

## **§701. Financial Institution Agency Activities**

### A. Definitions

*Agency Agreement* - the document which establishes the agency relationship between the Louisiana state-chartered financial institution and any other financial institution.

*Applicant* - a Louisiana state-chartered financial institution seeking the prior approval of the commissioner to engage in agency activities as principal or as agent.

*Close Loans* - the authority to provide loan applications, review documentation, provide loan account information, service loans and receive payments.

*Commissioner* - the commissioner of Financial Institutions.

*Financial Institution* - any bank, savings bank, homestead association, building and loan association or savings and loan association.

*Notification* - consists of all forms prescribed by the commissioner, submitted in a completed form, along with all supporting documents and other information required by this rule.

*Receive Deposits* - the taking of any additional deposit. This does not include the acceptance of a deposit which will result in the opening of a new deposit account.

### B. Notification

1. Filing. All notifications filed in accordance with this rule shall be accompanied by a nonrefundable fee as prescribed by the commissioner and shall be in such form and contain such information as the commissioner may from time to time prescribe. The notification shall be filed at least 30 days prior to the effective date of the agreement. When the notification is submitted, an original and one copy must be provided. The commissioner may approve a substantially complete notification after consideration of the factors set forth in the following sections. A reasonable amount of time may be utilized in the analysis of these factors and additional information may be requested. The prior approval of the applicant's board of directors is required before filing the notification. Substantially incomplete notifications will not be accepted for filing and will be returned to the applicant resulting in a processing delay.

2. Form. The applicant shall, at least 30 days prior to the effective date of the agency agreement, provide notification to the commissioner which includes:

a. the name, address and phone number of the applicant as well as the name of a contact person to which questions regarding the application and notification may be directed;

b. the name, address and phone number of the financial institution which is entering the agency relationship with the applicant;

c. a description of the services proposed to be performed under the agency agreement including, but not limited to, those permissible activities as enumerated in 701.C.1;

d. a copy of the agency agreement;

e. evidence that the applicant's bonding company has been notified;

f. a copy of a resolution of the board of directors authorizing the establishment of the agency relationship; and

g. if applicable, a "No Objection Letter" from the appropriate chartering authority for the financial institution providing the agency services for the Louisiana state-chartered financial institution. This provision is only applicable when a Louisiana state-chartered financial institution enters into a relationship with a financial institution in which the out-of-state financial institution will act as agent for the Louisiana state-chartered financial institution.

3. Approval Process. The commissioner may approve any request to establish an agency relationship unless he finds that the proposed operation violates the provisions of this rule or any other pertinent provision of law. The commissioner may, in his sole discretion, provide written reasons for his decision, which shall be released only to the applicant.

### C. Activities

1. Permissible Activities. Any Louisiana state-chartered financial institution may, upon compliance with the requirements of this rule:

a. as agent for any financial institution, agree to receive deposits, renew time deposits, close loans, service loans, receive payments on loans and other obligations, and perform other services with the prior approval of the commissioner; and/or

b. enter into an agency relationship with any other financial institution to allow the other financial institution to receive deposits, renew time deposits, close loans, service loans, receive payments on loans and other obligations, and perform other services with the prior approval of the commissioner.

2. Prohibited Activities. A Louisiana state-chartered financial institution, operating under the authority of an agency agreement, may not:

a. conduct any activity as agent that it would be prohibited from conducting as principal under applicable state or federal law;

b. have an agent conduct any activities that the financial institution as principal would be prohibited from conducting under applicable state or federal law;

c. as agent for another financial institution, make a credit decision on a loan. Only the principal may make the decision to extend credit; or

d. as agent for another financial institution, open a deposit account.

3. Other Activities. If any proposed activity is not specifically designated in 701.C.1 and has not been previously approved in a regulation issued by the commissioner, the commissioner shall decide whether the performance of such activity would be consistent with applicable state and federal law and the safety and soundness of the Louisiana state-chartered financial institution.

#### 4. Additional Activities

a. If a Louisiana state-chartered financial institution which has an established agency relationship desires to expand its activities to include activities not already approved, the applicant shall notify the commissioner of the change. The notification shall provide a complete description of the proposed new activity and shall also include a copy of the new agency agreement. If only a section of the existing agreement is required to be amended, the institution may submit a copy of the amendment in lieu of the entire agreement. The commissioner shall decide if this activity is consistent with applicable state and federal laws and the safety and soundness of the Louisiana state-chartered financial institution. The financial institution will be given written notice as to the permissibility of the proposed activity by the commissioner.

b. Should a financial institution, as an agent, close loans at a location other than its main office or any branch facility, a loan production office application may be required.

#### D. Cessation of an Agency Relationship

##### 1. Voluntary Cessation

a. Written notification to the commissioner is required upon the cancellation of an agency relationship.

b. The financial institution shall post a notice at least 30 days prior to the effective date of termination of the financial institution's intention to cease the agency relationship. The notice shall be posted at its main office and at any other location where business was conducted under an agency capacity.

2. Involuntary Cessation. The commissioner may order a Louisiana state-chartered financial institution or any other financial institution subject to the commissioner's enforcement powers to cease acting as agent or principal under any agency agreement with a financial institution that the commissioner finds to be inconsistent with safe and sound banking practices.

#### E. Other

1. Any request for an exception and/or waiver of any provision of this rule requires the written approval of the commissioner.

2. By no means shall any Louisiana state-chartered financial institution serving as agent for another financial institution be deemed to be a branch of the other financial institution.

3. The commissioner shall impose a fee for this notification in accordance with this office's fees and assessments rule.

4. This rule shall become effective upon final publication.

AUTHORITY NOTE: Promulgated in accordance with R.S.6:539.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 21:1215 (November 1995).