

Appendix A

Proposed Amendments to 209 CMR 47.00 *et seq.*, *Parity with National Banks*

The title of 209 CMR 47.00 is hereby deleted and replaced with the following:

209 CMR 47.00: PARITY WITH FEDERAL OR OUT-OF-STATE BANKS

209 CMR 47.00 is hereby amended by deleting 209 CMR 47.01 in its entirety and replacing it with the following:

47.01: Purpose and Scope

The purpose of 209 CMR 47.00 *et seq.* is to specify authorized powers and activities of banks, pursuant to M.G.L. c. 167F, §2, clause 31, and to establish procedures and requirements, applicable to banks seeking to exercise additional or more flexible parallel powers granted to or conduct activities authorized for federal banks under Federal law for activities authorized or for banks chartered by another state which have been approved by the Federal Deposit Insurance Corporation, to the extent that such powers are not otherwise prohibited under State law.

In determining whether or not to authorize any power or activity, the Commissioner shall also determine whether or not competition among banks will be unreasonably affected and whether public convenience and advantage will be promoted.

A bank may, under M.G.L. c. 167F, §2, clause 31 and 209 CMR 47.00 *et seq.*, exercise only those powers and engage in only those activities authorized by the Commissioner as set forth in 209 CMR 47.00 *et seq.* Powers and activities not so authorized are prohibited.

209 CMR 47.06(3) is hereby amended by adding at the end thereof the following:

- (e) Merger with Nonbank Subsidiaries or Affiliates. A bank may merge with one or more of its nonbank subsidiaries or affiliates.
- (f) Real Estate Development Loans. A bank may through a wholly-owned subsidiary develop residential or commercial real estate up to a maximum amount of twenty per cent of the bank's Tier 1 capital.
- (g) Net Leases or Installment Sales of Real Estate. A bank may enter into net leases or installment sales of real estate to serve the home finance needs of its customers, who are prohibited by religious principles from paying interest and therefore from obtaining traditional mortgages, subject to such terms and conditions as the Commissioner shall approve.

- (h) Electronic Activities. A bank may engage in the following electronic activities, subject to such terms and conditions as the Commissioner shall approve:
1. Electronic activities that are part of, or incidental to, the business of banking, as any such activities may be authorized pursuant to 12 CFR §7.5001;
 2. Furnishing of products and services by electronic means and facilities, as any such activities may be authorized pursuant to 12 CFR §7.5002;
 3. Composite authority to engage in electronic activities, as any such activities may be authorized pursuant to 12 CFR §7.5003;
 4. Sale of excess electronic capacity and by-products, as any such activities may be authorized pursuant to 12 CFR §7.5004;
 5. Bank acting as digital certification authority, as any such activities may be authorized pursuant to 12 CFR §7.5005;
 6. Data processing, as any such activities may be authorized pursuant to 12 CFR §7.5006;
 7. Correspondent services, as any such activities may be authorized pursuant to 12 CFR §7.5007; and
 8. Shared electronic space, as any such activities may be authorized pursuant to 12 CFR §7.5010.
- (i) Appraisal Services. A bank may perform real estate appraisals in connection with both their loans and loans made by other financial institutions. A bank may perform appraisals for the occasional customer who requests one even though there is no associated loan transaction. A bank's operating subsidiaries may perform real estate appraisals for general customers, even if no bank loan is involved, provided that the activity constitutes no more than 10 percent of the subsidiary's business. All appraisal services are subject to such terms and conditions as the Commissioner shall approve.

209 CMR 47.09(2) is hereby amended by adding at the end thereof the following:

- (d) Permissible Finder Activities. A bank that acts as a finder may identify potential parties, make inquiries as to interest, introduce or arrange contacts or meetings of interested parties, act as an intermediary between interested parties, and otherwise bring parties together for a transaction that the parties themselves negotiate and consummate. Permissible finder activities may include, but not be limited to, the following:
- (1) Communicating information about providers of products and services, and proposed offering prices and terms to potential markets for these products and services;

- (2) Communicating to the seller an offer to purchase or request for information, including forwarding completed applications, application fees, and requests for information to third-party providers;
- (3) Arranging for third-party providers to offer reduced rates to those customers referred by the bank;
- (4) Providing administrative, clerical, and record keeping functions related to the bank's finder activity, including retaining copies of documents, instructing and assisting individuals in the completion of documents, scheduling sales calls on behalf of sellers, and conducting marketing research to identify potential new customers for retailers;
- (5) Conveying between interested parties expressions of interest, bids, offers, orders, and confirmations relating to a transaction;
- (6) Conveying other types of information between potential buyers, sellers, and other interested parties;
- (7) Establishing rules of general applicability governing the use and operation of the finder services, including rules that:
 - (i) Govern the submission of bids and offers to buyers, sellers, and other interested parties that use the finder service and the circumstances under which the finder service will pair bids and offers submitted by buyers, sellers, and other interested parties; and
 - (ii) Govern the manner in which buyers, sellers, and other interested parties may bind themselves to the terms of a specific transaction; and
- (8) Any other finder activities authorized by 12 CFR §7.1002.
- (9) Limitation. The authority to act as a finder does not enable a bank to engage in brokerage activities that have not been found to be permissible for national banks.