

**DEPARTMENT OF STATE  
OFFICE OF THE STATE BANKING COMMISSIONER  
Statutory Authority: 5 Delaware Code,  
Section 121(b) (5 Del.C. §121(b))  
5 DE Admin. Code 708**

**ORDER ADOPTING AMENDED REGULATION 708  
AND NEW REGULATIONS 714 AND 1113**

**708 Establishment of a Branch Office by a Bank or Trust Company (5 Del.C. §770(a))**

**FINAL**

IT IS HEREBY ORDERED, this 4th day of August, 2004, that amended regulation 708 and new regulations 714 and 1113 are adopted as regulations of the State Bank Commissioner. Copies of amended regulation 708 and new regulations 714 and 1113 are attached hereto and incorporated herein by reference. Amended regulation 708 supersedes previous regulation 708. The effective date of amended regulation 708 and new regulations 714 and 1113 is September 11, 2004, and each regulation is adopted by the State Bank Commissioner in accordance with Title 5 of the Delaware Code.

Amended regulation 708 and new regulations 714 and 1113 are adopted pursuant to the requirements of Chapter 11 and 101 of Title 29 of the Delaware Code, as follows:

1. Notice of proposed amended regulation 708 and new regulations 714 and 1113 and their text were published in the July 1, 2004 issue of the Delaware Register of Regulations. The Notice also was published in *The News Journal* and the *Delaware State News* on July 1, 2004, and was mailed to all persons who had made timely written requests to the Office of the State Bank Commissioner for advance notice of its regulation-making proceedings. The Notice included, among other things, a summary of the proposed amended and new regulations, invited interested persons to submit written comments to the Office of the State Bank Commissioner on or before August 4, 2004, and stated that the proposed regulations were available for inspection at the Office of the State Bank Commissioner, that copies were available upon request, and that a public hearing would be held on August 4, 2004 at 10:00 a.m. at the Office of the State Bank Commissioner in Dover, Delaware.

2. No comments about the proposed amended and new regulations were received on or before August 4, 2004.

3. A public hearing was held on August 4, 2004 at 10:00 a.m. regarding proposed amended regulation 708 and new regulations 714 and 1113. The State Bank Commissioner, the Deputy Bank Commissioner for Supervisory Affairs and the Court Reporter attended the hearing. No other person attended the hearing. The State Bank Commissioner and the Deputy Bank Commissioner for Supervisory Affairs summarized the proposed regulations for the record. No other comments were made or received at the hearing.

4. After review and consideration, the State Bank Commissioner hereby adopts amended regulation 708 and new regulations 714 and 1113 as proposed.

August 4, 2004

Robert A. Glen, State Bank Commissioner

**708 Establishment of a Branch Office by a Bank or Trust Company  
5 Del.C. §770(a)**

Formerly Regulation No.: 5.770.0009

**1.0 Scope**

1.1 This regulation establishes procedures for the filing of an application to establish a branch office of a bank or trust company pursuant to Section 770(a) of Title 5 of the **Delaware Code** and states the manner in which the State Bank Commissioner (the "Commissioner") will review and act upon such applications. An application to establish a mobile branch office pursuant to Section 770(c) of Title 5 is covered separately under Regulation No. 714.

**2.0 Application**

2.1 An application pursuant to Section 770(a) of Title 5 of the **Delaware Code** shall be in writing; shall be submitted on such forms the Commissioner may designate from time-to-time for that purpose, and shall include the

following:

- 2.1.1 Name of applying bank or trust company.
- 2.1.2 Location of proposed branch office, including address.
- 2.1.3 Explanation of the necessity for the opening of the branch office.
- ~~2.1.3~~ 2.1.4 ~~The~~ Name, address and phone number of the person(s) to whom inquiries may be directed.

2.2 The Commissioner may designate portions of the application as non-public and confidential.

2.3 The Commissioner will not deem any application to be filed until the Commissioner has determined that all of the information and documents required by the application have been provided, that the application has been properly executed, and that all fees have been paid.

### **3.0 Fee**

The application shall be accompanied by a non-refundable investigation fee of two hundred and fifty dollars (\$250.00). Checks shall be made payable to the Office of the State Bank Commissioner.

### **4.0 Notice**

4.1 Upon notification by the Commissioner that the application conforms to the requirements for applications pursuant to Section 770(a) of Title 5 of the **Delaware Code** and this regulation, the applicant shall cause a single notice of such application to be published in at least two Delaware newspapers of general circulation. The notice shall provide a brief synopsis of the application and state that interested persons may present their views in writing to the Office of the State Bank Commissioner, and shall be in a form to be approved by the Commissioner before publication.

### **5.0 Additional Information, Investigation and Hearing**

5.1 In addition to the documents filed in accordance with this regulation, the Commissioner ~~at his~~ has discretion ~~may~~ to require additional information, conduct an investigation, or hold a public hearing in accordance with the Administrative Procedures Act, Chapter 101 of Title 29 of the **Delaware Code**.

### **6.0 Decision**

6.1 No earlier than 20 days after publication of the notice described in Section 4 of this regulation, the Commissioner shall issue a written order approving or disapproving the application. In determining whether to approve the application, the Commissioner shall consider the convenience of the public of this State, and whether there is good and sufficient reason that the bank or trust company should have the branch office.

### **7.0 Certificate of Authority**

7.1 A Certificate of Authority shall be issued by the Commissioner for each approved branch office.

### **8.0 Time to Open Approved Branch Office**

8.1 Branch offices approved in accordance with Section 770(a) of Title 5 of the **Delaware Code** and this regulation shall open within one year of the date when the Commissioner issues the Certificate of Authority. The Commissioner may upon review of the application for such branch office extend the initial opening date to a date greater than one year, ~~if by his review he determines~~ upon a determination that the proposed completion date will exceed one year. In no such instance shall the initial opening date exceed the planned completion date by more than ninety (90) days. Any Certificate of Authority issued by the Commissioner shall be void and of no effect at the expiration of the initial opening date prescribed on approval of the branch office ~~unless the branch that office is~~ actually opened for business. Unavoidable delay in opening the branch office due to construction problems ~~or~~ ~~controls~~ or other matters beyond the control of the bank or trust company may be taken into consideration and the Commissioner may extend the Certificate of Authority for periods of six months in the event of such circumstances.