

## Part 5 Jurisdiction of Department

### **7-1-501 Institutions and persons subject to jurisdiction of department.**

- (1) As provided in this title and the rules of the department, the persons and institutions described in Subsection (2) are subject to:
  - (a) the jurisdiction of the department; and
  - (b) supervision and examination by the department.
- (2) Subsection (1) applies to:
  - (a) a depository institution chartered under the laws of this state, including any out-of-state branch of the depository institution;
  - (b) a Utah depository institution chartered by the federal government, but only to the extent the application of this title is authorized by:
    - (i) federal law; or
    - (ii) the appropriate federal regulatory agency;
  - (c) a Utah branch of an out-of-state depository institution chartered under the laws of another state;
  - (d) a Utah branch of an out-of-state depository institution chartered by the federal government, but only to the extent the application of this title is authorized by:
    - (i) federal law; or
    - (ii) the appropriate federal regulatory agency;
  - (e) a service corporation or service organization, including a credit union service organization as defined in Section 7-9-3;
  - (f) a trust company;
  - (g) an escrow company;
  - (h) a person or institution engaged in this state in the business of:
    - (i) guaranteeing or insuring deposits, savings accounts, share accounts, or other accounts in depository institutions;
    - (ii) operating a loan production office for:
      - (A) a Utah depository institution;
      - (B) an out-of-state depository institution; or
      - (C) a foreign depository institution;
    - (iii) a check casher or deferred deposit lender, as defined in Section 7-23-102;
    - (iv) a title lender, as defined in Section 7-24-102; or
    - (v) money transmission, as defined in Section 7-25-102;
  - (i) a corporation or other business entity owning or controlling an institution subject to the jurisdiction of the department;
  - (j) subject to Subsection (3), a technology service provider that provides services to a depository institution subject to the jurisdiction of the department;
  - (k) a subsidiary or affiliate of an institution subject to the jurisdiction of the department; and
  - (l) any person or institution that, with or without authority to do so, transacts business as, or holds itself out as being, a depository institution, trust company, or any other person or institution described in this section as being subject to the jurisdiction of the department.
- (3) A technology service provider is subject to regulation and examination by the commissioner to the same extent as if the service or activity of the technology service provider were being performed by the depository institution itself.

Amended by Chapter 288, 2016 General Session

**7-1-502 Limitations on jurisdiction of department.**

- (1) The jurisdiction of the department with respect to the persons and institutions described in Section 7-1-501 is limited as follows:
  - (a) to the portion of the business activities conducted in this state or with residents of this state, whether conducted solely or jointly by combination or contract; and
  - (b) to business activities that the department is not prohibited from regulating by the United States Constitution or laws of the United States.
- (2) The jurisdictional limitations in Subsection (1) do not prohibit the commissioner from requiring an institution described in Section 7-1-501 to make available for inspection and examination books and records applicable to its business activities in this state, conducted with residents of this state, or relevant to the safety or soundness of a branch in this state. These book and records may include any report filed with a federal or state supervisory agency having jurisdiction over the institution.
- (3) Section 7-1-501 does not authorize the department to supervise or regulate, by setting interest rates or otherwise, the operation of money market mutual funds or similar investments subject to supervision and regulation by another department or agency of this state or of the United States.

Amended by Chapter 49, 1995 General Session

**7-1-503 Regulation of sale by financial institution of its securities -- Solicitation of deposit accounts restricted -- Violations.**

- (1) As used in this section, "security" has the same meaning as in Section 61-1-13, except that "security" does not include:
  - (a) a certificate of deposit or similar instrument issued by:
    - (i) a bank;
    - (ii) a savings and loan association;
    - (iii) a credit union; or
    - (iv) an industrial bank;
  - (b) a loan participation, letter of credit, or other form of indebtedness incurred in the ordinary course of business by:
    - (i) a bank;
    - (ii) a savings and loan association;
    - (iii) a credit union; or
    - (iv) an industrial bank; or
  - (c)
    - (i) a promissory note or other evidence of indebtedness and the underlying security for it;
    - (ii) a lease of personal property;
    - (iii) a contract to sell real or personal property; or
    - (iv) any other loan or investment sold by a depository institution in the secondary market.
- (2)
  - (a) A person subject to the jurisdiction of the department may not, directly or indirectly, issue, offer, offer to sell, offer for sale, or sell a security of which it is the issuer without:
    - (i) the prior approval of the commissioner;
    - (ii) payment of the fee prescribed in Section 7-1-401; and
    - (iii) complying with the rules of the department with respect to securities.

- (b) The commissioner may extend the approval described in Subsection (2)(a)(i) for one or more additional periods not to exceed six months each:
  - (i) if the person described in Subsection (2)(a) makes written application before the expiration of the period of approval; and
  - (ii) for good cause shown.
- (3)
  - (a) A person not otherwise subject to the jurisdiction of the department may not issue, offer to sell, offer for sale, or sell, or otherwise solicit the general public to deposit in an account or to purchase or invest in an instrument creating or evidencing a debtor-creditor relationship, if the account or instrument is represented to be an account with or an instrument issued by a financial institution subject to the jurisdiction of the department, without:
    - (i) the prior approval of the commissioner;
    - (ii) payment of the fee prescribed in Section 7-1-401; and
    - (iii) complying with the rules of the department with respect to securities.
  - (b) Subsection (3)(a) does not apply to:
    - (i) insurance companies that have been issued certificates of authority under Title 31A, Insurance Code;
    - (ii) brokers or dealers registered under:
      - (A) Title 61, Chapter 1, Utah Uniform Securities Act; or
      - (B) the federal Securities Exchange Act of 1934; or
    - (iii) nondepository institutions to the extent that the securities are not offered for sale or sold through or by agents, representatives, officers, or employees of an affiliated Utah depository institution; or
    - (iv) out-of-state depository institution with at least one branch in Utah or otherwise offered for sale or sold on its premises.
- (4) The rules of the department:
  - (a) shall, at a minimum, require registration with the department; and
  - (b) may require the use of an offering circular containing such material information as to the nature of the security and the financial condition of the issuer as the commissioner may require to protect the public interest.
- (5) The provisions of Sections 61-1-21, 61-1-21.1, and 61-1-22 apply to violations of this section.

Amended by Chapter 73, 2013 General Session

**7-1-505 Rules and regulations governing persons or institutions not regulated under other chapters of title.**

With respect to any person or institution or class of institutions subject to the jurisdiction of the department under this part and not regulated or supervised under any other chapter of this title, the commissioner shall issue appropriate rules and regulations consistent with the purposes and provisions of this title governing the regulation, supervision, and examination of those persons, institutions, or classes of institutions.

Amended by Chapter 356, 2009 General Session

**7-1-507 Assessing institution's record in meeting credit needs -- Requirements -- Remedial order.**

- (1) With respect to institutions subject to the jurisdiction of the department that are engaged in soliciting deposits or selling or offering for sale evidences of indebtedness or similar

investments, the commissioner shall periodically assess the institution's record of meeting the credit needs of residents of this state in relation to the deposits received from or investments sold to residents of this state.

- (2) The commissioner may not impose requirements more restrictive than those applicable to federally chartered or federally insured depository institutions doing business in this state.
- (3) The commissioner may order an institution to take remedial action consistent with the safe and sound operation of the institution that will promote the availability of credit to Utah residents.

Amended by Chapter 161, 1987 General Session

**7-1-508 Conviction for fraud or dishonest conduct as disqualification to serve as officer, director or employee or to take control of a depository institution -- Violation as misdemeanor.**

Except as may be expressly authorized by the commissioner, no person convicted of a felony or a misdemeanor involving fraud or dishonest conduct may serve as an officer, director, or employee of a depository institution. No such person, acting directly or indirectly or through or in concert with any one or more persons may acquire control of any depository institution. Violation of this paragraph is a class A misdemeanor.

Enacted by Chapter 16, 1981 General Session

**7-1-510 Examination of institutions -- Adoption of rules -- Requiring actions by institutions.**

If the commissioner finds that it is in the public interest and necessary to protect the depositors and other customers of a financial institution, he may:

- (1) examine the books and records of any financial institution holding company and require the company to furnish whatever reports that he considers appropriate to properly supervise the company's financial institution subsidiaries;
- (2) adopt and issue rules consistent with the purposes and provisions of this title as they pertain to financial institution holding companies; and
- (3) require a financial institution holding company to take any action he finds reasonable and necessary to protect the interests of depositors, other customers, and creditors of any subsidiary financial institution, to maintain its solvency or to prevent its failure.

Amended by Chapter 161, 1987 General Session