

**TITLE 85**  
**CHAPTER 1 – Required Rules**  
**Subchapter 1 – General Provisions**

**85:1-1-5. Communication with the Board and Commissioner**

- (a) Every communication in writing to the Board shall be addressed to the Commissioner at the principal office, unless the Board directs otherwise.
- (b) Every pleading and other document tendered for official filing ~~shall be deposited with or mailed to the Commissioner at the principal office, and~~ shall be deemed received only upon ~~actual delivery at the office of the Commissioner~~ physical or electronic delivery to the Commissioner or the principal office of the Board
- (c) Filing of any instrument shall not be complete except upon payment of all applicable fees required by law.
- (d) Unless otherwise required by the Commissioner, any provision in this Title requiring written notification or that a document be provided in writing may be satisfied by providing electronic communication and electronic images of a document.

**Subchapter 3 – Procedural Rules**

**85:1-3-2. Service of pleadings**

- (a) Service of an initial pleading. Every application in which a party is named a respondent shall be served by the State Banking Department on each respondent named therein by mail or electronic delivery accompanied by a notice of hearing stating the date on which the cause is set for hearing, which shall be no less than ten (10) days after notice is mailed. Service hereunder shall be required in addition to provisions of these rules requiring service by publication.
- (b) Service of subsequent pleadings. Every pleading, after the initial pleading, shall be served by the party filing it by regular mail or electronic delivery upon all parties of record. Parties of record shall include the applicant, all named respondents and all persons having theretofore entered an appearance in the cause, in person or by an attorney.
- (c) Certificate of service. Every pleading required to be served by regular mail or electronic delivery shall contain a list of the persons served and the certificate of the party or his attorney, that on the date stated a copy of the pleading was mailed, postage prepaid, or delivered, to each person listed. Any pleading required to be served by regular mail or electronic delivery may be served by leaving a copy thereof at the principal office of the party, or of the attorney for the party, or at the email address designated for the party or the attorney for the party.
- (d) Service not jurisdictional. Service prescribed by this section shall not be jurisdictional except where so provided by the Constitution or by statute. Failure to comply with the provisions of this section as to mailing and service notice shall not deprive the Board or Commissioner of jurisdiction of the proceeding, but shall be grounds for such appropriate relief as the Commissioner may order.

**85:1-3-7. Production of documents**

- (a) Upon application of a party, or upon the Commissioner's own motion, with or without notice, the Commissioner may make an order requiring a party to produce designated documents or tangible objects for inspection by parties to the proceeding, or for copying at the expense of the applicant, or to be offered in evidence. The order shall direct production thereof at the hearing, or at a pre-hearing conference and production shall be at the principal office of the Board, unless some other place is stated in the order. An order hereunder may be directed to a party not yet a

party of record, conditioned that if such party appears at the hearing, the order thereupon will be complied with.

(b) The party applying therefor shall mail a copy of the order by regular **or electronic** mail on each party of record at least seven days prior to the date upon which production is required.

(c) An order pursuant to this section may require production of any document not privileged which constitutes or contains evidence relevant to the subject matter of the proceeding, or may reasonably lead to such evidence. Business records shall not be deemed privileged as such; but confidential business records and information will be protected from disclosure except where directly relevant to the issues in the proceedings.

(d) The order shall identify the document or object to be produced individually or by categories, with sufficient particularity to permit easy identification thereof by the party ordered to make production.

(e) An exact photographic copy of a document may be substituted for the original, at the expense of the person requesting the instrument.

### **85:1-3-11. Pre-hearing conference**

(a) The Commissioner, with or without request by any party of record, may order the parties or their attorneys to appear at a designated time for a pre-hearing conference to consider:

(1) Simplification of the issues.

(2) Presentation of issues of law, adjudication of which may simplify or eliminate issues of fact.

(3) Admissions and stipulations of fact which will avoid unnecessary evidence and testimony.

(4) Identification of documents to be offered at the hearing.

(5) Identification of and numerical limit upon experts and other witnesses.

(6) Discovery and production of documents, records, data and other information.

(7) Other matters as may aid in trial of the proceedings.

(b) Any objection or amendment to the application, notice of hearing, investigative report, any pleading or order commencing a proceeding shall be made at the pre-hearing conference. No objection or amendment will be allowed after the pre-hearing conference except upon good cause.

(c) Actions taken at the pre-hearing conference may be embodied in a preliminary order, which order shall control subsequent proceedings and shall be binding on all parties, whether or not present, unless modified to prevent manifest injustice.

(d) Notice of the time and place of a pre-hearing conference shall be as prescribed by order of the Commissioner and shall be served by regular **or electronic** mail upon all parties of record.

## **Chapter 10 - Supervision, Regulation and Administration of Banks, Trust Companies, and the Oklahoma Banking Code**

### **Subchapter 3 – Department Requirements**

#### **85:10-3-10. Increase/decrease in capital stock**

(a) In addition to those procedures and requirements specified in Section 405 of the Code, the following procedures shall be followed in connection with an increase or decrease of capital stock.

(b) Pursuant to the voting of the stockholders to increase or decrease the capital stock, the bank or trust company shall advise the Commissioner of the amount of increase or decrease, and by what means, as follows:

(1) The bank or trust company shall complete and return to the Commissioner's office a certificate in a form prescribed by the Commissioner, together with two (2) certified copies of the resolution adopted by a majority of the stockholders and approved by the board of directors, which resolution appears in the minutes of their meetings, in connection with the increase or decrease in capital.

~~(2) The bank shall also submit a copy of its proposed amended certificate of incorporation accompanied by a fee as set forth in 85:10-3-21 for approving the documents.~~

(3) Within 30 days of receiving the properly executed documents from the bank or trust company, the Commissioner shall notify the bank or trust company of his approval or disapproval. The Commissioner may extend the 30-day period called for by this paragraph upon notice to the applicant. If approved, the bank or trust company shall file the amended certificate of incorporation with the Secretary of State, after which it will return a certified copy to the Commissioner, and if a bank, the required number of certified copies to the bank's primary federal regulator.

(4) The increase or decrease shall not be effective until the Commissioner has approved the documents and the Secretary of State has filed the amended certificate of incorporation.

(c) When an increase in capital stock is requested, the stockholders of the bank or trust company shall include in their resolution whether the new stock will be fully paid either in cash or by transfer from undivided profits or authorized unissued stock. If to be paid in cash, the resolution shall declare whether the offering will be a private offering or a public offering. If any offering of capital stock of a bank or trust company is a public offering, the bank or trust company must prepare an offering circular pursuant to the terms and requirements of Board rule 85:10-13-2.

#### **85:10-3-12. Change in name - procedures and requirements**

(a) A bank or trust company desiring to change its name shall furnish the following to the Commissioner:

(1) evidence of an affirmative majority vote of the outstanding voting stock approving the new name;

(2) a resolution by the board of directors approving the new name, which resolution appears in the minutes of their meeting;

(3) proposed amended corporate documents evidencing the new name;

~~(4) a fee in the amount set forth in rule 85:10-3-21.~~

(b) After the bank or trust company has been notified of the Commissioner's approval of its new name, it must file the necessary corporate documents with the Oklahoma Secretary of State and must submit certified copies of such filed documents to the Department and to the bank or trust company's primary federal regulator.

(c) It shall be the bank or trust company's responsibility to review governmental records with respect to the availability for use of the new name as well as whether the new name or mark used in connection with the new name will violate or infringe on some other company's name or mark. Any approval provided by the Commissioner will not be taken to mean that such new name or mark is available or eligible for use in any community nor will it mean that such new name or mark does not infringe on the rights of any other company.

(d) If any new name chosen by a bank or trust company is a "confusingly similar name" as defined in the Code, the bank or trust company must comply with the requirements of rule 85:10-11-19.

### **85:10-3-16. Issuance of debentures or capital notes**

(a) Section 410 of the Code provides that a bank may issue its convertible or nonconvertible debentures or notes in such amounts and under the terms and conditions as shall be prescribed and approved by the Board. Section 1001 provides that a trust company has the power to issue debentures, notes, or other evidences or debt to the extent of an amount equal to ten (10) times its capital and surplus. Notwithstanding other terms and conditions the Board may require, no approval will be granted unless:

- (1) The request for approval is made on the form prescribed by the Commissioner;
- (2) The bank shall receive approval of its primary federal regulator;
- (3) The amount of the issue shall exceed Twenty-five Thousand Dollars (\$25,000.00);
- (4) The average maturity of the issue shall be no less than seven (7) years;
- (5) The issue by its terms expressly subordinates itself to the prior payment in full of the bank's liability to its depositors; and

~~(6) Payment of the fee for approval in the amount set forth in Rule 85:10-3-21(g).~~

(b) When a debenture or capital note issue is authorized by the board of directors of a bank or trust company, their resolution shall state whether the issue is to be offered at a private or public offering.

If the issue will be offered through a public offering, the bank or trust company must prepare an offering circular pursuant to the terms and requirements of Board rule 85:10-13-2.

### **85:10-3-21. Fees**

(a) **New Charters.**

(1) **Application fee for authority to organize.** In accordance with the provisions of Section 303(C) of the Code with respect to applications for authority to organize a state bank or trust company, an application fee in the amount of \$7,500.00 shall be submitted with each application for authority to engage in the banking business.

(2) **Application fee for holding company bank charters.** Notwithstanding the fee set forth in paragraph (1) of this subsection, in the case of an Application for Authority to Organize pursuant to Section 502(E) and 502.1 of the Code, an application fee in the amount of \$2,000.00 shall be submitted with each application for authority to engage in the banking business.

(b) **Application fee to change location.** In accordance with the provisions of Section 406(B) of the Code with respect to applications to change location, an application fee in the amount of \$2,000.00 shall be submitted with each application.

~~(c) **Application fee for detached facility.** An application for a certificate to maintain and operate a detached facility shall be accompanied by a fee in the amount of \$2,000.00.~~

(d) **Application fee for operating and financial subsidiaries.** An application for approval of an operating or financial subsidiary must be accompanied by a fee in the amount of \$2,000.00.

(e) **Application fee for branch.** An application fee of \$2,000.00 shall accompany each application for certificate to maintain and operate a branch.

(f) **Other types of applications and fees.** The following applications shall be accompanied by fee in an amount as prescribed below:

~~(1) **Application to change name** - \$250.00~~

(2) Application to abandon trust powers - \$1,500.00

~~(3) **Application to change number or par value of shares** - \$250.00~~

(4) Application to exercise trust powers - \$1,500.00

~~(g) **Debentures or capital notes.** An application for approval of debentures or capital notes must be accompanied by a fee in the amount of - \$1,000.00~~

(h) **Fee for merger.** In accordance with the provisions of Sections 1103 and 1111 of the Code, with respect to the submission of the merger agreement for review, a fee in the amount of \$3,500.00 shall be submitted together with the merger agreement. Such fee shall be in addition to and not in lieu of any branch application fee(s) which may also be required.

(i) **Fee for purchase and assumption agreements.** In accordance with the provisions of Section 1109 of the Code, with respect to the submission of the agreement of purchase and sale for review, a fee in the amount of \$3,500.00 shall be submitted together with the purchase and sale agreement.

(j) **Fee for registration statements.** In accordance with the provisions of Section 104 of the Code with respect to registration statements, a fee in the amount of \$500.00 shall be submitted with each registration statement.

(k) All fees shall be paid by an instrument made payable to the Oklahoma State Banking Department. However, the Department may develop procedures for receiving electronic payment with respect to any or all fees, and subject to such conditions as may be prescribed by the Commissioner.

## **Subchapter 5 – Requirements, Standards and Procedures for an Internal Control Program**

### **85:10-5-3.1. Internal control program for fiduciary activities of trust departments and trust companies**

(a) Where applicable, the following items, at a minimum, shall be performed by all trust departments and all trust companies conducting fiduciary activities to assure the maintenance of sufficient internal audits and reviews, approvals and appointments, and board/committee reporting. Documentation must be maintained to show that each item was completed as required.

(b) The following internal audits and reviews must be completed at the frequency specified:

(1) A daily review of master file changes.

(2) A monthly review of overdrafts and uninvested cash balances that exceed a reasonable minimum established by the institution.

(3) A monthly reconciliation of deposit operating accounts and any suspense accounts.

(4) A semi-annual vault and safe deposit box review for all trust assets held on premises.

(5) A quarterly review of trust accounts (a reasonable sample determined by management) for appropriate administration, asset management, documentation, and compliance with governing instruments, laws, internal policies, and sound fiduciary standards.

(c) The following reviews and appointments must be made on an annual basis:

(1) A review and approval of trust department policies.

(2) Appointment of individuals or committees with authority to approve discretionary account distributions over a reasonable minimum established by the institution.

(3) Appointment of individuals with authority to ~~sign trust department checks, including~~ **approve disbursements, including electronic transfers, checks and dual signature requirements.**

(d) The following reports, **at a minimum,** must be provided to the institution's board, or committee of the board, at the frequency specified:

(1) A ~~monthly~~ **quarterly** report of all opened and closed accounts.

(2) A quarterly report of the status of all outstanding litigation, efforts taken since the last report to resolve the litigation, and any expected exposure to the institution.

(3) A quarterly report of any new formal complaints directed at the trust company or trust department.

(4) A quarterly report of any new settlements or other amounts paid to settle disputes.

- (5) A quarterly report of assets with stale pricing dates that exceed generally accepted fiduciary standards.
- (6) A quarterly report of any new audits conducted including management responses to any recommendations.
- (7) A quarterly report of "watch list" accounts that warrant increased attention.
- (8) A quarterly report of trust department or trust company profitability.

## **Subchapter 9 - New Banks, Branches, and Other Facilities**

### **85:10-9-6. Branch closing**

- (a) A bank may discontinue a branch office with the approval of the Commissioner. In order to gain approval, the bank must:
  - (1) submit to the Commissioner a resolution of its board of directors authorizing the closing;
  - (2) post a notice of the closing at both the branch location and the main office of the bank for thirty (30) days prior to the closing. Said notice shall state the effective date of the closing and indicate the location of the bank's closest office;
  - (3) submit to the Commissioner an affidavit stating that the notice posting requirement has been met;
  - (4) either publish notice of the closing once a week for two (2) weeks in a legal newspaper in general circulation in the community where the branch is located or furnish written notice to depositors and safe deposit box holders at the branch to be closed; and
  - (5) submit to the Commissioner a copy of the notices required by subsections (a)(2) and (a)(4) of this Section.
- (b) The Commissioner shall approve the branch closing absent compelling reasons for denial.
- (c) The requirements of subsection (a) of this section do not apply when:
  - (1) the bank posts notice of the closing at both the branch location being closed and the main office of the bank for thirty (30) days prior to the closing; and
  - (2) the bank operates an existing branch location within two miles of the branch being closed.

The notice posted pursuant to this subsection must include the date of the closing and information (including address and operating hours) of the nearest operating branch location of the bank.

(d) The requirements of subsection (a) of this section do not apply when the bank maintains one or more devices at a former branch location by which customers may interact with bank personnel by video and/or audio equipment and conduct core banking functions such as making deposits, cashing checks, or receiving loan proceeds.