WEST VIRGINIA DIVISION OF BANKING

NOTICE PROCESS TO BE FOLLOWED BY AN OUT OF STATE BANKING INSTITUTION TO ESTABLISH A WEST VIRGINA BRANCH OFFICE BY MERGER

Effective May 31, 1997, an out of state bank may establish a branch by merger in this state through compliance with the West Virginia State Banking Code §31A-8D, et. seq.

Interstate Merger means:

1. The merger or consolidation of banks with different home states, and the conversion of branches of any bank involved in the merger or consolidation into branches of the resulting bank; ***or,***
2. The purchase of all or substantially all of the assets of a bank whose home state is different from the home state of the acquiring bank with the result that banking offices remain in both states.

Home state means:

(1) With respect to a state bank, the state by which the bank is chartered;
(2) With respect to a national bank, the state in which the main office is located; or
(3) With respect to a foreign bank, the state determined to be the home state of such foreign bank under 12 U.S.C. § 3103(c).

Host state means a state, other than the home state of a bank, in which the bank maintains, or seeks to establish and maintain, a branch.

Out-of-state bank means a bank whose home state is a state **other than West Virginia.**

Action By The West Virginia Commissioner Of Banking

Notice of an interstate merger must be given to the Commisioner at least 45 days before the effective date of the merger. The Commissioner of Banking shall have 30 days from receipt of the notice to object to the proposed transaction and request a hearing before the West Virginia Board of Banking and Financial Institutions on the basis that the transaction is contrary to applicable West Virginia law. The failure to object within 30 days shall be construed as consent by the Commissioner of Banking, or, in his or her discretion, the Commissioner of Banking may, at any time, consent in writing. The Commissioner of Banking may also request a hearing on the basis that the state supervisory authority of the applicant's home state lacks authority or procedures under its state's law to review the transaction or is not under viewed as the primary regulator of its state chartered banks' out-of-state branches. In this event the criteria, fees and procedures set forth in Chapter 31A, Article 8D, Section 3 shall apply.

Once the branch or branches have been established, the applicant must provide information to the Commissioner of Banking of the date on which the merger was approved by the primary federal or state regulator and effective date of the opening of the branch(es).

INSTRUCTIONS FOR NOTICE COMPLETION

Timing of notice

An out-of-state bank desiring to establish West Virginia branches by merger shall provide written notice of the proposed transaction to the Commissioner of Banking no later than the date on which the bank applies to the responsible federal or state bank supervisory agency for approval of the merger or purchase and assumption transaction through which West Virginia branches are to be established and at least 45 days before the effective date of the merger.

Branch(es) to be established

For each of the branches to be established, please provide the following information so that correspondence and database records may be properly established: (Attach additional pages as necessary.)

- Complete physical and mailing address
- Telephone and Fax numbers
- Managing officer's name and title
- Corporate contact person to receive official correspondence and information from the WVDOB
- Proposed effective opening date

Deposit control

The out-of-state bank must confirm in writing that as long as a branch is maintained in West Virginia, it will comply with all applicable acquisition deposit limitations.

Deposit acquisition limitations are established in Chapter 31A-2-12(a) of the State Banking Code and specify that acquisitions and/or mergers shall not be permitted, if upon consummation of the transaction, the resulting depository institution or its holding company, including any affiliated depository institution(s), would assume sufficient additional deposits to cause it to control deposits in West Virginia in excess of twenty-five percent of all deposits held by insured depository institutions. If you need the most recent calculation of total deposits in West Virginia, please call this office at (304) 558-2294.

Compliance with West Virginia law

The out-of-state bank must confirm in writing to the Commissioner of Banking that as long as it maintains a branch in West Virginia, it will comply with all applicable laws of this state, including consumer protection laws and any acquisition deposit limitations, as well as the maintenance of deposit insurance and capital requirements in the same manner as that required for West Virginia state banks. If you are in compliance with federal minimum capital guidelines, you are deemed in compliance with West Virginia requirements.

For assistance concerning compliance with the applicable consumer laws of this state, including consumer protection laws, you may contact the West Virginia Banker's Association at (304) 343-8838.

Business Registration

The out of state bank applicant must also provide satisfactory evidence of compliance with the requirements of West Virginia law requiring foreign corporations to qualify to do business in West Virginia and/or registration with the Department of Tax and Revenue. All out of state corporations or national banking associations should contact the West Virginia Office of Business Registration at (304) 558-8500 and the West Virginia Secretary of State at (304) 558-8000 to obtain the proper forms for conducting business in West Virginia. An information booklet from the West Virginia Office of Business Registration is enclosed for your convenience; however, all questions, comments and forms regarding business registration should be directed to that office and not the West Virginia Division of Banking.

Fee

When filing this notice, please include a check for the filing fee of $250 payable to the West Virginia Division of Banking.

Certification and Authorization

This notice must be executed by an executive officer of the banking institution establishing a branch by merger in West Virginia. The statement should be acknowledged before a notary public. Please attach additional documents/exhibits as needed. All attachments should be clearly indexed and referenced on the notice form. Questions may be directed to:

Staff Analyst
West Virginia Division of Banking
State Capitol Complex, Building #3, Room 311
1900 Kanawha Boulevard East
Charleston, West Virginia 25305-0240
Telephone: (304) 558-2294 Fax: (304) 558-0442

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