

Department of Banking and Consumer Finance
Theresa L. Brady, Commissioner



Title 5: Banking and Consumer Finance

Part 1: Banking Activities

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Part 1: Banking Activities

Part 1 Chapter 1: Regulation 1: Bank Operations

Rule 1.1 Purpose - Repeal of Prior Rules. This regulation was adopted as an amendment to the previous Bank Regulation 1 to conform to the Department's current practice and to eliminate obsolete provisions and to add clarification. Pursuant to the Mississippi Administrative Procedures Law, Section 25-43-1.101 et seq., Mississippi Code Annotated, the Department of Banking adopted the Regulation 1, which upon their effective date, superseded and repealed the prior Bank Regulation 1. The provisions addressed in the regulation include banking hours, document filing fees, fees for special services, maximum percentages of the value of all loans and discounts, and preservation of bank records.

1. BANKING HOURS

The legal holidays for the State of Mississippi as allowed under Section 3-3-7, Mississippi Code of 1972, are:

1. First day of January (New Year's Day)
2. Third Monday of January (Robert E. Lee's and Martin Luther King, Jr.'s Birthday)
3. Third Monday of February (George Washington's Birthday)
4. Last Monday of April (Confederate Memorial Day)
5. Last Monday of May (National Memorial Day and Jefferson Davis' Birthday)
6. Fourth of July (Independence Day)
7. First Monday of September (Labor Day)
8. Eleventh day of November (Armistice or Veteran's Day)
9. Day fixed by proclamation by The Governor of Mississippi (Thanksgiving Day)
10. Twenty-fifth day of December (Christmas Day)

In the event any state or federal legal holiday shall fall on a Saturday, a bank may observe the preceding Friday as a legal holiday or in the event any state or federal legal holiday shall fall on a Sunday, a bank may observe the next following Monday as a legal holiday.

No bank shall close more than one whole day in any week, state and federal holidays and Sunday excepted.

All banks shall promulgate and adopt banking hours for the convenience of the public so as not to prevent the rendering of proper and reasonable banking service to the community and trade area in which the bank or branches are located. The banking hours so promulgated and adopted shall define the opening and closing on a day to day basis of the bank and branches and said hours shall be approved by the Board of Directors.

Any closing of a half day or a whole day during the week or on Saturdays shall be included in your Board of Directors' authority. However, exceptions shall include the closing of your parent bank or branches as result of any calamity, catastrophe, or emergency such as hurricane, tornado, fire, civil riots, declaration of material law or other acts which would endanger or threaten the lives and property of your personnel, customers, or facilities wherever located.

Any opening or closing procedure or practice which is an exception to your bank's regular opening and closing routine shall also be approved by the Board of Directors.

2. DOCUMENT FILING FEES

Documents filed with the Department shall be accompanied by a fee as fixed by the Commissioner:

	<u>Fee</u>
1. Filing articles of incorporation of banking and credit unions, and issuing a certificate of incorporation.	\$2,500
2. Filing articles of merger when the resulting bank or credit union is a state bank or credit union.	\$2,500
3. Filing application for conversion from a national bank, state or federal thrift, or credit union to a state bank or credit union.	\$2,500
4. Filing application for a branch bank or credit union.	\$750
5. Filing application for a Loan Production Office (LPO)	\$100
6. Filing application to establish out of state branch office by in-state bank and credit union.	\$750

For any of the above services, should any additional special services be rendered in the examination or investigation, and considered to be out of routine, or extraordinary, the Commissioner, Department of Banking and Consumer Finance, may charge an additional fee up to and not to exceed the maximum fee as established by 81-1-115.

3. FEES FOR SPECIAL SERVICES

1. Personnel costs (per hour)	15.00
2. Reproduction (per page)	.50
3. Postage	Actual
4. FAX transmittal (per page)	\$1.00
5. Licensee listing	\$35.00
6. State Board of Banking Review Parity Regulations	\$35.00

4. MAXIMUM PERCENTAGES OF THE VALUE OF ALL LOANS AND DISCOUNTS

The maximum percentage of the par value of all loans and discounts secured as provided for in Section 81-5-77(b), Mississippi Code of 1972, is hereby fixed at one-hundred percent (100%) of par value up to twenty-five (25%) of capital and surplus, and ninety-five (95%) of par value of all amounts above twenty-five percent (25%) of capital and surplus.

5. PRESERVATION OF BANK RECORDS (Section 81-5-7, Mississippi Code of 1972)

Each bank shall permanently retain certain records as follows:

1. Minute books of meetings of its shareholders and directors
2. Capital stock ledger
3. Capital stock certificate ledger
4. Daily statements of condition
5. General journal
6. Investment (Securities) ledger
7. All bank Reports of Examination
8. All ledger sheets showing unpaid balances in favor of depositors

Provided, however, that any or all records may be reproduced in a format of storage commonly used and any such reproduction retained in lieu of the original records.

All bank records shall be retained for a period of three years from the date of transaction. Thereafter, at the discretion of its Board of Directors, all banks are hereby permitted to destroy any and all records except those specifically outlined above.

In addition to amending the above regulations, DBCF amended and restated Banking Division Memos. The memos were amended as follows:

1. Real Estate Acquisitions – Banks are no longer required to request permission for major capital expansion to new or existing banking house buildings. This does not change branch procedures.
2. “CAMELS” Ratings – Withdrew outdated memo
3. Payment of Dividends – Withdrew outdated memo

Source: *Miss. Code Ann.* §81-5-97; §81-1-115; §81-5-77(b); §81-5-7; *Effective date February 14, 2008*

Part 1 Chapter 2: Regulation 2: Bank Parity

Rule 2.1 Purpose - Bank Parity. This regulation amended Regulation 2 and entitles state chartered banks, state chartered savings and loan associations, and state chartered savings banks the same privileges as federally chartered depository institutions. The intent of Regulation 2 is to clarify the rights, powers, privileges, immunities, duties and obligations of a national bank that may be enjoyed by state chartered banks. The adoption of such regulation in no way restricts or modifies the rights, powers, privileges, or immunities otherwise possessed or enjoyed by state-chartered banks.

The parity covers various areas of corporate governance, as well as operational activities of state chartered banks. A state chartered institution with documented data, can request parity with their federal counterpart which operates within the state. The submission of proof and request for parity must be done prior to beginning the activity. The Commissioner will determine whether to approve the request.

The list below details the numerous activities for which a state chartered institution may request parity. These items were included in the previous amendment to Regulation 2 and parity for these items may be requested with the most recent amendment. Any activity, allowed by a federal regulator, not listed must be documented and submitted for approval.

1. Corporate Governance
 - a. Branching – A state chartered bank, before establishing a branch bank, must obtain prior approval of the Commissioner, Department of Banking and Consumer Finance upon satisfactory demonstration of public convenience and necessity; automated teller machines (ATMs) are deemed to be branch banks; and state chartered branch banks may be established without regard to any population restriction or territorial restriction and may be established outside municipalities or in unincorporated areas. Source: 12 U.S. C. § 36, 12 C. F. R. §5.30 and Department of Banking and Consumer Finance v. Clarke, 809 F. 2d 266, cert denied, 483 U. S. 1010.
 - b. Directors’ Qualifying Shares – A state-chartered bank, with prior approval from the Commissioner, Department of Banking and Consumer Finance, shall have authority to exchange directors’ qualifying shares of stock of a bank and to substitute in lieu thereof a like amount of qualifying shares of a holding company, with the holding company stock to be considered as directors’ qualifying shares as set forth under the provisions of Miss. Code Ann. §81-5-45. Source: 12 U.S.C. § 72 and 12 C.F.R. § 7.4210
 - c. Extensions of Credit to Directors, Executive Officers and Principal Shareholders - A state-chartered bank shall have authority to extend lines of credit to directors,

executive officers, and principal shareholders in accordance with 12 U.S.C. § 375b(4) and §215.4 of Regulation O. Source: 12 U.S.C §84,12 U.S.C. § 375b(4), 12 C.F.R. § 215

- d. Indemnification of Directors, Officers, Employees, and Agents – A state-chartered bank, with prior approval from the Commissioner, Department of Banking and Consumer Finance, shall have authority to amend its Articles of Incorporation to provide for the indemnification of its directors, officers, employees, and agents against liabilities and expenses incurred by them in their official capacities and for the payment of premiums for insurance insuring the liability of its directors, officers, employees and agents. Source: 12 C.F.R. § 7.5217

2. Activities

- a. Acceptances – Sale of small denominations in acceptances created by another bank subject to reserve requirements unless there is a pro rata transfer of ownership rights. Source: 12 C.F.R. § 7.7420; Interpretive Letter 268
- b. Agency Activities
 - i. In accordance with the rules, regulations, policies, and procedures of the Department of Banking and Consumer Finance, and Mississippi state-chartered financial institution that is a subsidiary of a bank holding company may agree to receive deposits, renew time deposits, close loans, service loans, and receive payments on loans and other obligations as an agent for an affiliated depository institution.
 - ii. Notwithstanding any other provision of law, any Mississippi financial institution acting as an agent in accordance with Subsection A of this Section shall not be considered to a branch of the other financial institution for which it acts as agent.
 - iii. In acting as an agent pursuant this Section, a state –chartered bank may not:
 - 1. Conduct any activity which such institution is prohibited from conducting as a principal under any applicable federal or state law, or
 - 2. As a principal, have an agent conduct under this Section any activity which the institution is prohibited from conducting under any applicable federal or state law.
 - iv. No provision of this Section shall be construed as affecting either of the following:
 - 1. The authority of any financial institution to act as an agent on behalf of any other financial institution under any other provision of law.
 - 2. Whether a financial institution which conducts any activity as an agent on behalf of any other financial institution under any other provision of law shall be considered to be a branch of such other institution.

- v. Agency relationships by and between financial institutions as provided in this Section shall be on terms that are consistent with safe and sound banking practices and all applicable regulations of any appropriate state or federal banking supervisory agency. Source: 12 U.S.C. § 1828(r)
- c. Agent for Deposit Placement – A bank may act as agent and place deposits in other financial institutions on behalf of customer. (Must register as a deposit broker). Source: Investment Securities Letter 32
- d. ATM Network – Operation via Subsidiary. A bank may form an operating subsidiary to enter into a partnership or joint venture with another bank to establish an automated teller machine network subject to certain conditions. Source. Interpretive Letter 289.
- e. ATM Networks – Conversion of proprietary ATM network into a shared network where it provides service for other banks in the network. Source: No Objection Letter 87-11; Interpretive Letter 381
- f. Attachment, Injunction and Execution – No attachment, injunction or execution shall be issued against a state chartered bank or its property before final judgment in any suit, action or proceeding, any state, county or municipal court. Source: 12 U.S.C § 91 and U.S. v. Lemaire 86 F.2d 387 (5th Cir. 1987), rehearing denied 831 F. 2d cert. denied 108 S. Ct. 1223
- g. Automatic Payment Plan Account – Source: 12 C.F.R §7.7560
- h. Balloon Loans – A bank may make either conventional or repurchase balloon loans. Source: Interpretive Letter 364
- i. Certificates of Deposits – Purchase and Sale of Participations – A bank may either purchase certificates of deposits and sell participation interest to its customers. Source: Interpretive Letter 385
- j. Charitable Contributions – A bank may contribute to community funds or to charitable philanthropic or benevolent instrumentalities conducive to public welfare such sums as the board of directors may deem expedient and in the interest of the bank, provided that investment in any one project does not exceed 2% of capital and surplus and investments in all such projects do not exceed 5% of capital and surplus. Source: 12 U.S.C §24 Eighth and 12 C.F.R. §7.7480
- k. Check Certification – Source: 12 U.S.C. §501
- l. Check Guarantee Plans – A bank may enter into check guarantee arrangements. Source: 12 C.F.R. §7.7015
- m. Credit Card Bank – A bank may establish a credit card bank as a subsidiary.

Source: Interpretive Letter 565

- n. Credit Card Customer List – Sale of – A bank may sell credit card customer list to an insurance agency offering insurance. Source: Interpretive Letter 316
- o. Credit Card Issuance – Source: 12C.F.R. §7.7378
- p. Data Processing Services – A bank may directly or through an operating subsidiary provide data processing services for itself and other depository institutions. Source: Interpretive Letter dated May 1, 1985, [1986 WL 149765]; Interpretive Letter dated April 25, 1986, [1986 WL 143931]; Interpretive Letter dated August 3, 1977; Interpretive Letter 449; Interpretive Letter 346; Interpretive Letter 345
- q. Data Processing – Marketing of Bank Related Computer Software – Bank’s operating subsidiary may be a general partner with a corporation where the purpose of the partnership is to develop a market banking-relating computer software to financial institutions and companies that process items for financial institutions; Bank may market software. Source: Interpretive Letter dated July 13, 1987. [1987 WL 149776]; Letter December 6, 1990 [1990 WL 362196].
- r. Debt Collection and Asset Management Services – Source: Interpretive Letter 498; Interpretive Letter 538
- s. Economic Development Loans to Native Americans – Loans to certain authorized Indian organizations, at least 20% of which are guaranteed, without being subject to restrictions of other statutes regarding loan to value ratios, maturity, security, priority of lien or percentage of assets that may be invested. Source: 25 U.S.C. §1489
- t. EFT Network Via Subsidiary – Source: Interpretive Letter 289; Interpretive Letter 160
- u. Electronic Funds Transfer Switch – A bank may enter into a general partnership to provide an electronic funds transfer switch for use by financial institutions. Source: Interpretive Letter 382
- v. Guaranty of Obligation of Others – A bank may lend its credit, act as a surety or otherwise become a guarantor if it has a substantial interest in the performance of the transaction involved or has a segregated deposit sufficient amount to cover the bank’s total potential liability. Source: 12 C.F.R. §7.7010 and §7.7012; Interpretive Letter 218; Interpretive Letter 94
- w. Incidental Powers Necessary to Business Banking – Source: 12 U.S.C. §24 (Seventh)

- x. Indemnification of Officers and Directors – Source: Interpretive Letter dated August 2, 1977; 12 C.F.R. §7.5217; Interpretive Letter 404
- y. Individual Retirement Accounts – A bank without trust powers may act as an IRA custodian if the individual retirement account funds are held in savings or in time deposits accounts. Source: OCC Banking Cir. 61; Interpretive Letter 302
- z. Insurance Activities and Investments
 - i. Acting as General Insurance Agent – authorizes national banks located in communities of less than 5,000 inhabitants to act as an insurance agent even if the principal office is in a larger community. Note, however, that Miss. Code Ann. §83-17-227 sets a limit of 7,000 and prohibits banks who maintain an office in a larger community from acting as an agent. Source: 12 U.S.C. §92; 12 C.F.R. §7.7100
 - ii. Annuities – A bank may act as an agent for sale of fixed rate annuities (may be subject to challenge of regulation by Insurance Department. Source: Interpretive Letter 475; Interpretive Letter 331; Interpretive Letter 499
 - iii. Collateral Property Protection Insurance – A bank may sell in connection with an extension of credit from the bank, vendor’s single or double insurance rate. Source: Unnumbered Interpretive Letter dated June 3, 1986; Interpretive Letter 91
 - iv. Credit Life Insurance – Sale of - Source: Interpretive Letter 495; Interpretive Letter 330; Interpretive Letter 283; Interpretive Letter 152; Interpretive Letter 9; Interpretive Letter dated November 7, 1977; Interpretive Letter 8; Interpretive Letter 18; Interpretive Letter 45; Interpretive Letter 26; C.F.R. §2.4 and §2.6.
 - v. Credit Life Insurance – Underwriting of – A bank may acquire as an operating subsidiary, insurance company that is engaged in the business of underwriting credit life and accident health insurance in connection with loans made by the bank and its subsidiaries or may participate as a shareholding in such a company provided certain safeguards are met. Source: Interpretive Letter 277; Letter of February 24, 1993
 - vi. Debt Cancellation Contracts – A bank may establish reserves against losses arising from cancellation of outstanding debt upon death of borrower by establishing additional charges. Source: 12 C.F.R. §7.7495
 - vii. Deferred Fee and Death Benefit Insurance – A bank may purchase insurance to protect its interest, including interest in the performance of its personnel. Source: Interpretive Letter 401

- viii. Key Man Insurance – A bank may purchase insurance for the benefit of bank on life of a bank officer. Source: 12 C.F.R. §7.7115
- ix. Lease of Bank Lobby to Unaffiliated Entities – An unaffiliated entity engaging in brokerage activities and insurance activities with rental payments made to the bank based on a percentage of gross commissions received by the tenant; note, however, subject to Mississippi Insurance Law. Source: Interpretive Letter 562; Interpretive Letter 533; Interpretive Letter 408; Interpretive Letter 407; Interpretive Letter 406; and Interpretive Letter 274
- x. Life Insurance on Directors and Employees – A bank may purchase single premium life insurance policy for a director in connection with a deferred fee program. Source: Interpretive Letter 401
- xi. Loan Customer List – A bank may sell list of loan customers to an insurance agency have a percentage lease arrangement with the bank. Source: Interpretive Letter 316
- xii. Split Dollar Life Insurance – A bank may purchase a split dollar life insurance policy on an officer or director under which the bank transfers the benefit portion of the policies to the officer or director upon retirement or resignation while retaining ownership of a portion of the policy sufficient to recover investment. Source: Interpretive Letter 429; OCC Banking Circular 249
- xiii. Stock in Company Affiliated with Captive Insurer – A bank may purchase shares of stock in a company affiliated with an industry captive insurance company as a condition precedent to obtaining insurance from the captive. Source: Interpretive Letter 554
- xiv. Leasing Equipment and Personal Property – A bank may invest in tangible personal property, including without limitation vehicles, manufactures homes, machinery equipment or furniture or lease financing transactions on a net lease basis, provided the aggregate book value of all such property does not exceed 10% of the consolidated assets of the bank. Source: 12 U.S.C. §24 (Seventh); 12 C.F.R. §23.7; Interpretive Letter 556.
- xv. Lease, Full Payout – A bank may reasonably rely on the residual value of leased property in structuring a full net payout lease recouping 100% of the investment plus cost of handling. Source: Interpretive Letter 20; OCC Banking Circular 125
- xvi. Lease Consulting Services via Subsidiary – A bank may engage in property leasing activities through a subsidiary, including lease consulting services, finder services, and lease servicing. Source: Interpretive Letter

- xvii. Lease Financing - Source: 12 C.F.R. § 7.3400; 12 C.F.R. Part 23; OCC Banking Bulletin 91-47; Interpretive Letter 97
- xviii. Lease of Bank Lobby to Unaffiliated Entities – An unaffiliated entity engaging in brokerage activities and insurance activities with rental payments made to the bank based on a percentage of gross commissions received by the tenant; note however, subject to Mississippi Insurance Law. Source: Interpretive Letter 562; Interpretive Letter 533; Interpretive Letter 408; Interpretive Letter 407; Interpretive Letter 406; Interpretive Letter 274
- xix. Leasing of Bank Employees from Third Party – A bank may lease services of its employees from third parties so long as the Board of Directors continues to retain and exercise general supervision over the affairs of the bank. Source: Interpretive Letter 431
- xx. Loan Origination Services Active Through Operating Subsidiary - Source: Interpretive Letter 387
- xxi. Loan Production Offices – Approval and funding as main or branch officer. Source: OCC Banking Circular 199; 12 C.F.R. §7.7380
- xxii. Loan Repurchase Agreements – A bank may agree to repurchase loans or other assets. Source: 12 C.F.R. §7.7519
- xxiii. Merger with Insured Depository Institution – A national bank may acquire be acquired by any insured depository institution. Source: 12 U.S.C. §215c
- xxiv. Money Orders – Sale of Non-Bank Locations – Source: 12 C.F.R. §7.7500
- xxv. Participations in Equipment Lease Financing Receivable –A bank may purchase a participation interest of less than 100% in an equipment lease financing receivable and such purchase would not be a participation in a partnership. Source: Interpretive Letter 374
- xxvi. Participation in Small Business Administration Guaranteed Loans – A bank may purchase participations in SBA guaranteed loans, subject to certain conditions and limitations. Source: Interpretive Letter 350
- xxvii. Pass-Through Participation Certificates – Purchase of - A bank may purchase pass through participation certificates that represent interest in pools of FHA – Insured Title I property improvement loans. Source: Interpretive Letter 579

- xxviii. Payroll Insurer – A bank may act as payroll issuer for its customers. Source: 12 C.F.R. §7.7485
 - xxix. Pledging Assets – A bank may pledge investment securities to secure its borrowings, within limits imposed by the need to maintain adequate liquidity. Source: Interpretive Letter dated December 16, 1987 at 1987 WL 149807
 - xxx. Pledging Assets to Secure Public Deposits – Source: 12 U.S.C. §90; 25 U.S.C. 162a and 12 C.F.R. §7-7410
 - xxxi. Preparing Income Tax Returns – A bank may not serve as an expert tax consultant. Source: 12 C.F.R. §7.7430
- aa. Real Estate Activities and Investments
- i. Adjustable Rate Mortgages – Source: 12 C.F.R. 34.6
 - ii. Appraisals – A bank may perform real estate appraisals for loans it originates as well as for other financial institutions. Source: Interpretive Letter 467
 - iii. Collateralized Mortgage Obligations – Purchase of – A bank may purchase without limit collateralized mortgage obligations that the meeting the requirement of 12 U.S.C. §24 (Seventh). Source: Interpretive Letter dated April 16, 1987
 - iv. Exchanging OREO for Mortgages on Other Property – Source: Interpretive Letter dated June 4, 1986 [1986 WL 143934]
 - v. Investing in Mortgage Related Securities via Mutual Funds – A bank may generally purchase related securities and may, therefore, invest in mutual funds which own eligible mortgage-related securities. Source: Investment Securities Letter 15
 - vi. Lease of DPC Property – A bank may enter into a lease agreement regarding DPC property. Source: Interpretive Letter dated September 2, 1977
 - vii. Lease of Public Facilities – A bank may lease a building to a municipality so long as the lease agreement provides that municipality will become owner of building upon expiration of lease. Bank may purchase or construct a municipal building and as holder of legal title lease it to a public authority having resources sufficient to make rental payments. Source: 12 C.F.R. §7.3300
 - viii. Mortgage Banking Subsidiary – A bank may establish an operating

subsidiary as a mortgage company. Source: Interpretive Letter dated December 19, 1986 [1986 WL 143894].

- ix. Mortgage Servicing – A bank may act as agent to service mortgage and may, through an operating subsidiary, be a 50% equity partner and sole general partner in limited partnership from the purpose of conducting a mortgage servicing operation. Source: 12 C.F.R. §7.7379 and Interpretive Letter dated July 23, 1986 [1986 WL 143932].
- x. Purchase of Property to Secure Previously Contracted Debt – A bank may purchase real property in order to protect a partial interest or title that was acquired to secure previously contracted debt, but bank may not enter into a joint venture to operate such property. Source: Interpretive Letter 12
- xi. Real Estate Management Services – An operating subsidiary may furnish real estate asset management and advisory services to other financial institutions. Source: Interpretive Letter 389
- xii. Real Estate Consulting via Subsidiary – An operating subsidiary may act as finder in locating, analyzing and making recommendations regarding the purchase of property and may make recommendations concerning the sale of property, but may not act as broker in performing these activities. Source: Interpretive Letter 238
- xiii. Real Estate Loan via Subsidiary – A bank’s operating subsidiary may make commercial real estate loans, including construction and development loans, as originator or participant. Source: Interpretive Letter 389
- xiv. Real Estate Swaps – A bank may exchange OREO for other property provided the transaction is undertaken to substantially reduce or avoid potential loss on OREO property. Source: Interpretive Letter 349
- xv. Selling OREO with Bank Financing – Source: Interpretive Letter dated July 30, 1986 [1986 WL 143914]
- xvi. Services for Homeowners Associations – A bank may perform various types of review and analysis required for homeowner associations and their management companies, including projections for future reserve needs, timing of contributions, and economic forecasts. Source: Interpretive Letter dated August 20, 1987 [1987 WL 149774]
- xvii. Shared Appreciation Mortgage Loans – A bank may make shared appreciation loan to developer for the conversion of residential property into condominium units and receive a fixed amount or percentage of the sales price of each unit sold; and the bank may finance the acquisition or

improvement of real property on which the borrower will operate its business. Source: Interpretive Letter 244

- xviii. Mortgage Related Securities – A bank may purchase mortgage related securities and may therefore invest in mutual funds which own eligible mortgage related securities. Source: Investment Securities Letter 15
- xix. Other Real Estate Owned – OREO may be an equity investment subject to the five year holding limitation. Source: 12 U.S.C §29 and 12 C.F.R. §7.3025
- xx. Real Estate, Residence for Bank Officer – For the development and efficient utilization of bank personnel, a bank may purchase the residence of an employee who has been transferred to another area, in order to spare the employee a loss in the prevailing market. A bank may own real property that is to be used as a residence for bank officer when working out of town as long as IRS allows an expense deduction. Source: 12 C.F.R. §7.5230; Interpretive Letter 263

bb. Securities Activities

- i. Advisory and Discount Brokerage Services and Automatic Investment Services – Source: Interpretive Letter 353; Interpretive Letter 562; Interpretive Letter 360; Interpretive Letter 332; and C.F.R. 12.1-12.7
- ii. Agent for Sale of Government Securities – A bank may act as agent for purchase and sale of government securities on an unsolicited basis. Source: Investment Securities Letter 31
- iii. Closed End Collective Investment Funds – Source: Trust Interpretation 208
- iv. Collateralized Mortgage Obligations – Issuing and Selling of - A bank may issue and sell CMOs backed by pool of conventional FHA guaranteed and VA insured residential mortgages through an unaffiliated underwriter. Source: Interpretive Letter 378; Interpretive Letter 171
- v. Collateralized Mortgage Obligations – Issuing Underwriting and Dealing in Via Subsidiary – A bank's operating subsidiary may issue, underwrite and deal in bonds partially collateralized by pools of mortgages, including GNMA certificates, FNMA certificates, FHLMC certificates, and/or non-federally insured conventional residential mortgage loans. Source: Interpretive Letter 362
- vi. Commercial Paper Replacement – A bank may place third party commercial paper. Source: Interpretive Letter 329

- vii. Discount Brokerage Activities – A bank may acquire stock of company as operating subsidiary to perform discount brokerage services and provide investment advice. Source: Interpretive Letter 380; Interpretive Letter dated June 30, 1987, [1987 WL 149813]; Interpretive Letter 403
- viii. Financial Advice and Counseling – A bank may offer strategic planning of a financial nature and market economic information to customers in general. Investment advice may be given through a subsidiary. Source: Interpretive Letter 137; Interpretive Letter 367; and Interpretive Letter 403
- ix. Financial Advice and Counseling for Mutual Funds – A bank or its operating subsidiary may offer investment advice to a mutual fund. Source: 12 U.S.C. 92a(a); Interpretive Letter 403; and Interpretive Letter 298; 12 C.F.R. §9.2105
- x. Lease of Bank Lobby to Unaffiliated Entities – An unaffiliated entity may engage in brokerage activities and insurance activities with rental payments made to the bank based on a percentage of gross commissions received by the tenant; note, however, subject to Mississippi Insurance Law. Source: Interpretive Letter 562; Interpretive Letter 533; Interpretive Letter 408; Interpretive Letter 407; Interpretive Letter 406; Interpretive Letter 274
- xi. Municipal Finance Consulting – Source: Interpretive Letter 122
- xii. Municipal Leases and Installment Purchase Contracts – Underwriting the Sale of – A bank may underwrite the sale of municipal leases and installment purchase contracts. Source: Interpretive Letter 250
- xiii. Municipal Securities Dealers, Acting as - Source: 12 U.S.C.; §78c(a)(30)(c)(B); 12 C.F.R. § §10.1-10.41
- xiv. Mutual Fund Shares – Purchase and Sale of – A bank may purchase or sell shares in mutual funds as agent without recourse upon a customer’s order. Source: Interpretive Letter 363
- xv. Private Placement of Securities and Equity Investments – A bank may participate in private placement of investment securities with equity interest in real estate as agent for bank customer. Source: Interpretive Letter 194; Interpretive Letter 25; Interpretive Letter 463; Interpretive Letter 271; and Interpretive Letter 32
- xvi. Securities Lending – A bank may lend U.S. Government securities to another bank for the second bank to pledge to state deposits, subject to the bank’s legal lending limit. Source: Interpretive Letter 376

- xvii. Security Monitoring Services –A bank may provide security monitoring services to other financial institutions. Source: Interpretive Letter dated June 6, 1985 [1985 WL 143955]
- xviii. Stand By Letters of Credit – A bank may issue a standby letter of credit subject to conditions and limitations. Source: Interpretive Letter dated September 5, 1985 [1985 WL 73110]; Interpretive Letter 57
- xix. Stock Acquired in Lieu of DPC – A bank may acquire newly issued stock in other banks in settlement of debts previously contracted so long as stock is acquired primarily as a means of preventing or limiting loan losses. Source: Interpretive Letter 444
- xx. Stock Warranties (Equity Kickers) – A bank may establish an operating subsidiary that will enter into two tandem limited partnerships, one of which will make commercial loans in connection with highly leveraged transactions, while the other will hold stock warrants as “equity kickers” in connection with such loans. Source: Interpretive Letter 517
- xxi. Trust Powers, Exception to Requirement of Security for Trust Funds Deposited on Commercial Side – Requirement that securities be pledged for trust funds deposited on commercial side while awaiting investment or distribution, does not apply to accounts where the bank acts in the capacity of agent and does not have investment discretion. Source: 12 C.F.R. §9.2700; 12 C.F.R. §9.3210

3. Investments

- a. Bank Premises – A bank may invest in bank premises or in a corporation holding the bank premises. Source: 12 U.S.C. §29; 12 U.S.C. §371(d); 12 C.F.R. §7.3005; 12 C.F.R. §7.3100
- b. Bank Service Corporations – A bank may invest in bank service corporations subject to certain conditions and limitations in an amount not to exceed 10% if the bank’s paid in and unimpaired capital and unimpaired surplus in any one corporation of 5% of assets in all such investments. Source: 12 U.S.C. §1862 and 12 C.F.R. §5.35
- c. Bankers Bank Stock – A bank may invest in stock of an FDIC insured bank or of a holding company which owns or controls an insured bank that is exclusively owned by depository institutions (excepting requisite directors qualifying shares), which exclusively provides depository institution related services. Source: 12 U.S.C. §24 (Seventh) and 12 U.S.C. §27(b)
- d. Community Development Corporations – Allows equity interest in projects of predominantly civic, community or public nature – 2% of capital and surplus per project and 5% of capital and surplus for all projects. Source: 12 U.S.C., §24

(Eighth): 12 C.F.R. §7.740; OCC Banking Bulletin 91-18; OCC Advisory Letter number 92-3; OCC Banking Bulletin 92-37; Interpretive Letter 603

- e. Equity Kickers – A bank may take as consideration for a loan share in the profit, income or earnings from a business enterprise of a borrower. Source: 12 C.F.R. §7.732
- f. Equity Securities in Government Sponsored Enterprises:
 - i. Federal Agricultural Mortgage Corporation – Source: Interpretive Letter 427
 - ii. Federal Home Loan Mortgage Corporation – Source: Interpretive Letter 577
 - iii. Federal National Mortgage Association of Stock - Source: 12 U.S.C. 1718(f)
 - iv. Federal Home Loan Bank – Source: 12 U.S.C. §1424 and 1426
 - v. Government Securities Clearing Corporation – Source: Interpretive Letter 421
 - vi. Housing Development Corporations – A bank may purchase stock for its own account and corporations pursuant Title IX of the Housing and Urban Development Act of 1968, the purpose of such corporation is to provide low and moderate income housing. Source: 12 U.S.C. §24 (Seventh)
 - vii. National Housing Partnership – A bank may invest in partnerships, limited partnerships and joint ventures formed pursuant to Sections 907a or 907c of the Housing and Urban Development Act of 1968 to provide low and moderate income housing. Source: 12 U.S.C. §24 (Seventh); OCC Banking Circular 21
 - viii. Public Purpose Corporation Stock – A bank may invest in stock of a public purpose corporation, for profit or nonprofit, to carry out activities to benefit low and moderate income areas and residence or small businesses. Source: OCC Banking Bulletin 92-37
 - ix. State Housing Corporation – A bank may invest in shares of stock issued by a State Housing Corporation up to 5% of capital and surplus. Source: 12 U.S.C. §24 (Seventh)
 - x. Mandatory Convertible Security – Purchase and Holding of – A bank may purchase mandatory convertible security where the corporation cannot exercise its conversion option prior to a date certain, so long as the bank disposes of the security before that date. Source: Interpretive Letter dated

April 22, 1986 [1986 WL 143927]; 12 C.F.R. §19

- xi. Municipal Parking Lots – A bank may own a municipal parking lot, but expense occurred to acquire must be charged off and is not an equity investment. Source: 12 C.F.R. §7.3010
- xii. Mutual Fund Shares – A bank may purchase for its own account shares of investment companies provided portfolios of such companies consist solely of obligations which are eligible for investment by a national bank. Source: OCC Banking Circular 220
- xiii. Operating Subsidiaries – A bank may engage in banking business by means of an operating subsidiary corporation in which the parent bank owns at least eighty percent of the subsidiary voting stock. Source: 12 C.F.R. 5.34
- xiv. Purchase of Debt Obligations in U.S. Government, State and Local Government and Government Sponsored Enterprises, Dealing and Underwriting of:
 - 1. African Development Bank – Source: 12 C.F.R. §§1.3(d), 1.7
 - 2. Asian Development Bank Obligations – Source: 12 C.F.R. §§1.3(d), 1.7
 - 3. Bonds for Housing Purposes – Bonds issued by state agency for housing purposes, subject to limitations. Source: Interpretive Letter 167
 - 4. Canadian Government Obligations – Source: 12 U.S.C. §24 (Seventh)
 - 5. Environmental Financial Authority Obligations – Source: 12 U.S.C. §24 (Seventh)
 - 6. European Bank for Reconstruction and Development Obligations - Source: 12 U.S.C. §24 (Seventh); 12 C.F.R. §§ 1.3(d)
 - 7. Federal Farm Loan Obligations - – Source: 12 U.S.C. §24 (Seventh)
 - 8. Federal Financing Bank Obligations - – Source: 12 U.S.C. §24 (Seventh)
 - 9. Federal Home Loan Bank Obligations – Source: 12 U.S.C. §24 (Seventh)

10. Federal Home Loan Mortgage Corporation Mortgages and Other Security - Source: 12 U.S.C. §24 (Seventh)
11. Federal National Mortgage Association - Source: 12 U.S.C. §24 (Seventh)
12. Government National Mortgage Association - Source: 12 U.S.C. §24 (Seventh)
13. Obligations Insured by the Secretary of Housing and Urban Development (Under Title XI of the NHA) - Source: 12 U.S.C. §24 (Seventh); 12 U.S.C. §1749aaa; 12 U.S.C. §1713
14. Industrial Development Revenue Bonds – Source: Interpretive Letter 174
15. Inter-American Development Bank – Source: C.F.R. §§1.3(d) and 1.7
16. Inter-American Investment Corporation– Source: C.F.R. §§1.3(d) and 1.7
17. International Bank for Reconstruction and Development– Source: C.F.R. §§1.3(d) and 1.7
18. International Finance Corporation – Source: C.F.R. §§1.3(d) and 1.7
19. Local Public Housing Agency if Secured by an Agreement Between such Agency and HUD or by Pledge of Annual Contributions- Source: 12 U.S.C. §24 (Seventh)
20. Indirect Obligations of the United States – Source: Interpretive Letter 90
21. Original Issue Discount Municipal Bonds – Source: OCC Banking Bulletin 85-15
22. Federal Agriculture Mortgage Board – Source: Interpretive Letter 512
23. Small Business Administration Guaranteed Portions of Loans or Pool Certificates – Source: Interpretive Letter 373; Interpretive Letter 141

24. State and Political Subdivision Obligations – Source: 12 U.S.C. §24 (Seventh); 12 C.F.R. §1; Interpretive Letter 65
25. Student Loan Marketing Association Obligations – Source: 12 U.S.C. §24 (Seventh); 12 U.S.C. §84(c)(10)
26. TDA Obligations – Source: 12 U.S.C. §24 (Seventh) and 12 C.F.R. §§ 1.3(d) and 1.7
27. U.S. Postal Service Obligations – Source: 12 U.S.C. §24 (Seventh) and 12 C.F.R. §§ 1.3(d) and 1.7
28. Safe Deposit Corporation – A bank may invest in the capital stock of a corporation organized to conduct a safe deposit business subject to a 15% of capital limitation. Source: 12 U.S.C. §24 (Seventh)
29. Small Business Investment Company Stock - An investment is subject to 5% of bank capital limit. Source: 15 U.S.C. §682(b) and 12 C.F.R. §7.7535

Source: *Miss. Code Ann.* §81-5-1(9); §81-12-49(r); §81-14-321; *Effective date August 19, 1999*