Office of the Registrar of Regulations,
Legislative Council,
State of Delaware

DEPARTMENT OF STATE

OFFICE OF THE STATE BANK COMMISSIONER

Statutory Authority: 5 Delaware Code, Sections 121(b), 2318, and 2741;
29 Delaware Code Section 10113(a)
(5 **Del.C.** §§121(b), 2318, & 2741; 29 **Del.C.** §10113(a))
5 **DE Admin. Code** 2301, 2303, 2701, and 2702

PROPOSED

2301 Report of Delaware Sale of Checks, Drafts and Money Orders Volume
2303 Report of Delaware Volume
2701 Licensed Casher of Checks, Drafts, or Money Orders Operating Regulations
2702 Licensed Casher of Checks, Drafts, or Money Orders Posting of the Fee Schedule and Minimum Requirements for Content of Books and Records

Notice of Proposed Amendments to Regulations of the State Bank Commissioner

Summary

The State Bank Commissioner proposes to amend Regulation 2301 and adopt new Regulation 2303 governing Sale of Checks and Transmission of Money, and to amend Regulations 2701 and 2702 governing Cashing of Checks, Drafts or Money Orders. The purpose of the amended and new regulations is to clarify, streamline, and update the existing regulations for ease of understanding and increased relevance to current licensee operations. Other regulations issued by the State Bank Commissioner are not affected by this proposal. The State Bank Commissioner is issuing these proposed regulations in accordance with Title 5 of the Delaware Code. This notice is issued pursuant to the requirements of Subchapter III of Chapter 11 and Chapter 101 of Title 29 of the Delaware Code.

Comments

A copy of the proposed regulations is being published in the April 1, 2013 edition of the Delaware *Register of Regulations*. A copy is also on file in the Office of the State Bank Commissioner, 555 E. Loockerman Street, Suite 210, Dover, DE 19901 and is available for inspection during regular office hours. Copies are available upon request.

Interested parties may offer comments on the proposed regulations or submit written suggestions, data, briefs or other materials to the Office of the State Bank Commissioner at the above address as to whether these proposed regulations should be adopted, rejected or modified. Pursuant to 29 **Del.C.** §10118(a), public comments must be received on or before May 1, 2013, Written materials submitted will be available for inspection at the above address.

Adoption of Proposed Regulation

On or after May 1, 2013, following review of the public comment, the State Bank Commissioner will determine whether to adopt the proposed amended and new Regulations 2301, 2303, 2701, and 2702 or make additional changes because of the public comments received.

~~2301 Report of Delaware Sale of Checks, Drafts and Money Orders Volume~~
~~5 **Del.C.** Ch. 23~~

~~Formerly Regulation No.: 5.2318.0001~~
~~Effective Date: November 12, 1999~~

~~This report shall be completed by all institutions licensed under Chapter 23, Title 5 of the **Delaware Code** and submitted to the Office of the State Bank Commissioner twice each year. The first report is due on or before July 31 and must contain figures from January 1 through June 30 of the current year. The second report is due on or before January 31 and must contain figures from January 1 through December 31 of the previous year.~~

~~In the event that you fail to provide this information in the period requested, you will be in violation of this regulation. Additionally, an examination will be scheduled, and staff allocated, without respect to the volume of your Delaware business. This may result in additional examination costs to you.~~

~~The Report is available at:~~

~~2301.pdf Report of Delaware Sale of Checks, Drafts and Money Orders Volume~~
~~3 DE Reg. 653 (11/01/99)~~

2301 Operating Regulation

5 **Del.C.** §2318
Effective Date: Proposed

1.0 Compliance with Applicable Laws

1.1 All licensees shall comply with 5 **Del.C.** Ch. 23, all regulations issued thereunder, and all other applicable State and federal statutes and regulations.

1.2 The manager and appropriate staff of each licensee shall familiarize themselves with all such statutes and regulations.

1.3 Each licensee shall maintain either by paper copy or through electronic access, 5 **Del.C.** Ch. 23 and the following regulations:

1.3.1 Regulation 101, Retention of Financial Institution Records;

1.3.2 Regulation 2301, Operating Regulation;

1.3.3 Regulation 2302, Exemptions; and

1.3.4 Regulation 2303, Report of Delaware Volume.

2.0 Minimum Required Records

2.1 Each licensee shall maintain any records necessary to verify the licensee's compliance with 5 **Del.C.** Ch. 23, all regulations issued thereunder, and all other applicable State and federal statutes and regulations.

2.2 All such records shall be made available to the Commissioner's staff when requested.

2.3 Records may be maintained at any suitable location but must be available within a reasonable period of time upon request.

2.4 All such records may be maintained by paper copy or in an electronic format.

2.5 All records shall be maintained in accordance with the time periods specified in Regulation 101, Retention of Financial Institution Records.

2.6 The Commissioner may grant written approval for variations from this section to accommodate specific record keeping systems. Requests for such approvals must be in writing and provide sufficient information concerning the system to ensure that the requirements of this section are satisfied and that the records will be readily available when requested.

3.0 Expired Identification

Licensees shall not accept from a customer any form of identification that has expired.

4.0 Advertising

A licensee shall not advertise in any way that is false, misleading, or deceptive.

5.0 Examination Fees and Supervisory Assessments

5.1 The Commissioner may examine licensees and their agents pursuant to 5 **Del.C.** §122. The costs of such examinations are assessed in accordance with 5 **Del.C.** §127(a). A licensee shall remit payment not later than 30 days after the date of the examination invoice.

5.2 The Commissioner shall assess each licensee a supervisory assessment that is due and payable on August 1 each year, in accordance with 5 **Del.C.** §127(b).

5.3 Failure to remit timely payment of any examination fee or supervisory assessment will result in a penalty of 0.05 percent of the amount unpaid for each day that such fee or assessment remains unpaid after the due date, in accordance with 5 **Del.C.** §§127(a) and 127(b).

6.0 Examination Responses

A licensee shall send the Commissioner a written response to every violation specified in a report of examination no later than 30 days after the date of the report.

2303 Report of Delaware Volume

5 **Del.C.** Ch. 23
Effective Date: Proposed

Each licensee shall submit this report to the Office of the State Bank Commissioner twice each year. The first report must be received no later than July 31 and must contain information from January 1 through June 30 of the current year. The second report must be received no later than January 31 and must contain information from January 1 through December 31 of the previous year.

Licensees with more than one licensed office, whose files are maintained at a consolidated, centralized location, may file a consolidated report. Otherwise, a separate report must be submitted for each licensed office.

A completed, signed report may be scanned and submitted by e-mail to bco_reports@state.de.us.

Failure to submit this report when due will be a violation of this regulation. In addition, an examination may be scheduled and examination staff allocated without respect to the licensee's volume of Delaware business. This may result in additional examination costs.

1. Name of Licensee: ____
2. License No.:_____________
3. List the address where the books and records are maintained: ____________________
   ____

4. Examination contact person's name, title, phone number, fax number and e-mail address:
   ____

5. List the **Delaware** business conducted in each of the following categories:

   A. Travelers Checks/Cheques
   Number sold: _________________________
   Total dollar value: _________________________
   B. Money Orders
   Number sold: _________________________
   Total dollar value: _________________________
   C. Transmission of Funds in any form
   Number of transmissions:_________________________
   Total dollar value: _________________________

6. Reporting Period: ___________________ to_________________________

I, the undersigned officer, hereby certify that this report is true and correct to the best of my knowledge and belief.

____
Date Signature Title

____
Printed Name Phone Number

~~**2701 Licensed Casher of Checks, Drafts, or Money Orders Operating Regulations**~~

~~5 **Del.C.** §2741~~

~~Formerly Regulation No.: 5.2741.0001~~
~~Effective Date: November 12, 1998~~

~~**1.0 Maintenance of Operating Regulations for Licensed Casher of Checks, Drafts or Money Orders**~~

~~1.1 All licensees shall conduct business in compliance with Chapter 27, Title 5, **Delaware Code**, and any regulations issued thereunder. Each office licensed under Chapter 27, Title 5, **Delaware Code**, shall possess copies of all applicable regulations. These regulations include:~~

~~1.1.1 Regulation 2701 (formerly 5.2741.0001) - Licensed Casher of Checks, Drafts, or Money Orders Operating Regulations~~

~~1.1.2 Regulation 2702 (formerly 5.2743.0002) - Licensed Casher of Checks, Drafts, or Money Orders Posting of the Fee Schedule and Minimum Requirements for Content of Books and Records~~

~~1.1.3 Regulation 101 (formerly 5.141.0001.NC) - Retention of Financial Institution Records~~

~~1.2 The manager and staff of each office shall familiarize themselves with said regulations. Loss or misplacement of regulation shall be made known to the Office of the State Bank Commissioner and replacements will be furnished. Failure to maintain the aforementioned regulations shall constitute a violation of both 5 **Del.C.** §2743 and this regulation.~~

~~**2.0 Examination and Supervisory Assessment Fees**~~

~~2.1 Cashing of Checks, Drafts, and Money Order licensees shall be subject to examination pursuant to §122 of Title 5 of the **Delaware Code**. The cost of such examinations shall be assessed to the licensee in accordance with §127(a) of Title 5 of the **Delaware Code**. A licensee shall remit payment not later than 30 days after the date of the invoice for the fees for examination. In addition, the Commissioner shall assess annually each licensee a supervisory assessment, due and payable on August 1 of each year, as provided in §127(b) of Title 5 of the **Delaware Code**. Failure of a licensee to remit timely payment of the examination fee or supervisory assessment will result in a penalty of 0.05 percent for each day that the examination fee or supervisory assessment shall remain unpaid after the due date, as provided in §127(a) and §127(b) of Title 5 of the **Delaware Code**.~~

~~**2 DE Reg. 781 (11/01/98)**~~

2701 Operating Regulation

5 **Del.C.** §2741
Effective Date: Proposed

1.0 Compliance with Applicable Laws

1.1 All licensees shall comply with 5 **Del.C.** Ch. 27, all regulations issued thereunder, and all other applicable State and federal statutes and regulations.

1.2 The manager and appropriate staff of each licensed office, including all mobile units, shall familiarize themselves with all such statutes and regulations.

1.3 Each licensed office, including all mobile units, shall maintain, either by paper copy or through electronic access, 5 **Del.C.** Ch. 27 and the following regulations:

1.3.1 Regulation 101, Retention of Financial Institution Records;

1.3.2 Regulation 2701, Operating Regulation; and

1.3.3 Regulation 2702, Minimum Records.

2.0 Display of License and Fee Schedule

Each licensed office, including all mobile units, shall prominently display in clear view of all customers:

2.1 its license issued under 5 **Del.C.** Ch. 27, and

2.2 the fee schedule set forth in 5 **Del.C.** §2742.

3.0 Expired Identification

Licensees shall not accept from a customer any form of identification that has expired.

4.0 Advertising

4.1 A licensee shall not advertise in any way that is false, misleading or deceptive.

4.2 When a licensee advertises with respect to its services under 5 **Del.C.** Ch. 27, the advertisement shall clearly and conspicuously state that the licensee is licensed to engage in business in this State under that chapter and specify the license number and expiration date of its license.

5.0 Examination Fees and Supervisory Assessments

5.1 The Commissioner may examine licensees pursuant to 5 **Del.C.** §122. The costs of such examinations are assessed in accordance with 5 **Del.C.** §127(a). A licensee shall remit payment not later than 30 days after the date of the examination invoice.

5.2 The Commissioner shall assess each licensee a supervisory assessment that is due and payable on August 1 each year, in accordance with 5 **Del.C.** §127(b).

5.3 Failure to remit timely payment of any examination fee or supervisory assessment will result in a penalty of 0.05 percent of the amount unpaid for each day that such fee or assessment remains unpaid after the due date, in accordance with 5 **Del.C.** §§127(a) and 127(b).

6.0 Examination Responses

A licensee shall send the Commissioner a written response to every violation specified in a report of examination no later than 30 days after the date of the report.

~~2702 Licensed Casher of Checks, Drafts, or Money Orders Posting of the Fee Schedule and Minimum Requirements for Content of Books and Records~~

~~5 **Del.C.** §2743~~

~~Formerly Regulation No.: 5.2743.0002~~
~~Effective Date: November 12, 1998~~

~~**1.0** The fee schedule set forth in §2742 of Title 5 of the **Delaware Code** shall be conspicuously displayed in a place easily visible to consumers at the licensed location, whether such location be a mobile unit or otherwise.~~

~~**2.0** Each licensed office shall establish and maintain the following books and records, on a current basis, at the licensed office. Written approval may be granted for variations which accommodate individual accounting systems, including automated and electronic record processing systems, provided the objectives of this regulation are fulfilled. Requests for such approvals must be in writing and shall provide adequate information about the system as to ensure that the minimum record requirements are satisfied and provide the required data on a current and readily available basis to examiners, when requested:~~

~~2.1 Transactions Journal - All transactions involving the cashing of checks, drafts, or money orders shall be entered into this journal. All entries in this journal shall contain the following details:~~

~~2.1.1 Date of transaction;~~
~~2.1.2 Customer's name;~~
~~2.1.3 Customer's address:~~
~~2.1.4 Type of identification;~~
~~2.1.5 Check, Draft, or Money Order and Item Number;~~
~~2.1.6 Amount of item;~~
~~2.1.7 Fee paid;~~
~~2.1.8 Employee's initials.~~

~~2.2 Written approval may be granted for the recording of items 2.1.2, 2.1.3, and 2.1.4 in a card file which assigns an identification number to each customer. The identification number may then be recorded in the Transactions Journal in lieu of the customer's name, address, and form of identification.~~

~~2.3 Record of Deposits - A copy of each day's deposit made of the checks, drafts, and money orders cashed shall be maintained.~~

~~2.4 Summary of Business - A record of daily and monthly totals shall be maintained, to include:~~

~~2.4.1 The number of checks, drafts, and money orders cashed;~~
~~2.4.2 The aggregate fees received.~~

~~2.5 Any licensee operating two or more locations may maintain a consolidated or combined set of books and records, provided such books and records reflect separate figures for each location.~~

~~**2 DE Reg. 781 (11/1/98)**~~

2702 Minimum Records

5 **Del.C.** §§2741 and 2743
Effective Date: Proposed

1.0 Minimum Required Records

Each licensed office, including all mobile units, shall maintain the following records on a current basis:

1.1 Transactions Journal. The office shall maintain a journal recording all transactions involving the cashing of checks, drafts, or money orders. The entries in this journal shall include:

1.1.1 the date of the transaction;
1.1.2 the customer's name;
1.1.3 the customer's address;
1.1.4 the type of identification the customer used, the issuer of that identification and its expiration date;

1.1.5 the item number and amount of the check, draft or money order;

1.1.6 the fee received for the transaction; and

1.1.7 an identification of the employee who conducted the transaction.

1.2 Daily Deposit Records. The office shall maintain a daily record containing a copy of each day's deposit of the checks, drafts, and money orders cashed.

1.3 Business Summary Record. The office shall maintain a record containing the daily and monthly totals of:

1.3.1 the number of checks, drafts, and money orders cashed; and

1.3.2 the aggregate fees received.

2.0 Location, Format and Retention of Records

2.1 All records shall be made available to the Commissioner's staff when requested.

2.2 Records may be maintained at the licensed office or mobile unit itself or at any other suitable location if they can be available within a reasonable period of time upon request.

2.3 The licensee may maintain a separate record for repeat customers containing the information required by §§1.1.2, 1.1.3, and 1.1.4 of this regulation if the journal entry for each transaction clearly identifies the customer. Customer information maintained as a separate record must be updated annually, or sooner if the form of identification or record has expired since the last transaction.

2.4 Any licensee operating two or more office locations or mobile units may maintain consolidated or combined records, provided the records reflect separate figures for each location or unit.

2.5 All records may be maintained by paper copy or in an electronic format.

2.6 All records shall be retained in accordance with the time periods specified in Regulation 101 Retention of Financial Institution Records.

3.0 Variations

The Commissioner may grant written approval for variations from this regulation to accommodate specific record keeping systems. Requests for such approvals must be in writing and provide sufficient information concerning this system to ensure that the requirements of this regulation are satisfied and that the records will be readily available when requested.

16 DE Reg. 1059 (04/01/13) (Prop.)