



Rules of Department of Commerce and Insurance

Division 1140—Division of Finance Chapter 6—Interpretive Rulings

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**Title 20—DEPARTMENT OF
COMMERCE AND INSURANCE**
Division 1140—Division of Finance
Chapter 6—Interpretive Rulings

20 CSR 1140-6.025 Variable Rate Credit
 (Rescinded September 30, 2021)

AUTHORITY: section 408.450, RSMo 1986. This rule originally filed as 4 CSR 140-6.025. Emergency rule filed July 12, 1984, effective Aug. 13, 1984, expired Oct. 13, 1984. Original rule filed July 12, 1984, effective Nov. 15, 1984. Moved to 20 CSR 1140-6.025, effective Aug. 28, 2006. Rescinded: Filed March 30, 2021, effective Sept. 30, 2021.

20 CSR 1140-6.030 Federal Usury Preemption
 (Rescinded September 30, 2021)

AUTHORITY: sections 408.030 and 408.035, RSMo 1978. This rule originally filed as 4 CSR 140-6.030. Emergency rule filed Jan. 8, 1980, effective Jan. 18, 1980, expired May 9, 1980. Emergency amendment filed Jan. 29, 1980, effective Feb. 8, 1980, expired May 9, 1980. Moved to 20 CSR 1140-6.030, effective Aug. 28, 2006. Rescinded: Filed March 30, 2021, effective Sept. 30, 2021.

20 CSR 1140-6.031 Industrial Revenue Bonds

PURPOSE: The increasing use of revenue bonds as a vehicle for financing construction of business and industrial plants suggests a need for a policy statement by this office respecting the application of the loan limit statute to investments. Bonds are not backed by the taxing authority of any political subdivision and are payable only out of revenues derived from the completed project. Banks should consider these factors when assisting in financing.

(1) The purchase of industrial revenue bonds, which are generally of the kinds described in section 100.100 or 349.055, RSMo shall be considered an extension of credit subject to the loan limits of section 362.170, RSMo.

(2) The amounts invested in industrial revenue bonds shall be treated as extensions of credit to the beneficiary of the project whose payments provide the funds to retire the bonds. The bank shall combine the amount invested in revenue bonds with amounts loaned directly to the respective beneficiaries for purposes of section 362.170, RSMo.

AUTHORITY: sections 362.105 and 362.170, RSMo 1986. * This rule originally filed as 4 CSR 140-6.031. Original rule filed July 15, 1981, effective Oct. 25, 1981. Moved to 20 CSR 1140-6.031, effective Aug. 28, 2006.

*Original authority: 362.105, RSMo 1939, amended 1949, 1963, 1965, 1967, 1977, 1983, 1986; and 362.170, RSMo 1939, amended 1941, 1943, 1945, 1963, 1967, 1977, 1981, 1983, 1985.

20 CSR 1140-6.040 Retail Repurchase Agreements (Retail Repos)
 (Rescinded September 30, 2021)

AUTHORITY: sections 361.105, RSMo 1986, 362.105, RSMo Supp. 1991 and 362.170, RSMo Supp 1989. This rule originally filed as 4 CSR 140-6.040. Original rule filed July 15, 1981, effective Nov. 15, 1981. Amended: Filed Aug. 7, 1992, effective Feb. 26, 1993. Moved to 20 CSR 1140-6.040, effective Aug. 28, 2006. Rescinded: Filed March 30, 2021, effective Sept. 30, 2021.

20 CSR 1140-6.050 Contingent Additional Interest or Stock Purchase Warrants

PURPOSE: The legal separation of deposit taking from investment banking prevents banks from investing in the stock of other corporations. It has also raised a question whether banks can contract to receive additional interest or stock purchase warrants from a borrower contingent upon the success of the borrower's business. This rule authorizes contract provisions to receive additional interest or stock purchase warrants from the borrower contingent upon the success of the borrower's business. Further, it permits a new business to negotiate a loan agreement with a commercial bank which may substantially reduce interest expense in the early years until a date when the business is more established.

(1) A bank may contract to receive additional interest on any loan for business purposes contingent only upon the profitability and successful operation of the business receiving the proceeds of the loan. In no event shall the repayment of principal be subject to any contingency.

(2) A bank may contract to receive stock purchase warrants in lieu of part of the interest on any loan. The bank, however, may not use these warrants to purchase the stock of any private corporation.

AUTHORITY: sections 361.105 and

362.105.3, RSMo 1986. * This rule originally filed as 4 CSR 140-6.050. Original rule filed June 14, 1982, effective Sept. 11, 1982. Moved to 20 CSR 1140-6.050, effective Aug. 28, 2006.

*Original authority: 361.105 RSMo 1967; and 362.105.3, RSMo 1939, amended 1949, 1963, 1965, 1967, 1977, 1983, 1986.

20 CSR 1140-6.055 Bank Investment in Mutual Funds

PURPOSE: This rule announces a change in division policy concerning mutual funds. Since 1976, this office has held that banks, which are prohibited by law from investing in equity securities, may not invest in mutual funds. A change in that policy is justified by events since that time. The modification of Regulation Q has increased bank dependence upon rate sensitive liabilities necessitating investments which increase liquidity in the bank's asset portfolio without jeopardizing the diversification of risk and return on investments which would enable banks to compete with unregulated financial intermediaries. Investor demand has led to the establishment of investment companies investing entirely in bank-eligible securities, such as United States Government and municipal obligations. Finally, the comptroller of the currency has authorized national banks to invest in money market mutual funds and certain privately-sponsored funds, placing state-chartered banks at a competitive disadvantage. This ruling authorizes state-chartered banks to make the same investments. Since this rule is issued under the so-called "wild card" provisions of section 362.105.3, RSMo, the powers authorized in this rule cannot be significantly more liberal than those granted to national banks.

(1) A bank subject to the limitations set forth in this rule may invest in the shares of mutual funds which have been registered with the Securities and Exchange Commission; provided, those investments have been approved by the bank's board of directors and approval is noted in the minutes of the board's meetings.

(2) A bank may invest only in the shares of a company or fund (the fund) whose portfolio consists of assets which the bank could purchase directly. The bank's investment in shares of any such funds shall not exceed the amount which could be loaned to one (1) borrower under section 362.170, RSMo.



(3) Banks, at all times, shall maintain sufficient records to enable state and federal regulatory authorities to make a determination of the quality and carrying value of this investment. The regulatory reporting of holdings in funds must be consistent with standards for marketable equity securities as established by the federal Financial Institutions Examination Council Instructions for Filing Consolidated Reports of Condition and Income.

AUTHORITY: sections 361.105, 362.105 and 362.106, RSMo 1986.* This rule originally filed as 4 CSR 140-6.055. Original rule filed June 12, 1984, effective Nov. 15, 1984. Amended: Filed Jan. 5, 1987, effective April 1, 1987. Moved to 20 CSR 1140-6.055, effective Aug. 28, 2006.

*Original authority: 361.105, RSMo 1967; 362.105, RSMo 1939, amended 1949, 1963, 1965, 1967, 1977, 1983, 1986; and 362.106, RSMo 1981, amended 1985.

20 CSR 1140-6.056 Tax Preparation Services

PURPOSE: The comptroller of the currency has authorized national banks to engage in tax preparation activities. Absent similar powers, state-chartered banks are at a competitive disadvantage. This rule authorizes state-chartered banks to engage in the same activities. Since this rule is issued under the so-called "wild card" provisions of section 362.105.3., RSMo, the powers authorized in this rule cannot be significantly more liberal than those granted to national banks.

State-chartered banks, either directly or through a subsidiary, may provide individuals, businesses and nonprofit organizations tax preparation services.

AUTHORITY: sections 361.105 and 362.105.3, RSMo 1986.* This rule originally filed as 4 CSR 140-6.056. Original rule filed Jan. 5, 1987, effective April 1, 1987. Moved to 20 CSR 1140-6.056, effective Aug. 28, 2006.

*Original authority: 361.105, RSMo 1967; and 362.105.3, RSMo 1939, amended 1949, 1963, 1965, 1967, 1977, 1983, 1986.

20 CSR 1140-6.057 Check Guaranty Services

PURPOSE: The comptroller of the currency has authorized national banks to engage in check guaranty services for their own customers. To the extent the state-chartered banks do not have the same power, they are

at a competitive disadvantage. These services, whether offered to the bank's customers or to others, appear to be among the incidental powers granted to banks. This rule authorizes state-chartered banks to engage in check guaranty services.

State-chartered banks, directly or through a subsidiary, may authorize a subscribing merchant to accept personal checks tendered by the merchant's customers in payment for goods and services, and purchase from the merchant validly authorized checks that are subsequently dishonored.

AUTHORITY: sections 361.105, 362.105.3 and 11, RSMo 1986.* This rule originally filed as 4 CSR 140-6.057. Original rule filed Jan. 5, 1987, effective April 1, 1987. Moved to 20 CSR 1140-6.057, effective Aug. 28, 2006.

*Original authority: 361.105, RSMo 1967; and 362.105.3 and 362.105.11, RSMo 1939, amended 1949, 1963, 1965, 1967, 1977, 1983, 1986.

20 CSR 1140-6.058 Collection Agencies

PURPOSE: The comptroller of the currency has authorized national banks to operate collection agencies. To the extent that state-chartered banks do not have the same power, they operate at a competitive disadvantage. In addition, these powers appear to be included in the express and incidental powers granted by law to state-chartered banks. This rule authorizes state-chartered banks to engage in collection agency activity.

State-chartered banks, either directly or through a subsidiary, may collect overdue accounts receivable, either retail or commercial, provided the collection agency does not obtain the names of customers of competing collection agencies from an affiliated depository institution that maintains accounts for those agencies.

AUTHORITY: sections 361.105 and 362.105.3, RSMo 1986.* This rule originally filed as 4 CSR 140-6.058. Original rule filed Jan. 5, 1987, effective April 1, 1987. Moved to 20 CSR 1140-6.058, effective Aug. 28, 2006.

*Original authority: 361.105, RSMo 1967; and 362.105.3, RSMo 1939, amended 1949, 1963, 1965, 1967, 1977, 1983, 1986.

20 CSR 1140-6.059 Credit Bureaus

PURPOSE: The comptroller of the currency

has authorized national banks to operate credit bureaus. To the extent that state-chartered banks are not permitted to engage in the same activity, they are at a competitive disadvantage. This rule authorizes state-chartered banks to operate credit bureaus.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

State-chartered banks, either directly or through a subsidiary, may maintain files on the past credit history of consumers and provide that information to third parties under circumstances permitted by the Fair Credit Reporting Act (15 USC 1681b.)

AUTHORITY: sections 361.105 and 362.105.3, RSMo 1986.* This rule originally filed as 4 CSR 140-6.059. Original rule filed Jan. 5, 1987, effective April 1, 1987. Moved to 20 CSR 1140-6.059, effective Aug. 28, 2006.

*Original authority: 361.105, RSMo 1967; and 362.105.3, RSMo 1939, amended 1949, 1963, 1965, 1967, 1977, 1983, 1986.

20 CSR 1140-6.060 Purchase of Bank Employee's Residence

PURPOSE: A major obstacle to the relocation of bank employees is the difficulty in disposing of their residences which increases in direct proportion to the prevailing interest rates. This rule sets forth the position of the Division of Finance that a bank may legally purchase an employee's residence to facilitate a transfer.

(1) A bank or trust company, to facilitate the transfer of an employee, may purchase the employee's residence. Any residence so acquired should be sold as soon after that as possible and, in no event, no later than six (6) years from the date of purchase.

(2) Any residence purchased shall be entered on the bank's books as Other Real Estate at a value as would be permissible under 20 CSR 1140-2.070 if it were formerly used for bank premises.

AUTHORITY: sections 361.105 and 362.165,



RSMo 2016, and section 362.105, RSMo Supp. 2020. This rule originally filed as 4 CSR 140-6.060. Original rule filed Dec. 10, 1981, effective April 1, 1982. Moved to 20 CSR 1140-6.060, effective Aug. 28, 2006. Amended: Filed March 30, 2021, effective Sept. 30, 2021.*

**Original authority: 361.105, RSMo 1967, amended 1993, 1994, 1995, 2011; 362.105, RSMo 1939, amended 1949, 1963, 1965, 1967, 1977, 1983, 1986, 1990, 1991, 1992, 1995, 2000, 2001, 2003, 2010, 2011, 2017; and 362.165, RSMo 1939, amended 1967, 1983, 1995.*

20 CSR 1140-6.063 Investment in Federal Agricultural Mortgage Corporation

PURPOSE: Congress recently established the Federal Agricultural Mortgage Corporation, "Farmer Mac," to establish a secondary market in farm real estate loans. The comptroller of the currency has authorized national banks to invest in the stock of this agency to the extent necessary to participate in the secondary market. State-chartered banks must have the same authority in order to compete on an equal basis.

(1) State-chartered banks and trust companies may invest in the stock of the Federal Agricultural Mortgage Corporation to the same extent as national banks in this state are permitted to do so by the comptroller of the currency.

AUTHORITY: sections 361.105 and 362.105, RSMo 1986. This rule originally filed as 4 CSR 140-6.063. Original rule filed May 17, 1988, effective Aug. 26, 1988. Moved to 20 CSR 1140-6.063, effective Aug. 28, 2006.*

**Original authority: 361.105, RSMo 1967; and 362.105 RSMo 1939, amended 1949, 1963, 1965, 1967, 1977, 1983, 1986.*

20 CSR 1140-6.070 Customer Financial Services

PURPOSE: Banks have recently faced competitive pressures from money market funds offering services similar to banking services. In response, a new service has been designed by banks; the sweep account which sweeps or pours over into a money market fund. The new service is consistent with the purpose for which state banks are chartered, is offered by national banks and, in the interest of banking competition, should be made available to state banks. This rule provides guidelines for this financial service.

(1) In connection with any customer account,

a bank may enter this contract by which the bank agrees that periodically it will review the account and transfer all money in excess of a set minimum balance to repurchase agreements or money market funds. Before entering into this contract with respect to any money market fund, the bank should determine that the fund is administered by a financially responsible concern and in a safe and sound manner.

(2) All transfers to and withdrawals from the money market fund shall be undertaken only upon instructions contained in a written and executed agreement entered into with the customer at the time the account is established or as subsequently amended.

AUTHORITY: sections 361.105, RSMo 1986, 362.105.3, RSMo Supp. 1991 and 362.106, RSMo Supp. 1990. This rule originally filed as 4 CSR 140-6.070. Original rule filed June 14, 1982, effective Sept. 11, 1982. Amended: Filed Aug. 7, 1992, effective Feb. 26, 1993. Moved to 20 CSR 1140-6.070, effective Aug. 28, 2006.*

**Original authority: 361.105, RSMo 1967; 362.105.3, RSMo 1939, amended 1949, 1963, 1965, 1967, 1977, 1983, 1986, 1990, 1991; and 362.106, RSMo 1981, amended 1985, 1990.*

20 CSR 1140-6.075 Loan Production Offices

PURPOSE: The comptroller of the currency, with a brief interruption, has authorized national banks to maintain loan production offices since 1966. This rule extends that power to state-chartered banks.

(1) Any bank, whether organized or established under the laws of this state or of another state, or under the laws of the United States, subject to the provisions of this rule, may establish one (1) or more loan production offices in Missouri.

(2) Loans which are originated at a loan production office must be approved or denied at the main office or branch office of the lending bank and the proceeds of these loans must be disbursed from the main office or a branch office of the lending bank; disbursement may not be effected by or through the loan production office. No payments may be accepted at a loan production office.

(3) It shall be a condition of the right to establish and maintain a loan production office in Missouri that each bank which does so, by January 1 of each year, must report to the

commissioner of finance stating the location of the loan production office maintained, the volume of income generated by each loan production office, the number of officers and other personnel employed at each location, as well as the address of the office at which loans are approved or denied and disbursement made. In addition, all loan production offices presently operating in Missouri shall file a report containing this information within sixty (60) days (January 14, 1985) of the effective date of this rule (November 15, 1984). Reports shall be filed with the Commissioner of Finance, Division of Finance, P.O. Box 716, Jefferson City, MO 65102.

AUTHORITY: sections 361.105, RSMo 1986 and 362.105, RSMo Supp. 1991. Moved to 20 CSR 1140-6.075, effective Aug. 28, 2006. This rule originally filed as 4 CSR 140-6.075. Original rule filed June 12, 1984, effective Nov. 15, 1984. Amended: Filed Aug. 7, 1992, effective Feb. 26, 1993. Moved to 20 CSR 1140-6.075, effective Aug. 28, 2006.*

**Original authority: 361.105, RSMo 1967; and 362.105, RSMo 1939, amended 1949, 1963, 1965, 1967, 1977, 1983, 1986, 1990, 1991.*

20 CSR 1140-6.085 Trust Representative Offices

PURPOSE: This section sets forth a definition for "trust representative offices," which are authorized by statute for certain in-state and out-of-state banks and trust companies, and establishes a procedure for establishing these offices.

(1) A trust representative office is an office, agency or place of business at which a bank or trust company may advertise, market or solicit for fiduciary business; contact existing or potential customers; answer questions and provide information about matters related to their accounts; act as a liaison between the institution's trust office and the customer (e.g., forward requests for distribution or changes in investment objective, or forward forms and funds received from the customer); or simply inspect or maintain custody of fiduciary assets. An institution may not accept fiduciary appointments, execute documents that create a fiduciary relationship or make decisions regarding the investment or distribution of fiduciary assets at a trust representative office.

(2) A Missouri chartered bank or trust company may establish one (1) or more trust representative offices, subject to sections



362.105.1(9) and 362.105.2, RSMo 2000. The institution shall provide the Division of Finance with a written notice within thirty (30) days after establishing each trust representative office.

CSR 1140-6.090, effective Aug. 28, 2006.

**Original authority: 30.270 1939, amended 1945, 1957, 1959, 1965, 1969, 1973, 1975, 1979, 1983; 110.060, RSMo 1939, amended 1953; 361.105, RSMo 1967; 362.170, RSMo 1939, amended 1941, 1943, 1945, 1959, 1963, 1967, 1977, 1981, 1983, 1985; and 362.190 and 362.490, RSMo 1939.*

(3) A “foreign corporation” as defined in section 362.600.1, RSMo 2000 may establish a trust representative office in Missouri if it meets the following requirements:

(A) The institution possesses fiduciary powers and is in good standing with its chartering agency;

(B) The institution holds a certificate of reciprocity from the Division of Finance;

(C) The institution is chartered by or has its principal place of business in a state that meets the reciprocity requirements for trust representative offices set forth in section 362.600.5(3), RSMo 2000; and

(D) The institution has provided the Division of Finance with a written notice at least thirty (30) days before establishing the trust representative office.

AUTHORITY: sections 361.105, 362.105, 362.106 and 362.600, RSMo 2000. This rule originally filed as 4 CSR 140-6.085. Original rule filed Dec. 29, 2000, effective Aug. 30, 2001. Moved to 20 CSR 1140-6.085, effective Aug. 28, 2006.*

**Original authority: 361.105, RSMo 1967, amended 1993, 1994, 1995; 362.105, RSMo 1939, amended 1949, 1963, 1965, 1967, 1977, 1983, 1986, 1990, 1991, 1992, 1995, 2000; 362.600, RSMo 1967, amended 1978, 1988, 1998, 2000.*

20 CSR 1140-6.090 Securing Private Deposits

PURPOSE: This rule publicizes an interpretation of law which has long been followed by the Division of Finance. The statutes repeatedly authorize and direct banks to pledge securities to support public deposits. The lack of any such authorization or direction concerning private deposits is a strong indication that banks lack that power. It is noted that national banks are likewise prohibited from pledging securities to support the deposits of private individuals or enterprises.

(1) No bank may pledge assets to secure or collateralize deposits other than deposits of public moneys held by or for the benefit of a public officer or a political subdivision.

AUTHORITY: sections 30.270, 110.060, 361.105, 362.170, 362.190 and 362.490, RSMo 1986. This rule originally filed as 4 CSR 140-6.090. Original rule filed Aug. 18, 1987, effective Nov. 12, 1987. Moved to 20*