

INTERPRETIVE LETTER 90-12 (AUGUST 3, 1990)

State bank may automatically renew letters of credit, even though it may only accept drafts for payment up to one year from date of acceptance.

This is in response to your letter of * regarding this Agency's interpretation of the provisions of Section 5(13) of the Illinois Banking Act (Ill. Rev. Stat. 1989, ch. 17, par. 311(13)).

Specifically, Section 5(13) authorizes a state bank "[t]o accept for payment at a future date not exceeding one year from the date of acceptance, drafts drawn upon it by its customers; and to issue, advise or confirm letters of credit authorizing the holders thereof to draw drafts upon it or its correspondents." You have inquired whether the one year time limit applied to both the date for acceptance of drafts as well as the expiration date for the advising or confirming of letters of credit. It is the position of this Agency that the one year time limit, by virtue of its placement in this Section, refers only to the acceptance of drafts.

Additionally, you have inquired whether this Agency is aware of any "legal problems" with a bank issuing a letter of credit which incorporates language providing for the letter of credit expiration date to be automatically extended unless the Bank notifies the beneficiary in writing that the bank elects not to extend such date. As we discussed on the telephone, I am not aware of any legal problems associated with a letter of credit which is automatically extended. I would suggest however that you discuss this issue with your bank counsel. Furthermore, if the bank should issue letters of credit which are automatically renewed, I would suggest it is imperative that the bank institute procedures to insure that these letters are periodically reviewed and that the circumstances have not changed which would warrant the bank not renewing the letter of credit.