Fields of Opportunities

IOWA DIVISION OF BANKING

TERRY E. BRANSTAD
GOVERNOR
KIM REYNOLDS
LT. GOVERNOR

JAMES M. SCHIPPER
SUPERINTENDENT

Superintendent Guidance
SG-2015-01
June 8, 2015

Loan Production Offices (LPOs)

TO: STATE-CHARTERED BANKS

As the banking environment has evolved, it has become necessary to update Superintendent Interpretive Bulletin #3, regarding LPOs, to better align with changes in the banking industry. This Superintendent Guidance #2015-01 will replace Superintendent Interpretive Bulletin #3, dated April 7, 1988, related to Loan Production Facilities (LPOs). The new guidance has been updated to include background information regarding the 1988 Superintendent decision that allows a state-chartered bank to operate an LPO, permissible and prohibited activities at an LPO, and requirements a bank must follow to establish an LPO.

Background Information

In 1988, the Superintendent of Banking received several inquiries asking whether the establishment and operation of a loan production facility by a state-chartered bank was prohibited by Iowa Code section 524.1201 (1987). The Comptroller of the Currency had already authorized loan production facilities that performed limited functions. According to a January 1974 opinion of the Iowa Attorney General's Office, the establishment of a loan production facility would violate the state's law regarding bank offices. However, after that opinion, the IBAA, in Independent Bankers Ass'n of America v. Heimann, 627 F.2d 486 (D.C. Cir. 1980), challenged the Comptroller of the Currency's interpretive ruling, which concluded that loan production facilities engaged in certain limited activities were not "branches" within the meaning of 12 U.S.C. 36(o). The U.S. Court of Appeals dismissed the challenge, so the Comptroller's ruling remained in effect.

We subsequently requested that the Attorney General's Office review its previous opinion in light of the stated purpose of Iowa Code section 524.102(5); namely, promoting competitive equality between state-chartered banks and national banks. The Attorney General then issued an opinion stating that the Superintendent of Banking had the discretion, under his supervisory powers, to authorize state-chartered banks to establish loan production facilities anywhere in the state of Iowa. The opinion added that a loan production facility which did not perform any core banking functions (e.g., receiving deposits, paying checks, or lending money) did not violate Iowa Code section 524.1201.

Permissible Activities for an LPO

The following activities may be performed at a LPO of a state-chartered bank:

1) Credit information may be assembled and loan applications may be solicited or processed. This includes making property inspections and appraisals, providing information as to loan rates and terms, and interviewing and counseling potential applicants regarding loans.

Prohibited Activities for an LPO

A state-chartered bank that wishes to operate an LPO is prohibited from engaging in core banking functions at the LPO, including, but not limited to:

1) Approving loans;
2) Executing promissory notes, mortgages, security agreements, or other documents obligating the loan customer to the bank;
3) Disbursing loan proceeds;
4) Accepting loan payments;
5) Providing forms enabling a customer to open deposit accounts;
6) Counseling customers regarding any banking service other than loan activities;
7) Paying checks or drafts;
8) Advertising, explicitly or implicitly, that the LPO provides services beyond those which are permissible at an LPO;
9) Providing information to customers regarding the status of their deposit account;
10) Accepting funds for delivery to the main bank or authorized bank office.

Other Activities Conducted at LPOs

The Superintendent of Banking receives numerous inquiries regarding what other activities may be conducted at an LPO without elevating the facility to the status of a bank office. The Superintendent has determined that the following activities are permissible at an LPO:

- Installing an Automated Teller Machine (ATM) or Intelligent Teller Machine (ITM). Neither device would be considered a branch, because each device contains a "remote service unit" (RSU) and RSU's are excluded from the definition of "branch" in 12 U.S.C. 1813(o). However, an informational statement regarding the installation of an ATM or ITM should be completed and sent to the Superintendent of Banking prior to installation.

- Installing a computer terminal to allow customers to access online banking at the LPO.
- An LPO may NOT perform remote deposit capture (RDC); however, RDC may be performed at a customer's location.

Notification to the Superintendent

An LPO that complies with the requirements of this Superintendent Guidance will not be considered an authorized bank office under Iowa Code 524.1201 (2015). Upon 30-day prior notification to the Superintendent, a state-chartered bank may establish an LPO. The notification letter should address the following:

- Condition of the bank. A bank must be in satisfactory condition to open an LPO.
- Location of the proposed LPO. As a reminder, the Superintendent of Banking must approve any lease or purchase of real property to be used in bank operations per section 524.803(1)(b) (2015) of the Code of Iowa.
- Brief description of personnel and expected volume of business.
- Description of future plans for the location.
- Confirmation that the bank will comply with the Superintendent Guidance regarding LPOs and the limitations on activities that can be conducted therein.

The Superintendent of Banking reserves the right to prohibit the establishment of an LPO on a case-by-case basis if it is determined that establishing the LPO would constitute an unsafe and unsound banking practice.

Sincerely,



James M. Schipper
Superintendent of Banking