



The Commonwealth of Massachusetts

Office of the Commissioner of Banks

One South Station

Boston, Massachusetts 02110

JANE SWIFT
GOVERNOR

THOMAS J. CURRY
COMMISSIONER

May 9, 2001

Thomas W. Kelly, President
and Chief Executive Officer
Hoosac Bank
P.O. Box 997
North Adams, Massachusetts 01247

Dear Mr. Kelly:

This letter is in response to your correspondence of April 3, 2001 with related documents requesting an opinion from the Division of Banks (the "Division") relative to whether or not a proposed expansion of the main office of Hoosac Bank located at 93 Main Street, North Adams, Massachusetts requires branch office approval. The related documents include a letter dated March 30, 2001 from Counsel of Hoosac Bank relative to this same matter. This matter also had been discussed in prior telephone conversations between Counsel for Hoosac Bank and staff of the Division.

According to the submitted documents, it is the intention of Hoosac Bank to expand its main office by adding a drive-up facility. The facility to be constructed would be a two-lane facility and would include both a manned drive-up teller station and an unmanned free-standing ATM. The drive-up facility would be accessible to automobile traffic only through the parking lot that immediately abuts and currently provides parking for Hoosac Bank's main office. No pedestrian traffic will be permitted at the drive-up facility. No mail or telecommunications would originate from or be received at the drive-up facility. Mail, security, alarm, and switchboard services for the drive-up facility will be exclusively provided at the main office. Moreover, the drive-up facility would not have a separate branch designation, mailing address or routing and transit number. Customers who inquire at the drive-up facility about applying for loans or discussing banking matters personally will be referred to appropriate staff of Hoosac Bank at the main office. The drive-up facility would be approximately 100 feet from Hoosac Bank's main office lobby. The drive-up location would be adjacent to a building attached to the main office and partially leased and occupied by a wholly-owned subsidiary of Hoosac Bank.

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As stated in the Division's Opinion #O95-176, central to such a request as Hoosac Bank's is whether the proposed expansion would, in fact, require approval as a new branch office under General Laws chapter 167C, section 3 since the taking of deposits by a bank must be at an authorized location. That prior opinion stated that the Division in making such a determination would view the totality of all surrounding facts. That opinion concerned the proposed expansion of a bank's branch office by the installation of an adjacent five-lane drive-up facility which did not allow for pedestrian traffic at or mail deliveries to the facility. The Division concluded that, based on the totality of all surrounding facts, the bank that requested Opinion #O95-176 did not need to seek branch office approval for its proposed expansion.

Consistent with Opinion #O95-176, Hoosac Bank's proposed drive-up facility will not be accessible to pedestrian traffic and will not permit mail deliveries to that site. The facility will be accessible to automobile traffic only via the parking lot that serves the main office. As stated in your correspondence, this facility will be operated as an adjunct to the main office and will be supported by the main office's mailroom, telephone switchboard, alarm and security system. It is also noted that the drive-up facility will be attached to a building which is attached to the main office and which will be partially leased and occupied by a wholly-owned subsidiary of Hoosac Bank. The drive-up facility will have no mailing address separate from that of the main office.

Upon review of the facts in your correspondence, the accompanying documents, and applicable law, it is the position of the Division that Hoosac Bank is not required to obtain approval pursuant to General Laws chapter 167C, section 3 for the expansion. That determination is based on the totality of all surrounding facts as presented in your submission. An investment in bank premises in connection with this matter, may, however, require the Division's approval under General Laws chapter 167F, section 2, paragraph 9. Additionally, approval of the Division may be required for the proposed ATM to be shared under General Laws chapter 167B, section 3. Please review these statutes and, if necessary, submit the separate requests or necessary documents for approvals to the Commissioner of Banks Thomas J. Curry relative to the proposed investment in bank premises or the Division's FIS Unit, relative to the proposed ATM.

The conclusions reached in this letter are based solely on the facts presented. Fact patterns which vary from that presented may result in a different position statement by the Division.

Sincerely,



Joseph A. Leonard, Jr.
Deputy Commissioner of Banks
and General Counsel

JAL/KSH/mhc
Enclosures
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The Commonwealth of Massachusetts

Office of the Commissioner of Banks

One South Station

Boston, Massachusetts 02110

JANE SWIFT
GOVERNOR

THOMAS J. CURRY
COMMISSIONER

June 25, 2001

William M. Donovan, Jr.
Vice President - Administration
Hingham Institution for Savings
55 Main Street
Hingham, Massachusetts 02043

Dear Mr. Donovan:

This letter is in response to your letter of May 16, 2001 requesting an opinion from the Division of Banks (the "Division") relative to whether or not a proposed expansion of the main office of Hingham Institution for Savings (the "Bank") located at 55 Main Street, Hingham, Massachusetts requires branch office approval. Included with your letter is a diagram of the main office and surrounding area. This matter also had been discussed with you in a telephone conversation with staff of the Division.

According to the submitted documents, it is the intention of the Bank to expand its main office by adding a drive-up facility. The facility to be constructed would be a two-lane facility and would include both a drive-up teller station and a drive-up ATM. To accomplish this project, the Bank proposes to terminate operation of its existing drive-up teller station located at 48 Central Street, Hingham and to install a drive-up teller station at 71 Main Street, Hingham. In effect, the existing drive-up teller station would be relocated from 48 Central Street, Hingham to 71 Main Street, Hingham. Moreover, by telephone you informed staff of the Division that the 71 Main Street site has a right of way to the land providing parking for the existing main office. In that same discussion, you further stated that a building sits between the proposed drive-up and main office sites. The facility proposed for the drive-up is currently an existing branch office of Eastern Bank. Eastern Bank presently is seeking approval of the Division to close this branch office at 71 Main Street, Hingham. Accordingly, the Bank has entered into an agreement to purchase the property from Eastern Bank subject to approval for Eastern Bank to close the branch office. If Eastern Bank is permitted to close the branch office and the agreement is consummated, the Bank intends to renovate or convert the branch office facility into a structure which would include both a two-lane drive-up facility and an office building. The office building would provide space for administrative and marketing staff of the Bank. As also described in your letter, such staff would not have any contact with customers of the Bank. According to the Division's records, the Bank does not maintain nor have approval to maintain a branch office at 48 Central Street, Hingham.

According to your letter, the proposed drive-up facility would utilize the same telephone, mail and computer systems utilized by the existing main office located at 55 Main Street, Hingham. The proposed drive-up facility would be less than 100 feet away from the Bank's main office lobby.

As stated in the Division's Opinion #O01052, central to such a request as the Bank's is whether the proposed expansion would, in fact, require approval as a new branch office under General Laws chapter 167C, section 3 since the taking of deposits by a bank must be at an authorized location. That prior opinion stated that the Division in making such a determination would view the totality of all surrounding facts. That opinion concerned the proposed expansion of a bank's main office by the installation of an adjacent two-lane drive-up facility which was to be supported by mail, switchboard, security and alarm services provided at the existing main office. The Division concluded that, based on the totality of all surrounding facts, the bank that requested Opinion #O01052 did not need to seek branch office approval for its proposed expansion.

The Bank's proposed drive-up facility will be supported by the existing main office's mail and telephone services, as well as computer systems. Although a building sits between the main office and proposed drive-up sites, there is a right of way for land covering the proposed drive-up and the existing main office sites.

Upon review of the facts in your correspondence, the accompanying documents and applicable law, it is the position of the Division that the Bank is not required to obtain approval pursuant to General Laws chapter 167C, section 3 for the expansion. That determination is based on the totality of all surrounding facts as presented in your submission. An investment in bank premises in connection with this matter, may, however, require the Division's approval under General Laws chapter 167F, section 2, paragraph 9. Additionally, approval of the Division may be required for the proposed ATM to be shared under General Laws chapter 167B, section 3. You should review these statutes and, if necessary, submit the separate requests or necessary documents for approvals to the Commissioner of Banks Thomas J. Curry relative to the proposed investment in bank premises or the Division's FIS Unit, relative to the proposed ATM.

Finally, since the Bank's existing drive-up facility at 48 Central Street, Hingham was not approved as a branch office and has not operated as a branch office of the Bank pursuant to General Laws chapter 167C, section 3, no such approval of the Division is required to terminate the Bank's operation of that facility.

The conclusions reached in this letter are based solely on the facts presented. Fact patterns which vary from that presented may result in a different position statement by the Division.

Sincerely,



Joseph A. Leonard, Jr.
Deputy Commissioner of Banks
and General Counsel

JAL/KSH/mhc

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