

RULE

Office of the Governor Office of Financial Institutions

Applications and Notices (LAC 10:I:Chapter 5)

The Office of Financial Institutions (OFI) has amended LAC 10.I.501 and 509, and adopt LAC 10.I.511 and 513 relative to Loan Production Offices, deposit production offices, and Combination Offices, respectively, of banks, savings banks, homestead associations, building and loan associations, and savings and loan associations, as authorized by R.S. 6:452 and 453. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

OFI proposes to amend the provisions governing the aforementioned offices of affected financial institutions to be consistent with Act 183 of the 2020 regular legislative session. The amendments allow state-chartered institutions to open loan production offices with notice to the Commissioner and provide a process by which an institution may request permission to engage in activities permissible for national banks through such offices. The adoption of §§511 and 513 provide similarly relative to deposit production offices and combination offices, respectively, without restriction on the placement of electronic financial terminals. This Rule is hereby adopted on the day of promulgation.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part I. Financial Institutions

Chapter 5. Applications and Notices

Subchapter A Certificate of Authority for New Financial Institutions; Branches; or Relocation of Main Office or Branch Office

§501. Definitions

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Deposit Production Office—a physically manned location, in the State of Louisiana, in another state, or the District of Columbia, other than the main office or branch office of a financial institution, from which the financial institution intends to provide information about deposit products offered by such financial institution, solicit deposits, and assist persons in completing application forms and related documents to open deposit accounts. A deposit production office may be a wholly-owned operating subsidiary of a financial institution. A deposit production office may also be referred to in this rule as a “DPO”.

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Loan Production Office—a physically manned location, in the state of Louisiana, in another state or the District of Columbia, other than the main office or branch office of a financial institution from which the financial institution intends to provide information about, and solicit and/or originate applications for, loans, by such financial institution. A loan production office may be a wholly-owned operating subsidiary of a financial institution. A loan production office may also be referred to in this rule as an “LPO”.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19:1414 (November 1993), amended by the Office of the Governor, Office of Financial Institutions, LR 31:2894 (November 2005), LR 46:1387 (October 2020).

Subchapter B. Loan Production Offices, Deposit Production Offices, and Electronic Financial Terminals; Notice, Activities and Requirements

§509. Loan Production Office

A. Definitions

Applicant—repealed.

Application—repealed.

Commissioner—the commissioner of the Louisiana Office of Financial Institutions.

Federal Financial Institution—any national bank, federal savings association, or other depository institution chartered by the Office of the Comptroller of the Currency.

Financial Institution—any federal financial institution, Louisiana financial institution, or out-of-state financial institution.

Letter of Notification—written notice submitted to the commissioner by a financial institution indicating its intent to establish one or more loan production office(s). The Letter of Notification shall identify the financial institution and provide the municipal address of the proposed LPO location. If the ratio of premises and fixed assets to Tier 1 capital plus the allowance for loan and lease losses will, at any time, exceed 50 percent, or 45 percent for a new institution, the financial institution must also provide supporting documentation and a request to exceed this threshold pursuant to LAC X:I.1101.

Loan Production Office—a physically manned location, in the state of Louisiana, in another state or the District of Columbia, other than the main office or branch office of a financial institution from which the financial institution intends to provide information about, and solicit and/or originate applications for, loans, by such financial institution. A loan production office may be a wholly-owned operating subsidiary of a financial institution. A loan production office may also be referred to in this rule as an “LPO”.

Louisiana Financial Institution—any Louisiana state-chartered bank, savings bank, homestead association, building and loan association, or savings and loan association.

Out-of-State Financial Institution—any state-chartered bank, savings bank, homestead association, building and loan association, or savings and loan association, chartered in a state other than Louisiana or chartered in the District of Columbia.

B. Prior Notification

1. In accordance with R.S. 6:452, a Louisiana financial institution seeking to open a loan production office shall provide written prior notification, to the commissioner, of the planned loan production office. The notification shall be sent to the commissioner at least 45 days prior to the proposed opening date of the LPO.

2. Notification to the commissioner may be delivered by U.S. Mail, private commercial courier, hand-delivered, or by electronic mail.

3. If at the time of the notification to the commissioner, a Louisiana financial institution plans to share the location of an LPO with one or more other financial institutions, the name

and domicile of each such other financial institution shall be included in the written prior notice to the commissioner.

C. Objection by Commissioner

1. In accordance with R.S. 6:452, after a Louisiana financial institution sends notification of its intent to open an LPO, the commissioner may object to the proposed loan production office based on any of the reasons set forth in Paragraph C.2. The commissioner may timely object by notifying the Louisiana financial institution within 45 days of receiving the Louisiana financial institution's notification of its intent to open an LPO. If the commissioner timely objects to the proposed LPO, the Louisiana financial institution shall refrain from opening the proposed LPO.

2. Reasons for Objection. The following factors may form the basis for the commissioner's objection to a loan production office as well as any additional factors deemed necessary and appropriate:

- a. financial history and condition;
- b. adequacy of capital;
- c. future earnings prospects;
- d. management;
- e. convenience and needs of the community;
- f. concentration risk.

3. Written Reasons for Objection by Commissioner. Following an objection by the commissioner to a Louisiana financial institution's proposed loan production office, a Louisiana financial institution may request written reasons for the objection.

4. Out-of-State Financial Institutions. An out-of-state financial institution may establish one or more LPOs in Louisiana as allowed by, and in compliance with, the laws, regulations, rulings, and pronouncements of the state or district where such financial institution is chartered that apply to the establishment of an LPO by such out-of-state financial institution and may conduct at, or from, any of its LPOs in Louisiana such activities as are authorized by the laws, regulations, rulings, and pronouncements of the state or district where such out-of-state financial institution is chartered. Except for the requirements of this Paragraph, out-of-state financial institutions are not subject to the requirements of this Section or §511 of this Chapter.

5. Federal Financial Institutions. A federal financial institution may establish one or more LPOs in Louisiana as allowed by, and in compliance with the federal laws, regulations, rulings, and pronouncements that apply to the establishment of an LPO by a federal financial institution. Except for the requirements of this Paragraph, federal financial institutions are not subject to the requirements of this Section or §511 of this Chapter.

D. Activities

1. Permissible Activities. A loan production office of a Louisiana financial institution is limited to the following activities:

- a. soliciting, and originating, loans on behalf of the Louisiana financial institution;
- b. providing information on loan rates and terms;
- c. interviewing and counseling loan applicants regarding loans and any provisions for disclosure required by various regulation;
- d. aiding customers in the loan application process, including the completing of loan applications, the obtaining of credit investigations, obtaining title insurance premiums,

attorney's fees, title abstract fees, mortgage certificate fees, hazard insurance premiums, flood insurance premiums, survey costs, recording costs, and any other information needed to prepare a good faith estimate, to complete a loan application, or to prepare a loan for closing;

e. making credit decisions and approving or declining loans, in accordance with the Louisiana financial institution's lending policies; and

f. signing any and all loan documents and disclosures, including but not limited to promissory notes, line of credit agreements, mortgages, security agreements, guarantee agreements, any other agreement establishing collateral to secure the repayment of the loan, and other instruments obligating the loan customer to the Louisiana financial institution.

2. Activities Parity. In addition to the permissible activities set forth above, a Louisiana financial institution may conduct at, or from, any of its loan production offices any other activity that is a permissible for an LPO of a national bank or other federal financial institution by complying with R.S. 6:242(C).

3. Electronic Financial Terminals. In addition to the permissible activities set forth above, a Louisiana financial institution may operate an electronic financial terminal (EFT) facility within, adjacent to, or in close proximity to, any of its loan production offices, provided that it complies with the notice requirements contained in §511 of this Chapter. An EFT is defined in R.S. 6:2(7).

4. Prohibited Activities. The following activities may not be conducted at a loan production office of a Louisiana financial institution unless the Louisiana financial institution has established a combined loan production office and deposit production office in accordance with R.S. 6:454, and with §511 of this Chapter:

- a. providing forms which enable the customer to open deposit accounts directly or by mail;
- b. counseling customers regarding savings accounts, checking accounts or any other services except loan origination services;
- c. advertising, stating or implying that the loan production office provides services other than loan origination services;

5. Loan Payments. A loan production office of a Louisiana financial institution shall not accept loan payments; however, the occasional acceptance of loan payments is permissible in the event borrowers fail to follow established loan payment procedures.

6. Loan proceeds shall not be physically disbursed in-person to the borrower at an LPO of a Louisiana financial institution. However, this does not restrict the disbursement of loan proceeds electronically.

E. Closure or Change of Location of Loan Production Office

1. Prior to closing or relocating a loan production office of a Louisiana financial institution, the Louisiana financial institution shall give prior written notice to the commissioner for approval at least 45 days prior to closing or relocating the LPO. The notification of a relocation shall contain the current physical address of the loan production office, the proposed new address and the anticipated date of relocation. The notification of a closure shall include the current location of the loan production office, the reason for the closure and the

anticipated date of the closure. Approval will be deemed to have been granted if the commissioner does not respond to the notice within 45 days of receipt. This provision may be waived by the commissioner.

2. At least 30 days prior to the closure date or relocation date, the Louisiana financial institution shall post a notice in a conspicuous location in the loan production office to be closed or relocated, that the LPO will be closed or relocated. If the LPO is to be closed, the notice shall state the closing date and the nearest location where a customer may obtain access to services. If the LPO is to be relocated, the notice shall state the relocation date and the address of the new location.

3. The requirements contained in Paragraph E.2 of this Subsection may be waived by the commissioner to prevent or alleviate any condition which he or she may reasonably expect to create an emergency relative to that Louisiana financial institution, its employees, or its customers.

F. Other

1. Emergency Acquisition of a Louisiana Loan Production Office. In the case of the acquisition of a failed or failing Louisiana financial institution, the commissioner may waive any provision of this rule which is not required by statute for the purpose of allowing an acquiring financial institution to operate a loan production office of the failed or failing financial institution.

2. Name. Each loan production office of a Louisiana financial institution shall include the words "Loan Production Office" on one primary exterior sign at the loan production office and all other signage shall include the words "Loan Production Office" or the initials "LPO." The words "Loan Production Office" and the initials "LPO" must be reproduced in at least one-half as large a font size as the font size used for the name of the Louisiana financial institution on signage at the loan production office.

3. Sharing of Loan Production Office Locations

a. Loan production office locations may be shared by one or more financial institutions provided that each Louisiana financial institution complies with the provisions of this rule. In addition, any written agreement related to the sharing of a loan production office shall accompany, or be included in, the prior notice submitted to the commissioner as required by §509.B. Further, when engaging in the sharing of a loan production office location, the Louisiana financial institution shall ensure that:

- i. each financial institution is conspicuously, accurately, and separately identified;
- ii. each financial institution provides its own employee(s) and their affiliation with the financial institution by which they are employed is clearly and fully disclosed to customers so that customers will know the identity of the financial institution that is providing the product or service;
- iii. the arrangement does not constitute a joint venture or partnership with the other financial institution under applicable state law;
- iv. all aspects of the relationship between the financial institutions are conducted at arm's length;
- vi. security issues arising from the activities of the other financial institution on the premises are addressed;
- vi. the activities of the other financial institution do not adversely affect the safety and soundness of such financial institution; and

vii. the assets and records of the financial institutions are segregated.

b. An LPO location sharing agreement involving a Louisiana financial institution should outline the manner in which:

- i. the operations of each of the financial institutions will be separately identified and maintained within the loan production office location;
- ii. the assets and records of the financial institutions will be segregated;
- iii. expenses will be shared;
- iv. confidentiality of each of the financial institution's records will be maintained; and
- v. any additional provisions deemed applicable.

4. Any an exception and/or waiver of any provision of this rule requires the written approval of the commissioner.

5. Effective Date. This rule shall become effective upon final publication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:452.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 21:1217 (November 1995), amended by the Office of the Governor, Office of Financial Institutions, LR 46:1387 (October 2020).

§511. Deposit Production Office

A. Definitions

Commissioner—the commissioner of the Louisiana Office of financial institutions.

Deposit Production Office—a physically manned location, in the State of Louisiana, in another state, or the District of Columbia, other than the main office or branch office of a financial institution, from which the financial institution intends to provide information about deposit products offered by such financial institution, solicit deposits, and assist persons in completing application forms and related documents to open deposit accounts. A deposit production office may be a wholly-owned operating subsidiary of a financial institution. A deposit production office may also be referred to in this rule as a "DPO".

Federal Financial Institution—any national bank or federal savings association, or other depository institution chartered by the Office of the comptroller of the currency.

Financial Institution—any federal financial institution, Louisiana financial institution, or out-of-state financial institution.

Letter of Notification—written notice submitted to the commissioner by a Louisiana financial institution indicating its intent to establish a deposit production office. The letter of notification shall identify the Louisiana financial institution and provide the municipal address of the proposed DPO location. If the ratio of premises and fixed assets to Tier 1 Capital plus the allowance for loan and lease losses will, at any time, exceed 50 percent, or 45 percent for a new institution, the financial institution must also provide supporting documentation with a request to exceed this threshold pursuant to LAC X:I.1101.

Louisiana Financial Institution—any Louisiana state-chartered bank, savings bank, homestead association, building and loan association, or savings and loan association.

Out-of-State Financial Institution—any state-chartered bank, savings bank, homestead association, building and loan

association, or savings and loan association chartered in a state other than Louisiana or in the District of Columbia.

B. Prior Notification

1. In accordance with R.S. 6:453, a Louisiana financial institution seeking to open a deposit production office shall provide written prior notification, to the commissioner, of the planned deposit production office. The notification shall be sent to the commissioner at least 45 days prior to the proposed opening date of the DPO.

2. Notification to the commissioner may be delivered by U.S. Mail, private commercial courier, hand-delivered, or by electronic mail.

3. If at the time of the notification to the commissioner, the Louisiana financial institution plans to share the location of the DPO with another financial institution, the name and domicile of each such other financial institution shall be included in the written prior notice to the commissioner.

C. Objection by Commissioner

1. In accordance with R.S. 6:453, after a Louisiana financial institution sends notification of its intent to open an DPO, the commissioner may object to the proposed deposit production office based on any of the reasons set forth in Paragraph C.2. The commissioner may timely object by notifying the Louisiana financial institution within 45 days of receiving the Louisiana financial institution's notification of its intent to open a DPO. If the commissioner timely objects to the proposed DPO, the Louisiana financial institution shall refrain from opening the proposed DPO.

2. Reasons for Objection. The following factors may form the basis of the commissioner's objection to a deposit production office as well as any additional factors deemed necessary and appropriate:

- a. financial history and condition;
- b. adequacy of capital;
- c. future earnings prospects;
- d. management;
- e. convenience and needs of the community;
- f. concentration risk.

3. Written Reasons for Objection by Commissioner. Following an objection by the commissioner to a Louisiana financial institution's proposed deposit production office, a Louisiana financial institution may request written reasons for the objection.

4. Out-of-State Financial Institutions. An out-of-state financial institution may establish a one or more DPOs in Louisiana as allowed by, and in compliance with, the laws, regulations, rulings, and pronouncements of the state or district where the out-of-state financial institution is chartered that apply to the establishment of a DPO by such out-of-state financial institution and may conduct at, or from any of its DPOs in Louisiana such activities as are authorized by the laws, regulations, rulings, and pronouncements of the state or district where such out-of-state financial institution is chartered. Except for the requirements of this Paragraph, out-of-state financial institutions are not subject to the requirements of this Section or §511 of this Chapter.

5. Federal Financial Institutions. A federal financial institution may establish one or more DPOs in Louisiana as allowed by, and in compliance with, the federal laws, regulations, rulings, and pronouncements that apply to the establishment of a DPO by a federal financial institution. Except for the requirements of this Paragraph, federal

financial institutions are not subject to the requirements of this Section or §511 of this Chapter.

D. Activities

1. Permissible Activities. A deposit production office of a Louisiana financial institution is limited to the following activities:

- a. providing information about deposit products;
- b. assisting persons in completing application forms and related documents to open deposit accounts;
- c. providing forms which enable the customer to open deposit accounts directly, online, or by mail;
- d. counseling customers regarding savings accounts, checking accounts or any other deposit products; and
- e. advertising or promoting deposit products.

2. Activities Parity. In addition to the permissible activities set forth above, a Louisiana financial institution may conduct at, or from, any of its deposit production offices any activity that is permissible for a DPO of a national bank or other federal financial institution by complying with R.S. 6:242(C).

3. Electronic Financial Terminals. In addition to the permissible activities set forth above, a Louisiana financial institution may operate an electronic financial terminal (EFT) facility within, adjacent to, or in close proximity to, any of its deposit production offices, provided that it complies with the notice requirements contained in §511 of this Chapter. An EFT is defined in R.S. 6:2(7).

4. Prohibited Activities. The following activities may not be conducted at a deposit production office of a Louisiana financial institution unless the Louisiana financial institution has established a combined loan production office and deposit production office in accordance with R.S. 6:454, and with Section 511 of this Chapter:

- a. soliciting loans on behalf of the Louisiana financial institution or one of its wholly-owned subsidiaries;
- b. providing information on loan rates and terms;
- c. interviewing and counseling loan applicants regarding loans and any provisions for disclosure required by various regulation; or
- d. aiding customers in the completion of loan applications, including the obtaining of credit investigations, obtaining title insurance premiums, attorneys fees, title abstract fees, mortgage certificates, hazard insurance premiums, flood insurance premiums, survey costs, recording costs, and any other information needed to prepare a good faith estimate, to complete a loan application, or to prepare a loan for closing.

E. Closure or Change of Location of Deposit Production Office

1. Prior to closing or relocating a deposit production office of a Louisiana financial institution, the Louisiana financial institution shall give prior written notice to the commissioner for approval at least 45 days prior to closing or relocating the DPO. The notification of a relocation shall contain the current physical address of the deposit production office, the proposed new address and the anticipated date of relocation. The notification of a closure shall include the current location of the deposit production office, the reason for the closure and the anticipated date of the closure. Approval will be deemed to have been granted if the commissioner does not respond to the notice within 45 days

of receipt. This provision may be waived by the commissioner.

2. At least 30 days prior to the closure date or relocation date, the Louisiana financial institution shall post a notice in a conspicuous location in the deposit production office to be closed or relocated, that the DPO will be closed or relocated. If the DPO is to be closed, the notice shall state the closing date. If the DPO is to be relocated, the notice shall state the relocation date and the address of the new location.

3. The requirements contained in Paragraph E.2 of this Subsection may be waived by the commissioner to prevent or alleviate any condition which he or she may reasonably expect to create an emergency relative to that Louisiana financial institution, its employees, or its customers.

F. Other

1. Emergency Acquisition of a Deposit Production Office. In the case of the acquisition of a failed or failing Louisiana financial institution, the commissioner may waive any provision of this rule which is not required by statute for the purpose of allowing an acquiring financial institution to operate a deposit production office of the failed or failing financial institution.

2. Name. Deposit production offices of Louisiana financial institutions shall include the words "Deposit Production Office" on one primary exterior sign at the deposit production office and all other signage shall include the words "Deposit Production Office" or the initials "DPO." The words "Deposit Production Office" and the initials "DPO" must be reproduced in at least one-half as large a font size as the font size used for the name of the Louisiana financial institution on signage at the deposit production office.

3. Sharing of Deposit Production Office Locations

a. Deposit production office locations may be shared by one or more financial institutions provided that each Louisiana financial institution complies with the provisions of this rule. In addition, any written agreement related to the sharing of a deposit production office shall accompany, or be included in, the Prior Notice submitted to the commissioner as required by §510.B, a brief explanation of such written agreement, including the names of the financial institutions that will share the same location, shall accompany, or be included in, the prior notice submitted to the commissioner as required by §510.B. Further, when engaging in the sharing of a deposit production office, the Louisiana financial institution shall ensure that:

- i. each other financial institution is conspicuously, accurately, and separately identified;
- ii. each financial institution provides its own employee(s) and their affiliation with the other financial institution is clearly and fully disclosed to customers so that customers will know the identity of the financial institution that is providing the product or service;
- iii. the arrangement does not constitute a joint venture or partnership with the other financial institution under applicable state law;
- iv. all aspects of the relationship between the financial institutions are conducted at arm's length;
- v. security issues arising from the activities of the other financial institution on the premises are addressed;
- vi. the activities of the other financial institutions do not adversely affect the safety and soundness of the Louisiana financial institution; and

vii. the assets and records of the financial institutions are segregated.

b. A DPO location sharing agreement involving a Louisiana financial institution should outline the manner in which:

- i. the operations of each financial institution will be separately identified and maintained within the deposit production office location;
- ii. the assets and records of the financial institutions will be segregated;
- iii. expenses will be shared;
- iv. confidentiality of each of the financial institution's records will be maintained; and
- v. any additional provisions deemed applicable.

4. Any exception and/or waiver of any provision of this rule requires the written approval of the commissioner.

5. Effective Date. This rule shall become effective upon final publication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:453.

HISTORICAL NOTE: Promulgated by the Office of Governor, Office of Financial Institutions, LR 46:1389 (October 2020).

§513. Combination of Loan Production Office, Deposit Production Office, and Electronic Financial Terminal

A. Definitions. For purposes of this Section, the definitions provided in §§509 and 510 are applicable.

B. Combined Prior Notification

1. Any Louisiana financial institution seeking to operate at the same location, a loan production office, a deposit production office, and an electronic financial terminal, or any combination of these facilities, shall provide written notice to the commissioner at least 45 days prior to the proposed opening date.

2. A Louisiana financial institution may satisfy the notice requirements of R.S. 6:452 and 453 by submitting one combined written notice to the commissioner pursuant to this Section.

C. Upon receiving the written notice, the commissioner has 45 days to object. If the commissioner does not raise a timely objection, the Louisiana financial institution may proceed with opening the combined facility. If the commissioner raises an objection, the commissioner shall, upon request, notify the Louisiana financial institution in writing as to the nature of the objection. The commissioner may consider the reasons for objection set forth in §§509.C and 510.C of this Chapter.

E. Effective Date. This rule shall become effective upon final publication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:454.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 46:1392 (October 2020).

John Ducrest
Commissioner