.