

INTERPRETIVE LETTER 90-14 (AUGUST 8, 1990)

Out-of-state bank may operate commercial lending subsidiary in Illinois without violating interstate branching restrictions, provided bank's home state does not deem the subsidiary to be a branch.

I am writing in response to your letter of * regarding the operation by your client of a commercial finance business in Illinois.

The facts as I understand them are that as of the date of your letter, your client, a commercial finance company, was a wholly-owned subsidiary of a leasing company which was in turn wholly-owned by a bank holding company. The bank holding company has decided to reposition the commercial finance company as a subsidiary of one of its subsidiary banks. That bank is a Delaware state-chartered bank. The issue we discussed was whether Illinois banking law would limit the ability of a Delaware state-chartered bank to operate in Illinois a subsidiary which conducts a commercial lending business.

We discussed this issue with the Commissioner's Office in Delaware to determine whether that agency would deem a subsidiary of a state-chartered bank which is engaged in a commercial lending business to be a branch of that bank. If the Delaware Commissioner viewed such subsidiary of a state-chartered bank as a branch of that bank, then this Agency would have objected to this subsidiary operating in Illinois because the activities of the subsidiary in Illinois would have constituted interstate branching. Since the Delaware Commissioner, however, does not view this subsidiary as being a branch of the bank, this Agency is of the opinion that there is nothing in Illinois banking law which would limit the ability of the commercial finance subsidiary of the Delaware bank to engage in a commercial lending business in Illinois.