

# Arizona Department of Financial Institutions



## SUBSTANTIVE POLICY STATEMENT

**Section:** Banks

**December 3, 2012**

**Subject:** Escrow Company Services That  
Can Be Paid by a Bank

**Policy Statement # BA-7**

It has come to our attention that confusion still exists regarding what payments or credits a bank can make to or for the account of title and escrow company depositors. In view of the potential for violating the Federal Reserve Board's Regulation Q or Section 329.2 of the Federal Deposit Insurance Corporation's Rules and Regulations, it is beneficial to clarify what types of services can be provided or what kinds of escrow expenses can be paid by the earnings credits generated by the deposits.

The above noted federal regulations prohibit a bank from directly or indirectly paying interest on any demand deposits. Accordingly, banks that provide services for earnings credits should ensure that they follow appropriate written policies and procedures. Policies and procedures should address the specific prohibition of paying interest on demand deposits, specific account analysis procedures, invoice payment procedures, vendor selection criteria, and vendor contracts. Banks should also review prospective service providers to determine the provider's financial soundness and whether the service provider is a subsidiary organization of the bank's deposit customer.

Currently, the offering of the following services without charge, in exchange for the funds being deposited, does not constitute the payment of interest:

1. Loans at preferential interest rates
2. Armored car service
3. Short-term overdraft privileges

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- 4. Full endorsement stamps**
- 5. Rubber Stamps**
- 6. Printed checks**
- 7. Bonded safekeeping of municipal securities**
- 8. Safe deposit box and night depository services**
- 9. Processing of shipping and insurance in connection with transfers on collections of Municipal bonds or bond coupons**
- 10. Preparation of reports required of the bank by the municipality**
- 11. Service as paying agent on bonds**
- 12. Maintenance of a permanent record of all checks and deposits**
- 13. Pay data processing bills (Up to a certain amount based on an earnings credit)**
- 14. Courier or delivery service if such service is used to transport bank items, i.e., deposits**

**It has been determined by the federal bank regulators that the following items do not constitute "normal banking services" under Regulation Q or Section 329.2 of the Federal Deposit Insurance Corporation's Rules and Regulations:**

- 1. Subscriptions to industry periodicals**
- 2. Payment of third party record storage fees**
- 3. Payment of connection fees for computers and facsimile machines**
- 4. Purchase and/or lease of telephones and computers**
- 5. Purchase and/or lease of copier and facsimile machines**
- 6. Payment of third party lockbox fees**
- 7. TRW information data**
- 8. Employment fees for escrow officers and assistants**
- 9. Purchase of business forms**
- 10. Courier services if used to transport title/escrow documents**

**Even with today's expanded activities, it is unlikely that any of the following would qualify as "normal banking services":**

- 1. Legal/accounting fees**
- 2. Repairs and maintenance**
- 3. Travel expense**
- 4. Auto and equipment lease**
- 5. Equipment rental and lease payments**

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- 6. Insurance costs**
- 7. Computer supplies and repairs**
- 8. Purchase of office furniture**
- 9. Telephone**
- 10. Capital lease obligation costs**

**Other services may be paid for or absorbed by a bank, however, they must be analyzed on a case by case basis to determine whether they constitute or are incidental to "normal banking services." Typically, a service constitutes a "normal banking service," if the service is functionally related to services that could be provided by the bank and is provided primarily as a convenience to the bank.**

**Questions regarding this policy statement should be directed to our Financial Institutions Division at (602) 771-2800.**