

CHAPTER 48

BANKS, TRUST COMPANIES

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48.475 TRUST SERVICE OFFICES.

[For text of subs 1 and 2, see M.S.1988]

Subd. 3. **General requirements.** If the bank at which a trust service office is to be established has exercised trust powers, then the trust company or bank which is establishing the trust service office shall enter into an agreement respecting those fiduciary powers to which the trust company or bank shall succeed and shall file the agreement with the commissioner. The trust company or bank which is establishing a trust service office under subdivision 1 shall publish a notice of the filing in the form prescribed by the commissioner in a newspaper published in the municipality in which the trust service office is to be located, and if there is no such newspaper, then at the county seat of the county in which the trust service office is to be located. The notice shall be published once in a qualified newspaper in the municipality in which the proposed trust service office is to be located, and if there is no such newspaper, then in a qualified newspaper likely to give notice in the municipality in which the proposed trust service office is to be located, and proof of publication shall be filed with the commissioner immediately after publication of the notice of filing. After filing and publication, the trust company or bank establishing the trust service office shall, as of the date the office first opens for business, and without further authorization of any kind, succeed to and be substituted for the bank at which the trust service office is located as to all fiduciary powers, rights, duties, privileges, and liabilities of the bank in its capacity as fiduciary for all estates, trusts, conservatorships, guardianships, and other fiduciary relationships of which the bank is then serving as fiduciary, except as may be otherwise specified in the agreement between the bank and the trust company or bank which has established the trust service office. The trust company or bank which has established the trust service office shall also be deemed named as fiduciary in all writings, including, but not limited to, wills, trusts, court orders, and similar documents and instruments, naming the bank at which the trust service office is located signed before the date the trust service office first opens for business, unless expressly negated by the writing or otherwise specified in the agreement between the trust company or bank and the bank at which the trust service office is located. On the effective date of the substitution, the bank at which the trust service office has been established shall be released and absolved from all fiduciary duties and obligations under the writings and shall discontinue its exercise of trust powers on all matters not specifically retained by the agreement. This subdivision does not absolve the bank from liabilities arising out of any breach of fiduciary duty or obligation occurring prior to the date the trust service office first opens for business. This subdivision does not affect the authority, duties, or obligations of a bank with respect to relationships which may be established without trust powers, whether the relationships arise before or after the establishment of the trust service office.

[For text of subs 4 to 6, see M.S.1988]

History: 1989 c 166 s 6

48.48 REPORTS TO COMMISSIONER.

Subdivision 1. **Submission and publication.** At least four times in each year, and at any other time when so requested by the commissioner, every bank or trust company

shall, within 30 days of the date of notice, make and transmit to the commissioner, in a form the commissioner prescribes, a report, verified by its president or vice-president and by its cashier or treasurer, and attested by at least two of its directors, stating in detail, under appropriate heads, as required by the commissioner, its assets and liabilities at the close of business on the day specified in the request. The commissioner may accept a report made to a federal authority having supervision of banks or trust companies in fulfilling this requirement. This statement shall be published once at the expense of the bank or trust company in a qualified newspaper in the municipality or town in which the bank or trust company is located, and if there is no such newspaper, then in a qualified newspaper likely to give notice in the municipality or town in which the bank or trust company is located. Proof of publication shall be filed with the commissioner immediately after publication of the report, but no later than 60 days following the date of the notice.

[For text of subd 2, see M.S.1988]

History: 1989 c 166 s 7

48.512 PROCEDURES FOR OPENING CHECKING ACCOUNTS.

[For text of subs 1 to 6, see M.S.1988]

Subd. 7. Transaction account service charges. The establishment of transaction account service charges and the amounts of the charges not otherwise limited or prescribed by law or rule is a business decision to be made by each financial intermediary according to sound business judgment and safe, sound financial institution operational standards. In establishing transaction account service charges, the financial intermediary may consider, but is not limited to considering:

- (1) costs incurred by the institution, plus a profit margin, in providing the service;
- (2) the deterrence of misuse by customers of financial institution services;
- (3) the establishment of the competitive position of the financial institution in accordance with the institution's marketing strategy; and
- (4) maintenance of the safety and soundness of the institution.

Transaction account service charges must be reasonable in relation to these considerations and should be arrived at by each financial intermediary on a competitive basis and not on the basis of any agreement, arrangement, undertaking, or discussion with other financial intermediaries or their officers.

History: 1989 c 129 s 1

48.61 AUTHORIZED INVESTMENTS FOR STATE BANKS AND TRUST COMPANIES.

[For text of subs 1 to 6, see M.S.1988]

Subd. 7. Subsidiaries. (a) A state bank or trust company may organize, acquire, or invest in a subsidiary located in this state for the purposes of engaging in one or more of the following activities, subject to the prior written approval of the commissioner:

- (1) any activity, not including receiving deposits, lending money, or paying checks that a state bank is authorized to engage in under state law or rule or under federal law or regulation unless the activity is prohibited by the laws of this state;
- (2) any activity that a bank clerical service corporation is authorized to engage in under section 48.89; and
- (3) any other activity authorized for a national bank, a bank holding company, or a subsidiary of a national bank or bank holding company under federal law or regulation of general applicability, and approved by the commissioner by rule.

(b) A bank or trust company subsidiary may engage in an activity under this section only upon application together with a filing fee of \$250 and with the prior

written approval of the commissioner. In approving or denying a proposed activity, the commissioner shall consider the financial and management strength of the bank or trust company, the current written operating plan and policies of the proposed subsidiary corporation, the bank or trust company's community reinvestment record, and whether the proposed activity should be conducted through a subsidiary of the bank or trust company.

(c) The aggregate amount of funds invested in either an equity or loan capacity in all of the subsidiaries of the bank or trust company authorized under this subdivision shall not exceed 25 percent of the capital stock and paid in surplus of the bank or trust company.

(d) A subsidiary organized or acquired under this subdivision is subject to the examination and enforcement authority of the commissioner under chapters 45 and 46 to the same extent as a state bank or trust company.

(e) For the purposes of this section, "subsidiary" means a corporation of which more than 50 percent of the voting shares are owned or controlled by the bank or trust company.

Subd. 8. Parity with national banks. A state bank or trust company may invest in any securities that are authorized investments for national banks on May 27, 1989, subject to the same restrictions as apply to national banks. The commissioner may authorize a state bank or trust company to invest in any securities that become authorized investments for national banks after May 27, 1989, subject to the same restrictions as apply to national banks. This authority is in addition to the investment authority granted to state banks under other provisions of state law.

History: 1989 c 129 s 2; 1989 c 341 art 2 s 1

48.892 CLERICAL SERVICES OFFICES.

A bank may perform clerical services, as defined in section 48.89, subdivision 1, for itself at an off-premises data processing and storage center located within the state if the bank furnishes assurances satisfactory to the commissioner that the performances of those services will be subject to regulation and examination by the commissioner to the same extent as if the services were being performed at the bank's main office or detached facility. A data processing and storage center is not considered a branch or detached facility, as defined in section 47.51. The establishment of a data processing and storage center may include acquiring real and personal property, which shall be subject to section 47.10.

History: 1989 c 129 s 3