

INTERPRETIVE LETTER 10-01 (APRIL 5, 2010)

BANKS MAY INVITE EMPLOYEES OF AFFILIATED BANKS TO ATTEND THEIR QUARTERLY TRUST COMMITTEE MEETINGS.¹

This is in response to your recent correspondence in which you asked the Department of Financial and Professional Regulation (“Department”) to determine if Bank A is allowed to invite employees of affiliated banks to attend their quarterly trust committee meetings.

INTRODUCTION

According to the facts presented in your correspondence, Bank A is owned by a Holding Company. That Holding Company is also the majority owner of two additional Illinois state chartered banks (“Brother Banks”). Only Bank A has been granted trust powers by the Department.

Brother Banks would stand to benefit from promoting the trust services to their own customers. For that purpose, Bank A executed agreements with the Brother Banks that allow the Brother Banks to offer Bank A’s trust services. Bank A proposes to invite employees of the Brother Banks to its quarterly trust committee meetings and impart to the employees of the Brother Banks with a deeper understanding of the trust services available to their customers. The financial information examined and discussed at quarterly trust committee meetings includes 401K plans, amongst other financial documents.

ANALYSIS

A condensed analysis is appropriate because the core elements of the question appear to be resolved by Interpretive Letter No. 01-01.² Any uncertainty related to your specific circumstances should be reconciled through the following pronouncements. Section 48.1(a)(4) of the Illinois Banking Act [205 ILCS 5/48.1(a)(4)] is a catchall provision. Customer’s 401K records fall within its reach and are thus confidential and should not be disclosed to third parties. Nevertheless, Section (b)(15) recites an appropriate exception. On that account, quarterly trust committee meetings are part of Bank A’s regular course of business and the Brother Banks qualify as commonly owned affiliates of Bank A. By extension of the rule, employees of the Brother Banks qualify as parties that are not prohibited from reviewing financial records belonging to Bank A’s customers. It is therefore permissible for Bank A to invite employees of the Brother Banks to quarterly trust committee meetings in an effort to develop, promote, and market the trust services that Bank A can provide to their customers.

¹ This response is meant solely as a general overview of the applicable law and should not be relied upon as legal advice or counsel.

² Interpretive Letter No. 01-01 (March 9, 2001).

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You are reminded that certain restrictions still apply. As an overarching matter, confidential status remains attached to customer financial records despite permitted disclosures. Accordingly, employees of the Brother Banks who attend Bank A's quarterly trust committee meetings should be reminded that all records examined and discussed cannot be further disclosed. Please also be advised that the Financial Institutions Insurance Sales Law limits disclosures authorized under Section (b)(15).

CONCLUSION

It is permissible for Bank A to invite employees of the Brother Banks to quarterly trust committee meetings in an effort to develop, promote, and market the trust services that Bank A can provide to their customers. However, employees of the Brother Banks with access to the information shared at the meetings remain subject to the same disclosure restrictions as Bank A employees.