

900 Regulations Governing Business of Banks and Trust Companies

904 Exceptions to Tying Restrictions

[5 Del.C. §929]

Effective Date: **December 11, 2005**

1.0 Purpose.

This Regulation authorizes certain conduct as exceptions to the anti-tying restrictions of Section 929 of the State Banking Code (5 Del.C. §929), pursuant to Section 929(f). These exceptions are in addition to those elsewhere in Section 929.

2.0 Exceptions to statute.

Subject to the limitations of paragraph 3.0 of this Regulation, a bank may:

- 2.1 Safe harbor for combined-balance discounts. Vary the consideration for any product or package of products based on a customer's maintaining a combined minimum balance in certain products specified by the bank (eligible products), if:
 - 2.1.1 The bank offers deposits, and all such deposits are eligible products; and
 - 2.1.2 Balances in deposits count at least as much as nondeposit products toward the minimum balance.
- 2.2 Safe harbor for foreign transactions. Engage in any transaction with a customer if that customer is:
 - 2.2.1 A corporation, business, or other person (other than an individual) that:
 - 2.2.1.1 Is incorporated, chartered, or otherwise organized outside the United States; and
 - 2.2.1.2 Has its principal place of business outside the United States; or
 - 2.2.2 An individual who is a citizen of a foreign country and is not resident in the United States.

3.0 Limitations on exceptions.

Any exception authorized pursuant to this Regulation shall terminate upon a finding by the Commissioner that the arrangement is resulting in anti-competitive practices. The eligibility of a bank to operate under any exception authorized pursuant to this Regulation shall terminate upon a finding by the Commissioner that its exercise of this authority is resulting in anti-competitive practices.

9 DE Reg. 1004 (12/01/05)