



Office of the State Bank Commissioner

Memorandum

Memo RM98-2

TO: All State Chartered Banks

FROM: W. Newton Male, Bank Commissioner

DATE: April 24, 1998

RE: Loan and Deposit Production Activities

The Office of the State Bank Commissioner (OSBC) regularly receives questions about the activities allowed to be conducted by state chartered banks at off-premises locations that are not branches. While these locations are commonly referred to as "loan production offices" (LPOs), activities other than loan production have been determined to be acceptable. The general rule is as long as the activities do not constitute branching activity, (i.e., deposit taking, paying checks, lending money, or exercising trust authority), they can be performed at any location without further approval from the OSBC. We have been presented with various factual scenarios and asked whether the activities could be performed at offices which are not branches. This memo is intended to provide banks with the OSBC's position regarding activities allowed to be conducted at non-branch locations. The authority to perform additional activities not specified in this memo or the attached FDIC memo will be reviewed on a case by case basis by this office. **This memorandum supersedes the OSBC memo dated April 9, 1996, concerning loan and deposit production activities.**

I. Loan Production.

With respect to loan production activities, state chartered banks can engage in any activities authorized by the enclosed memorandum from the FDIC dated November 3, 1997. The criteria included in the FDIC memo are consistent with guidelines provided by the Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve. Since all state chartered banks are already required to follow either Federal Reserve or FDIC guidelines concerning operation of LPOs, adoption of the federal regulators' criteria in this area should help avoid confusion caused by an additional level of regulation.

II. Deposit Production.

A. Activities Specifically Allowed:

1. Providing new account information and assistance, including:
 - a. assisting customers with completion of new account forms and accepting those forms;
 - b. assisting customers with orders for debit cards and ATM cards, and accepting completed order forms; and

- c. providing deposit account rate information and assistance with completion of new account forms for certificates of deposit. New account forms for certificates of deposit can be accepted at the LPO, but the actual certificate must be completed and issued at the main bank or branch AFTER the customer has delivered the funds to the main bank or branch for deposit, as no monies can be accepted at the LPO.

"New account forms" refers to application-type materials utilized to request the opening of a new account.

2. Completing signature cards and providing Truth in Savings disclosures. "Completing signature cards" includes signing the signature cards at the off-premises location.
3. Providing envelopes and deposit slips to customers for deposits to be mailed to or made at the main bank or a branch location.

B. Activities Specifically NOT Allowed:

Accepting deposits

III. Other Types of Activities Allowed to be Conducted at Off-Premises Locations:

1. Operation of safe deposit boxes
2. Sale of travelers checks
3. Sale of savings bonds
4. Operation of a check cashing service so long as no actual account withdrawals occur at the facility. For example, the off-premises location should not be connected to the bank's computer system so as to allow an LPO employee to post a bank customer's withdrawal of funds from their account. While an off-premises location can have a computer terminal capable of displaying a customer's account data for informational purposes, ALL checks cashed at the off-premises location should be transported back to the bank for processing and account entries.
5. Because K.S.A. 9-1111(l) specifically states that ATMs will not be considered branches, an ATM that accepts deposits may be placed in or next to an LPO.

Other Types of Activities NOT Allowed to be Conducted at Off-Premises Locations:

Providing trust services

R/O-E-38/97 (11/6/97)

Division of Supervision
MEMORANDUM SYSTEM

MEMORANDUM TO: Regional Directors

FROM: Nicholas J. Ketcha Jr.
Director

SUBJECT: Criteria for Determining Whether a Loan Production
Office or Back Office Facility Constitutes a "Branch"

1. Purpose: To provide guidance for determining whether loan production offices ("LPOs") or back office facilities of state nonmember banks are considered "branches" for purposes of Section 3(o) of the Federal Deposit Insurance Act (The "FDI Act"). The criteria detailed below are consistent with recent interpretive rulings of the Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System.

2. Background. Section 3(o) of the FDI Act defines the term "domestic branch" to include "any branch bank, branch office, branch agency, additional office, or any branch place of business located in any State of the United States . . . at which deposits are received or checks paid or money lent." The term "domestic branch" does not include an automated teller machine or a remote service unit.

3. Guidelines.

Loan Production Offices. The following activities can be conducted at an LPO without constituting "branch" operations for purposes of Section 3(o) of the FDI Act.

(i) Loan Origination: Credit information may be assembled and loan applications can be solicited or processed.

(ii) Loan Approval: Loan applications may be approved at the LPO facility in either a public or nonpublic area of the facility.

(iii) Loan Closing Activities: Loan closing activities, such as the execution of promissory notes and deeds of trust, may be conducted at an LPO facility. The customer may not, however, take actual receipt of the loan funds at the LPO facility. Loan proceeds may be received by a customer by mail or in person at a place that is not the bank's headquarters office and is not licensed as a branch, provided that a third party is used to deliver the funds and the place is not established by the lending bank. A third party includes a person who customarily delivers loan proceeds directly from bank funds under accepted industry practice, such as an attorney or escrow agent at a real estate closing. Similarly, computer

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Equipment located at the LPO through which the bank initiates electronic disbursements of loan funds to the customer will not cause the LPO facility to constitute a "branch" as long as the customer does not receive the loan funds at the LPO facility.

Back Office Facility Operations: The following activities can be conducted at a back office facility without constituting "branch" operations for purposes of Section 3(o) of the FDI Act. A back office facility is defined as a bank facility that is neither accessible to nor visited by the public.

(i) Loan Origination: Credit information may be assembled and loan applications can be solicited or processed.

(ii) Loan Approval: Loans that originate at an LPO or other bank facility may be approved at a back office facility.

(iii) Receipt of Loan funds: Since back office facilities only refer to bank facilities that are neither accessible to nor visited by the public, there can be no situation in which a customer receives loan funds at the back office facility. A back office facility may credit loan funds (through ACH, wire transfer, or other electronic method) to a deposit account of the borrower at the bank without any in-person contact between the back office facility and the borrower.

4. Responsibility and Action. Please distribute a copy of this Memorandum to appropriate members of your staff.

5. Effective Date: This Memorandum is effective upon receipt and remains in effect until modified or cancelled.