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Guidance to Licensees and Registrants Regarding Employee Remote Work

As a result of the COVID-19 pandemic, licensees and registrants were forced to quickly adapt by implementing remote work for their personnel. The Division of Banks (Division) recognizes that for many entities, the remote work model has been highly successful, and offers many benefits to both companies and staff. To that end, and consistent with the Division's March 11, 2020 communication to licensees and registrants specifically permitting remote work by staff of licensees and registrants during the COVID-19 pandemic, the Division is providing this guidance to formally authorize the continued option for personnel to operate remotely from non-licensed locations, subject to the following conditions and restrictions:

1. The licensee or registrant shall not advertise or otherwise hold the unlicensed location out to the public as a place of business;
2. The individual working remotely may only engage in activities that may be accomplished safely and in compliance with all applicable laws, regulations, and Division guidance;
3. The individual is strictly prohibited from conducting any in-person customer interactions at the remote location;
4. The licensee or registrant must have established security protocols in place to permit staff working remotely to securely access systems through a virtual privacy network (VPN) or other secure system;
5. The licensee or registrant must have policies and procedures in place to safeguard company and customer data, information, and records, whether in paper or electronic format, and to protect against unauthorized or accidental access, use, modification, duplication, destruction, or disclosure of such confidential information;
6. Sensitive customer information will be protected consistent with appropriate cybersecurity protocols and best practices;
7. Licensees and registrants must ensure adequate supervision of personnel working remotely, consistent with established policies and procedures and best practices;

8. Information regarding the specific activities conducted by personnel via telework/remote work will be maintained by the licensee or registrant and available upon request by the Division; and
9. Licensees and registrants with personnel working remotely must continue to comply with all applicable statutes, regulations, and Division guidance, including but not limited to, 209 CMR 48.00: *Licensee Record Keeping*.

Please also note that where the above criteria are satisfied, the remote work locations would not be deemed to be business locations for the purposes of the relevant statutory branch licensing and office location notification requirements. Finally, please note that in the situation where the licensed/registered activity is conducted entirely by personnel operating remotely, the main business address of the entity would be the only location associated with the entity's Massachusetts license or registration in the Nationwide Multi-State Licensing System and Registry (NMLS).

Special Considerations for Mortgage Lenders/Brokers and Mortgage Loan Originators

The Division notes that the work location for mortgage loan originators (MLOs) has been the subject of various inquiries over the years. Through this guidance, in addition to the above, the Division is clarifying the following:

1. MLOs are not required to live within a certain distance of a branch office;
2. Branch Managers are not necessarily restricted in the number of branches that they may supervise; rather, the Division will look to determine that the manager is able to provide adequate supervision for the given number and location of MLOs under his/her supervision.

This guidance replaces any previous guidance previously issued by the Division with regard to telework or permissibility for remote work by employees of licensees or registrants. This guidance will continue permanently, unless otherwise modified or withdrawn. If you have any questions regarding this guidance, please contact Barbara Keefe, General Counsel, at barbara.keefe@mass.gov.

Sincerely,



Mary L. Gallagher
Commissioner of Banks