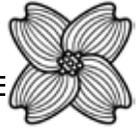




RULES OF
**Department of Commerce and
Insurance**
Division 1140—Division of Finance
Chapter 6—Interpretive Rulings

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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(Rescinded September 30, 2021)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 Rescinded: Filed March 30, 2021, effective Sept. 30, 2021.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(Rescinded September 30, 2021)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 Rescinded: Filed March 30, 2021, effective Sept. 30, 2021.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 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.*

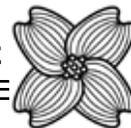
20 CSR 1140-6.059 Credit Bureaus

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 authorized 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 Bank Offices – Definitions and Procedures for Non-Branch Offices

PURPOSE: This rule defines non-branch offices in a manner consistent with federal definitions, implements procedures regarding the establishment of non-branch offices, and provides parity for Missouri state-chartered banks with national banks regarding the establishment of branches and other types of banking facilities.

(1) Definitions –

(A) "Administrative office" means a bank facility to which the bank does not permit members of the public to have physical access for purposes of making deposits, paying checks, or borrowing money (such as an office established by the bank that receives deposits or loan payments only electronically or through the mail or involves staff engaged only in "back office" administrative work or loan approvals);

(B) "Bank" means any bank or depository trust company chartered by Missouri or any other state;

(C) "Branch," for purposes of this rule –

1. "Branch" means any branch bank, branch office, branch agency, additional office, or any branch place of business established by a bank at which deposits are received or checks paid or money lent. A "branch" may include a temporary, seasonal, or mobile facility that meets these criteria;

2. "Branch" does not include –

A. A loan production office;

B. A deposit production office;

C. An automated teller machine, an interactive video terminal, remote capture terminal or remote service unit, including but not limited to an automated loan machine, a personal computer, mobile device or similar device used in providing financial services, or a drop box for deposit and payment purposes;

D. An administrative office;



E. A facility that is located at the site of, or is an extension of, an approved main office or branch; or

F. Any other office that does not engage in any of the activities in paragraph (1)(C)1. of this rule, including any office combining any of the activities or facilities permitted in the exemptions listed in subparagraphs (1)(C)2.A. through D.;

(D) “Deposit production office” means a bank office at which deposit-related functions are conducted, but at which deposits are not received, checks are not paid, nor money lent;

(E) “Deposit-related functions” means including assembling and providing information about deposit products and services, soliciting and processing deposit account applications, approving or denying deposit account applications, and conducting deposit account set-up activities, such as execution of documents, but not including “receipt of deposits”;

(F) “Deposits are received” or “receipt of deposits” includes the bank accepting funds to be deposited from the depositor, in-person;

(G) “Loan production office” means a bank office at which loan-related functions are conducted, but at which deposits are not received, checks are not paid, nor money lent;

(H) “Loan-related functions” includes assembling and providing information about loan products and services, soliciting and processing loan applications, approving or denying loan applications, and conducting loan closing activities, such as execution of documents but not including “money lent”;

(I) “Money lent” means disbursing to the borrower, in-person, loan proceeds directly from bank funds –

1. From the lending bank or its subsidiary; or

2. At a facility that is established by the lending bank or its subsidiary;

(J) “Non-branch banking facility” means any item described in paragraph (1)(C)2. of this rule; and

(K) “Trust office” means an office of a bank or trust company chartered in Missouri, other than a main office or a branch, at which the bank or trust company engages in one (1) or more fiduciary activities requiring trust powers and/or activities incidental to the exercise of such trust powers, but at which deposits are not received, checks are not paid, nor money lent.

(2) Loan Production, Deposit Production, and Combination Offices. Any bank may establish one (1) or more in-state or out-of-state loan production, deposit production or non-branch banking facilities described in subparagraph (1)(C)2.F. of this rule that involve any combination of “loan-related functions” and “deposit-related functions” subject to the requirements of the host state, if any; and provided that, within thirty (30) days after establishing any such office, such bank shall file a written notice with the Division of Finance stating the name of the bank, the location of the office, and the activities to be conducted at the office. Notwithstanding anything contrary to the foregoing, if the purchase or lease of real property or improvements needed to establish any office authorized by this rule exceeds the legal loan limit or is from an officer, director, employee, affiliate, principal shareholder, or a related interest of such person, prior written approval shall be obtained from the commissioner of finance.

(3) Other Non-branch Banking Facilities. Any bank may establish one (1) or more in-state or out-of-state administrative offices or one (1) or more of the types of non-branch banking facilities described in subparagraph (1)(C)2.C. or (1)(C)2.E. of this rule, and such establishment does not require notice to the Division of Finance.

(4) Establishment of Trust Offices.

(A) A Missouri-chartered bank granted fiduciary powers pursuant to section 362.115, RSMo, and trust company, may establish one (1) or more in-state or out-of-state trust offices on the same conditions as set forth in section (2) subject to the requirements of the host state, if any.

(B) Banks and trust companies chartered by jurisdictions other than Missouri must comply with section 362.600, RSMo, to establish any trust office in this state.

(5) Remote Work. Nothing in this rule shall apply to the personal residences of bank officers, employees, or agents, who may be conducting bank business remotely at home, provided that bank customers are not permitted physical access to the residence for purposes of conducting business with the bank.

AUTHORITY: section 361.105, RSMo 2016, and section 362.105, RSMo Supp. 2023. 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. Amended: Filed Oct. 11, 2023, effective May 30, 2024.*

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

20 CSR 1140-6.085 Trust Representative Offices

(Rescinded May 30, 2024)

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. Rescinded: Filed Oct. 11, 2023, effective May 30, 2024.

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 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.*