



Illinois Department of Financial and Professional Regulation

Division of Banking

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Governor

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Secretary

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Acting Director
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Interpretive Letter 2020-02 (February 20, 2020)
[Deposit production; Branching (IBA 5(15)); Affiliate facilities (IBA 5(23))]
[Illinois State bank – deposit production activities of foreign parent company]

February 20, 2020

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Re: Deposit-Related Activities Conducted by Foreign Parent Bank Holding Company

Dear []:

This responds to your [], 2020 letter asking the Illinois Department of Financial and Professional Regulation, Division of Banking (“Department”) to confirm that certain deposit-related activities are not core banking activities under the Illinois Banking Act (“Act”). As described below, the Department views the activities as representational in nature, not core banking activities.

As detailed in your letter, [] (“Foreign Parent”), foreign parent company of [State bank] [], will undertake certain activities on behalf of [State bank] with regard to [State bank]’s consumer checking account called the “[] Account.” [State bank] offers this account to [foreign country] residents who regularly spend time in the United States. Foreign Parent personnel engage in the activities only at Foreign Parent branches located in [foreign country] (“[branches]”). According to your letter, the activities will be limited to the following:

- Filling in the online application form for the [] Account on behalf of Foreign Parent clients and carrying out any other account-opening/application tasks for the client;
- Providing step-by-step instructions to Foreign Parent clients over the phone on how to complete an online application form for the [] Account;
- Recommending that a Foreign Parent client open a [] Account in response to the client’s feedback as to the client’s particular needs or based on inquiries by Foreign Parent personnel to the client after identifying relevant US transactions or behaviors;
- Providing Foreign Parent clients with information about the [] Account that is publicly available on [].com or the [] US site (such as fees, features, and benefits):

- o Verbally in the [branches] or over the phone
 - o Through client handouts;
- Displaying in-branch collateral such as branch flyers, client handouts, sales aids, and FAQs;
 - Inviting Foreign Parent clients to open a [State bank] [] Account (with or without a special promotional offer); and
 - Sending targeted, direct-to-client communications (such as emails or targeted online or mobile offers).

Based on your letter, the Department understands that all decisions to open an account and all substantive account-opening functions, including the collection and review of Customer Information Program material will occur by appropriate [State bank] personnel in registered [State bank] branches. Further, no deposit-taking would take place in the Foreign Parent branches, and [State bank] personnel would continue to maintain ultimate control and decision-making authority over all Smart Accounts.

Based on this information, the Department considers the activities listed above to be representational functions. Accordingly, the Department has no objection if [State bank] does not file the notice required to establish and maintain a bank branch under 38 Ill. Adm. Code Section 305.20.

However, [State bank] is advised to review Sections 2 and 5(23) of the Act regarding affiliate facilities. 205 ILCS 5/2 and 5(23). The provisions of Section 5(23) apply to “all transactions that the other bank is authorized to perform.” Prior to June 22, 2000, the relevant transactions were specified, namely: “receiving deposits; cashing and issuing checks, drafts and money orders; changing money; and receiving payments of existing indebtedness.” See Illinois Public Act 91-849. Section 5(23) requires a bank to provide the Department written notice by letter application at least 30 days before any transaction is conducted at an affiliate facility.

The views expressed in this letter are based on the information you have provided to the Department and the specific circumstances described above. If the Department becomes aware of additional or different information, it may change its views. In addition, because the Department’s position is based upon all of the facts and representations regarding this matter, any different facts or representations may require a different conclusion.

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Sincerely,