State of Washington
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CREDIT UNIONS
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ISDRL – 2016 – 002 – DCU

REVISED INTERPRETIVE STATEMENT

TO: All Washington State-Chartered Credit Unions

FROM: Joseph M. Vincent, Director of Regulatory & Legal Affairs
Washington State Department of Financial Institutions

RE: Use of Trade Name (d/b/a) in Lieu of Official Charter Name

DATE: January 3, 2017

1.0 INTRODUCTION & BACKGROUND

This *Revised* Interpretive Statement supersedes an earlier Interpretive Statement (ISDRL-2016-002-DCU), dated May 8, 2015. It is being issued to address the requirements of a comment letter made to a certain credit union (and all other credit unions similarly situated) by the Division of Securities ("DOS") of the Department of Financial Institutions ("Department") in relation to advertising restrictions imposed on a credit union if it acts as investment adviser subject to the authority of the DOS[1] or if a credit union acts pursuant to any other superseding or preemptive law or regulation subject to interpretation and enforcement by a governmental authority other than the Division of Credit Unions ("DCU"). These additional advertising restrictions are addressed in *Section 3.4* below.

This Interpretive Statement is being written on behalf of the DCU in the undersigned's capacity as Director of Regulatory & Legal Affairs for the entire Department.[2] Certain Washington State-chartered credit unions ("State Credit Unions") have inquired whether it is permissible for them to use a trade name or "d/b/a" when conducting business with members and the public.

This question actually raises two different scenarios:

SCENARIO #1 – *Exclusive Use of Trade Name.* A situation in which a State Credit Union simply wants to use a trade name or "d/b/a" in lieu of its official charter name throughout its entire operation.

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[1] See *WAC 460-24A-100(1)(e)* and *Washington Securities Act Policy Statement 20.*

[2] The Department's Division of Banks has previously opined on and issued an Interpretive Statement (Interpretive Statement of General Counsel, ISGC-2005-013-DOB, dated September 30, 2005, http://dfi.wa.gov/sites/default/files/opinions/ISGC-2005-013-DOB.pdf), upon which this Interpretive Statement substantially relies.

SCENARIO #2 – *Simultaneous Use of Official Charter Name and Trade Name*. A situation in which a State Credit Union seeks to use its official charter name for part of its operation but contemporaneously also use a trade name or "d/b/a" for other parts of its operation, a scenario which often exists when one institution acquires another and wants to continue operating branches of the target institution under its old name.

This Interpretive Statement will address both scenarios.

2.0 QUESTIONS PRESENTED

SCENARIO #1 – QUESTION: May a State Credit Union use a trade name or "d/b/a" in lieu of its official charter name throughout its entire operation? ANSWER: Yes, subject to the requirements, restrictions, and limitations set forth in *Subsections 3.1, 3.2 and 3.4* of this Interpretive Statement.

SCENARIO #2 – QUESTION: May a State Credit Union contemporaneously use its official charter name for part of its operation but contemporaneously also use a trade name or "d/b/a" for other parts of its operation. ANSWER: Yes, subject to the requirements, restrictions, and limitations set forth in *Subsections 3.1, 3.3, and 3.4* of this Interpretive Statement.

3.0 ANALYSIS & DISCUSSION

3.1 Use of Trade Name or "D/B/A" Generally. There is nothing in the Washington Credit Union Act, Chapter 31.12 RCW ("WCUA") that prohibits a State Credit Union from doing business under a trade name that is different than its official charter name set forth in its Articles of Incorporation as may be amended and/or restated. Moreover, federally insured credit unions are permitted under the Rules of the National Credit Union Administration ("NCUA") to use a trade name in lieu of their official charter name, subject to certain requirements.[3] There are, however, important legal considerations – independent of WCUA and NCUA Rules – that a State Credit Union should make when using a trade name in lieu of its corporation name. These include the following:

3.1.1 Notifying the Division Director. A State Credit Union seeking to use a trade name in lieu of its official charter name in all or some of its operation should notify the Director of Credit Unions and NCUA at the earliest available opportunity prior to using the trade name. State Credit Union's already using a Trade Name in lieu of their official charter names, which are in compliance with this Interpretive Statement, need not further notify the Director of Credit Unions incident to the issuance of this Interpretive Statement.

3.1.2 NCUA Rules – Accuracy of Advertising & Notice of Insured Status. In its use of a trade name, a State Credit Union must exercise due diligence to assure that it is in compliance with the general advertising rules for all federally insured credit unions, which have been adopted by the NCUA.[4] As part of these advertising rules, the NCUA does require that all

[3] 12 C.F.R. §740.2. See NCUA requirements at *Subsection 3.1.2* below.

[4] 12 C.F.R. 741.211 and 12 C.F.R. Part 740.

federally insured credit unions, including State Credit Unions, using a trade name other than their official charter name, nonetheless use their *official charter name* on and in relation to all of the following: (1) communications with the NCUA; (2) share certificates; (3) certificates of deposit; (4) signature cards; (5) loan agreements; (6) account statements; (7) checks; (8) drafts; and (9) other legal documents.[5]

A State Credit Union may display its trade name more prominently than its official charter name on these above-referenced documents. This may include footnoting a reference to its official charter name on such documents. However, the presence of the official charter name must appear on these documents in such a way that a reasonable person would conclude that the trade name (if any) appearing on the document is in reference to the official charter name which appears on the document as well. Please be advised that the Director will examine for and enforce compliance with this NCUA rule in all applicable cases.

3.1.3 Unauthorized Use of the Terms "Bank," "Banking" or "Banker". Consistent with a 2014 Interpretive Statement of the Department's Director,[6] a State Credit Union may not use a trade name in lieu of its official charter name which contains the word "Bank," "Banking," "Banker," or any foreign language term designating the same. This does not mean that a State Credit Union, consistent with this Department Director's Interpretive Statement, is precluded from using "bank," "banking," or the like in its advertising. However, its trade name (if any) that it uses in lieu of it official charter name must not contain such words.

3.1.4 Federal Trademark Law – Common Law Misappropriation of Trade Name. A State Credit Union should appreciate and take all reasonable steps to minimize or eliminate legal and market risks associated with confusion with businesses or organizations other than the State Credit Union. A State Credit Union should exercise due diligence to assure that it has minimized or eliminated any legal exposure due to misappropriation of a federally registered trademark held by another entity or person, since the consequences for violation of the federal Lanham (Trademark) Act[7] are potentially quite severe. Moreover, even if a State Credit Union's prospective use of a trade name does not compete with any federal trademark claim (either registration or prior use), a State Credit Union should take reasonable precaution to assure that it has not misappropriated the actual or fictitious trade name or another business within its service area which may expose it to a common law "misappropriation of trade name" suit. The Division understands that no exercise of due diligence and reasonableness in making these considerations is necessarily foolproof. Indeed, this is an area of the law which abounds with unsubstantiated claims. In making decisions, however, the Division recommends that a State Credit Union always seek the advice of legal counsel knowledgeable in the field of trademark law.

3.1.5 Washington Trade Name Act. The Washington Trade Name Act[8] requires that each person, including a corporation such as a State Credit Union, which carries on, conducts, or transacts business in Washington State under any trade name must register that trade name with

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[5] 12 C.F.R. §740.2.

[6] DFI-DIS-2014-01 (dated June 8, 2014), http://www.dfi.wa.gov/sites/default/files/director-interpretive-statements/DFI-DIS-2014-01.pdf.

[7] 15 U.S.C. §1051 et seq.

[8] Chapter 19.80 RCW.

the Department of Revenue.[9] Failure to register as required means that a State Credit Union using a trade name which is not registered with the Department of Revenue cannot maintain any suit in any of the courts of Washington State until the State Credit Union cures such failure by registering the trade name.[10] However, it is important to note that failure to complete this registration will not impair the validity of any contract or act of a State Credit Union doing business under a trade name and will not prevent a State Credit Union from defending any suit brought against it in a Washington State court.[11] Accordingly, State Credit Unions are advised to register their trade names (if any) with the Department of Revenue because the failure to do so may hinder the efficiency of their bring suit, especially in collection actions.

3.2 SCENARIO #1: Use of a Trade Name in Lieu of Official Charter Name throughout Entire Operation. Use of a trade name in lieu of one's official charter name throughout one's entire operation presents the least complications from a due diligence and compliance perspective. In this scenario, a State Credit Union need only comply with the requirements, restrictions, and limitations set forth in *Subsection 3.1* above.

3.3. SCENARIO #2: Contemporaneous Use of Official Charter Name and Trade Name. This scenario involves contemporaneous use of an official charter name and a trade name. This scenario most often comes into play when a State Credit Union (1) acquires another credit union by merger or acquires a credit union or bank's assets and liabilities by purchase/assumption agreement and (2) then wants to continue operating branches of the target institution under its old name. In such a circumstance, there is the added concern that a member/depositor may be confused that there are two institutions rather than one operating under two different names. The regulatory concern presented here is that a member/depositor could exceed his/her deposit insurance limit. This scenario has been addressed before by the Department's Division of Banks, in which it issued a definitive Interpretive Statement ("ISGC-2005-013-DOB") consistent with an Interagency Statement on Branch Names dated May 1, 1998, which is relied upon and attached thereto.[12] Accordingly, if a State Credit Union seeks to contemporaneously use an official charter name in part of its operation and a trade name in the other part, it must comply with all requirements, limitations, and restrictions set forth in *Subsection 3.1* above, *plus* it should make all reasonable efforts to be consistent with the same standards applicable to Washington State-chartered banks under ISGC-2013-DOB, dated September 30, 2005.

3.4 Special Restrictions When Engaged in Investment Advice or Other Activities Subject to Superseding or Preemptive Federal or State Law. Notwithstanding the standards set forth in *Sections 3.1. 3.2 and 3.3*, a State Credit Union is required to use its *full legal name*, instead of merely a trade name, when engaged as an investment adviser under the Washington

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[9] RCW 19.80.010.

[10] RCW 19.80.040.

[11] *Id.*

[12] See ISGC-2005-013-DOB, dated September 30, 2005, *Contemporaneous Use of Official Charter Name ("ABC Bank") and Assumed Business or Trade Name ("XYZ Bank") [Attachment]*, which is made a part hereof. The Interagency Statement attached to ISGC 2005-013-DOB was jointly made by the Board of Governors of the Federal Reserve System, the FDIC, the Office of the Comptroller of the Currency (OCC), and the former Office of Thrift Supervision (OTS), all regulators of FDIC-insured institutions. The NCUA was not included in this Interagency Statement.

Securities Act.[13] Under such circumstances, a State Credit Union is subject to the superseding advertising requirements of the DOS.[14]

In addition, there may be other superseding state laws or regulations, or preemptive federal laws and regulations, which certain governmental authorities, other than the DCU, may impose upon State Credit Unions that would further condition or limit a State Credit Union's ability to use its trade name. Therefore, State Credit Unions are advised to exercise due diligence when proceeding to engage in business activities that are regulated by governmental authorities other than the DCU.

3.5 Request for Clarification or Limited Exception. Provided that a State Credit Union is in compliance with *Subsection 3.1*, a State Credit Union may request from the Director of Credit Unions a clarification or limited exception based upon unusual circumstances not otherwise addressed in this Interpretive Statement. A State Credit Union should direct such inquiry to the Director of Credit Unions prior to use of the trade name in question. State Credit Unions should be mindful that the Director of Credit Unions may have no authority to grant a limited exception to advertising requirements based on superseding or preemptive authority as set forth in *Section 3.4* above. In such case, a State Credit Union would have to look to other applicable regulatory authorities (e.g., the DOS) for the granting of any limited exception (assuming one would even be available).

4.0 CONCLUSION

This Interpretive Statement is applicable to all State Credit Unions and is in effect unless later amended or withdrawn. This letter is intended to provide general guidance only and is not a substitute for advice from a State Credit Union's legal counsel. If you have any questions, please do not hesitate to call upon Linda K. Jekel, the Director of Credit Unions, at (360) 902-8778 or linda.jekel@dfi.wa.gov.

Sincerely,

WASHINGTON STATE DEPARTMENT OF
FINANCIAL INSTITUTIONS

By: Joseph M. Vincent

Joseph M. Vincent
Director of Regulatory & Legal Affairs

For Division of Credit Unions

JMV:cd
Attachment

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[13] Chapter 21.20 RCW.

[14] WAC 460-24A-100(1)(a) and (e) – Advertisements by Investment Advisers; WAC 460-24A-200(1)(k) – Books and Records/Advertising; Securities Act Policy Statement 20.

State of Washington
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ISGC – 2005 – 013 – DOB

September 30, 2005

[redacted]

RE: Contemporaneous Use of Official Charter Name ("ABC Bank") *and* Assumed Business or Trade Name ("XYZ Bank")

Dear [redacted]:

As you are well aware, on September 23, 2005, xxxxxxx Bancorporation ("Bancorp") announced its intent to acquire xxx xxxxxxxxxx Inc. ("Bancshares") and merge its subsidiary bank, xxx Bank ("123 Bank"), into Bancorp's own subsidiary, ABC Bank ("ABC Bank").

1.0 Issue Presented

Among the various issues associated with this merger, the Division of Banks of the Washington State Department of Financial Institutions ("DFI") has been asked by counsel for the transaction whether it is appropriate for the surviving bank, ABC Bank, to contemporaneously do business as "ABC Bank" and as "XYZ Bank," and, if so, in what manner it may continue to do so.

2.0 Determination

Based on federal and state law and policy and subject to the requirements set forth below, we have determined that [redacted] Bancorporation, in the operation of its wholly owned subsidiary, ABC Bank, may continue to use "XYZ Bank" as an assumed business and trade name in connection with its branching, Internet presence, signage, contracts, official documents and notices, and other indicia of existence.

Our view is that the contemporaneous use of two names by ABC Bank is *inherently* susceptible of confusion (especially to *depositors*) and may only be overcome if ABC Bank, has

standards and procedures of identification that, subject to our periodic examination, meet the requirements set forth below. In the past, we have only permitted this conduct when an institution has a "reasonable purpose" for it or engages in the conduct based upon "reasonable circumstance." While we do not need to exhaustively recite all of the criteria or circumstances that must be present to meet this test. But we do take this opportunity to point out that the threshold criteria and circumstances are present in the case of ABC Bank and its assumed business or trade name, "XYZ Bank," as follows:

- The presence of two distinctive geographic or product markets as between "ABC Bank" and "XYZ Bank"; and
- A previous merger-acquisition that initiated the use of "XYZ Bank" as an assumed business or trade name.

We note, in this regard, that the perceived or estimated cost of changing signage and other identification to conform to a single name will *not*, by itself, be considered as being sufficient enough to constitute a "reasonable purpose or circumstance." This is consistent with the approach we have taken with other stakeholders in the past.

We will permit ABC Bank to continue to operate its existing "XYZ Bank" branches, plus the proposed "123 Bank" branch, under the assumed business or trade name of "XYZ Bank," subject to the following conditions:

2.1 Clarity as to Charter: Generally. ABC Bank must clearly indicate its official charter name in denoting all of its branches and facilities (including non-branch "kiosks" and "production offices"), Internet Web sites, signage, contracts, official documents and notices, and other indicia of existence.

2.2 Clarity as to Character of Assumed Name. ABC Bank must clearly indicate that its assumed business and trade name, "XYZ Bank," is *only representative of* the depository institution (and not its official charter name), when using "XYZ Bank" to denote a branch or facility (including a non-branch "kiosk" or "production office"), Internet Web site, signage, contract, official document or notice, or other indicia of existence.

2.3 Maintenance of Official State Registration for Assumed (Fictitious) Name. Registration of "XYZ Bank" with the Department of Licensing must be maintained and not lapse.

2.4 No Reasonable Probability of Trademark Infringement of Misappropriation of Trade Name. ABC Bank must continue to take steps to limit or prevent potential exposure to a suit, either under federal or state law, for trademark infringement or misappropriation, in the use of "XYZ Bank."

2.5 Signage and Advertising. With respect to signage and advertising:

- No Prior DFI Approval. ABC Bank will be subject to examination authority with respect to the general standards set forth in this letter but need not maintain prior approval of specific signage or advertising.

- Primary Use of Official Charter Name. If the primary name used is "ABC Bank," the signage or advertising need not include "XYZ Bank." If, however, it does include "XYZ Bank," the signage or advertising (1) must indicate that ABC Bank uses an assumed business or trade name and (2) must display "ABC Bank" more prominently than "XYZ Bank." The following example, or one which is substantially similar or equivalent, is acceptable for purposes of *signage and advertising*, and should have approximately the same *proportionality* as to relative font size:

> **ABC BANK**
> **with XYZ* Branches**
>
> *** "XYZ Bank" is a registered assumed business name of ABC Bank, an FDIC-insured Washington state-chartered bank.**

- Primary Use of Assumed Business or Trade Name. If the primary name used is "XYZ Bank," the signage or advertising *must always* include "ABC Bank." It must indicate that ABC Bank uses an assumed business or trade name and (2) must display "ABC Bank" and the relationship between "XYZ Bank" and ABC Bank. The following examples, or those which are substantially similar or equivalent, are acceptable for purposes of *signage and advertising*, and should have approximately the same *proportionality* as to relative font size:

> XYX BANK
>
> *XYZ Bank is a branch of ABC Bank, which is a wholly owned subsidiary of [Bancorp] of Longview, Washington. XYZ Bank is an assumed business name of ABC Bank*

- or -

XYX BANK

XYZ Bank is an assumed business name of
ABC Bank, an FDIC-insured Washington state-chartered bank.

- Radio Advertising. In radio advertising, if "ABC Bank" is the brand being primarily identified, there should be an audio disclosure at the end of the radio announcement disclosing the existence of branches and/or other facilities doing business as "XYZ Bank." If, on the other hand, the "XYZ Bank" is the brand being primarily identified, there should be an audio disclosure at the end of the radio announcement disclosing (1) the identity of ABC Bank and (2) the use of "XYZ Bank" as an assumed business or trade name.

- Television Advertising. Since television advertising contains both visual and audio elements, a television advertisement may use audio or visual elements, or both, to identify and disclose the relationship between ABC Bank and "XYZ Bank," consistent with the above. Unless visual disclosures alone are so prominent as to be reasonably visible, both as to size, proportionality and duration of screen presence, audio disclosures should be employed as the primary means of providing the necessary disclosures.

- Internet Presence. You may continue to maintain both http://www.xxxxxbank.com and http://www.xxxxxbank.com as registered domains. However, the domain http://www.bay-bank.com must be an *alias* address, and Internet traffic must be re-directed to http://www.xxxxxbank.com. You may maintain only one actual Web site for the activity of ABC Bank, i.e., you may host a single Web site on the domain http://www.abcbank.com and *must* cease to operate the "XYZ Bank" site, http://www.xyz-bank.com, as publicly viewable Web pages. In addition, the ABC Bank site, http://www.abcbank.com, must be re-designed so as to properly represent and disclose the varied use and co-branding of ABC Bank and "XYZ Bank" by respective branches and non-branch facilities.

- Contracts, Disclosures and Official Documents. All of your contracts, disclosures and official documents, including all legal documents, certificates of deposit, signature cards, loan agreements and promissory notes, account statements, checks, drafts and similar documents, must use the official charter name of "ABC Bank," and not the assumed business

name of "XYZ Bank." As an alternative, they may state "ABC Bank, a Washington state bank, doing business as 'XYZ Bank'," or substantially similar or equivalent language. When opening a new account, your should obtain from the customer, in connection with a special disclosure, a signed statement acknowledging that the customer is aware (1) that certain branches and facilities of ABC Bank, while operating under an assumed business or trade name of "XYZ Bank," are, indeed, part of ABC Bank, and (2) that deposits held at each facility are *not* separately insured. Your customer service personnel should call attention to disclosures that identify a particular branch or facility using "XYZ Bank" as a brand as being part of ABC Bank. We do not endorse any particular form or language to meet this requirement. We will permit flexibility in meeting this requirement (e.g., combining this requirement with other disclosures), *provided, that* the language of the disclosure is clear and obvious to the customer.

- Pending Merger-Acquisition. In the case of the pending 123 Bank merger-acquisition, existing customers of 123 Bank should be notified by special disclosure notice (1) that certain branches and facilities of the institution, while operating as "XYZ Bank," are, indeed, part of ABC Bank, and (2) that deposits held at each facility of ABC Bank, including "XYZ Bank" branches, are not separately insured. This may be undertaken by separate mailing or in combination with a regular monthly statement. A signed acknowledgement is *not* necessary. However, customer service personnel at the former 123 Bank branch should call attention to the special disclosure and/or its contents in all face-to-face transactions with customers. If ABC Bank employs telephone banking or other telephony, we encourage pre-programmed messages or telephone conversations between customer service personnel and customers to convey the substance of the required special disclosure.

- Personnel Training. As part of a merger transition, you should train your personnel, at any branch or facility operating as "XYZ Bank," regarding how to use the special disclosures mentioned above and how to prevent customer confusion.

4.0 Authority

RCW 30.04.030 declares the delegated authority of the Director of Division of Banks, as follows:

> The director shall have the ***power, and broad administrative discretion,*** to administer and ***interpret*** the provisions of [Title 30 RCW] to facilitate the delivery of financial services to the citizens of the state of Washington by the banks and trust companies subject to [Title 30 RCW].

[Emphasis added.]

With this broad authority comes the ability to reasonably interpret what is a safe and sound banking practice. Conversely, the Director of the Division of Banks has the broad administrative authority to interpret (1) what is an *un*safe and *un*sound business practice and (2) what conduct may be accordingly enjoined pursuant to RCW 30.04.450 and RCW 30.04.550.

In declaring what is minimally safe and sound with respect to the use of an assumed business or trade name, we rely upon an Inter-Agency Statement, dated May 1, 1998, issued by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision. See Attachment. Clearly, the DFI has the authority, in reliance upon this Inter-Agency Statement, to *prospectively* regulate and thereby condition and limit the future conduct of ABC Bank with respect to the use of "XYZ Bank" as an assumed business or trade name.

5.0 Concluding Remarks

This interpretation shall have *prospective* application only. It is applicable to all other Washington state-chartered commercial banks (Title 30 RCW) similarly situated. Moreover, since substantially the same federal and state law and policy applies to state-chartered savings banks under Title 32 RCW and savings associations under Title 33 RCW, it is likewise applicable to Washington state-chartered savings banks and savings associations, similarly situated. However, persons other than ABC Bank are advised that each institution's relevant facts and circumstances may be different; and such relevant facts, as applied to governing law and policy, may result in the Director of the Division of Banks reaching a conclusion different than the one set forth above.

Should you have any questions, please do not hesitate to call upon the Division of Banks.

Sincerely,

WASHINGTON STATE DEPARTMENT OF
FINANCIAL INSTITUTIONS

By:

David G. Kroeger, Director
Division of Banks

Attachment

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
FEDERAL DEPOSIT INSURANCE CORPORATION
OFFICE OF THE COMPTROLLER OF THE CURRENCY
OFFICE OF THRIFT SUPERVISION

INTERAGENCY STATEMENT

BRANCH NAMES

May 1, 1998

The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency and the Office of Thrift Supervision (the "Agencies") are issuing this Interagency Statement regarding the practice of insured depository institutions operating branches under different trade names in response to requests for guidance to some of the Agencies. While there are no federal laws or regulations that specifically require that all branches of an insured depository institution operate under a single name,[1] the Agencies are concerned that if customers believe they are dealing with two different institutions, they may inadvertently exceed FDIC insurance limits by depositing excess amounts in different branches of the same institution. The Agencies believe it is important that customers understand the scope of FDIC insurance in these circumstances.[2] Accordingly, an insured depository institution that intends to use a different name for a branch or other facility should take reasonable steps to ensure that customers will not become confused and believe that its facilities are separate institutions or that deposits in the different facilities are separately insured.[3] Such measures may include, but are not limited to:

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[1]There may be state laws that need to be considered with respect to operating under a trade name. In addition, regulations applicable to insured institutions that may be promulgated by the Board of Governors of the Federal Reserve System or the Office of Thrift Supervision (as applicable) under the Federal Trade Commission Act, 15 U.S.C. § 57a(f) et. seq., regarding the prevention of unfair or deceptive acts or practices, could apply to the use of branch names.

[2]Generally, each depositor at an insured depository institution is insured up to $100,000. See 12 U.S.C. §§ 1813(m), 1817(i), and 1821(a). Insured deposit limits are determined in accordance with regulations prescribed by the FDIC at 12 C.F.R. Part 330.

[3]The practice of insured depository institutions using different trade names over a computer network such as the Internet raises the same concern discussed herein. Accordingly, institutions intending to use different trade names over a computer network should take reasonable steps to ensure that customers will not be confused about either the identity of the insured depository institution or the extent of FDIC insurance coverage.

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1. Disclosing, clearly and conspicuously, in signs, advertising, and similar materials that the facility is a branch, division, or other unit of the insured institution. The institution should exercise care that the signs and advertising do not create a deceptive and/or misleading impression.
2. Using the legal name of the insured institution for legal documents, certificates of deposit, signature cards, loan agreements, account statements, checks, drafts, and other similar documents.

3. Educating the staff of the insured depository institution regarding the possibility of customer confusion with respect to deposit insurance. The Agencies recommend that the insured depository institution instruct staff at the branch and any other facilities operating under trade names to inquire of customers, prior to opening new accounts, whether they have deposits at the depository institution's other facilities or branches. In addition, during the time period soon after one institution acquires or combines with another, staff should be reminded to call customers' attention to disclosures that identify a particular branch or facility as part of an institution.
4. Obtaining from depositors opening new accounts at the branch a signed statement acknowledging that they are aware that the branch and other facilities are in fact parts of the same insured institution and that deposits held at each facility are not separately insured.

EFFECTIVE DATE: July 1, 1998

[4]The legal name of an insured institution is its full name as reflected in its charter, except that an insured institution may abbreviate terms that are indicators of corporate status (e.g., N.A., F.S.B., Inc., Corp.).

Richard Spillenkothen
Director, Division of Banking
Supervision and Regulation
Board of Governors of the Federal Reserve System

Nicholas J. Ketcha, Jr.
Director, Division of Supervision
Federal Deposit Insurance Corporation

Leann G. Britton
Senior Deputy Comptroller
Bank Supervision Operations
Office of the Comptroller of the Currency

John C. Price, Jr.
Director, Supervision Policy
Office of Thrift Supervision