



# FINANCIAL INSTITUTIONS TODAY

*News and topics of interest to financial institutions regulated by the Department of Banking and Finance*

May 2017

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## Notice of Intent to Adopt New Rules

On May 25, 2017, pursuant to the provisions of the Georgia Administrative Procedures Act, O.C.G.A. § 50-13-1 et seq., and by the authority of O.C.G.A. § 7-1-61, 7-1-1012, and other cited statutes, the Department gave notice of its intent to adopt new rules. The proposed new rules may be viewed at <https://dbf.georgia.gov/documents/2017-dbf-proposed-rulemaking-5-25-17>. Comments to the Department must be received by the close of business on Monday, June 26, 2017.

## Consideration of Impact from Change in SCB Definition

Since the adoption of House Bill 143, which became effective on June 1, 2017, the Department has received numerous questions from bankers and their representatives related to the new definition for statutory capital base (SCB). SCB is the foundation for, among other items, the determination of a state-chartered bank's legal lending limits, securities investment limits, and fixed asset limits. Notably, for most banks, the new calculation significantly increases the secured and unsecured legal lending limits.

The Department's expectation is that the Board of Directors of each such institution will thoughtfully consider the potential impact from the SCB calculation change and implement appropriate risk management controls. Moreover, banks should take an incremental, measured approach that is consistent with safety and soundness objectives when adopting any higher exposure limits.

Larger banks generally have higher legal lending limits available as a function of their size. Boards of Directors for larger banks in Georgia have routinely established dollar thresholds or "house limits" in their Board-approved loan policies to control growth and limit credit exposure as a part of risk management oversight. Other backstops to control growth include overall limits for asset growth, limits for the loan mix (loan types as a percentage of total loans), limits for loan types as a percentage of capital, and minimum capital ratios. A combination of these policy enhancements would appear to assist Boards of Directors of smaller community banks to communicate their risk appetites to management teams and promote a safe and sound business environment.

## Commissioner Hagler Elected CSBS Treasurer

On May 23, 2017, the Conference of State Bank Supervisors (CSBS) announced the election of Commissioner Kevin Hagler as the new CSBS Treasurer for 2017-2018. The election took place during the organization's annual membership meeting in New Orleans. Commissioner Hagler will also be a member of the CSBS Executive Committee.

CSBS is the national organization of bank regulators from all 50 states, District of Columbia, Guam, Puerto Rico and U.S. Virgin Islands. State regulators supervise roughly three-quarters of all U.S. banks and a variety of non-depository financial services. CSBS, on behalf of state regulators, also operates the Nationwide Multistate Licensing System to license and register mortgage lending providers.

For more information, please visit [www.csbs.org](http://www.csbs.org).

## Cashing Checks for Non-Customers – BSA Compliance

A Customer Identification Program (CIP) is intended to enable a financial institution to form a reasonable belief that it knows the true identity of each customer. However, the CIP does not apply to someone who does not receive banking services or does not have an account at the financial institution. Check-cashing for a non-customer alone does not constitute a formal banking relationship. Therefore, the CIP does not apply to cashing checks for a non-customer. However, financial institutions still must comply with Bank Secrecy Act/Anti-Money Laundering (BSA/AML) and Office of Foreign Assets Control (OFAC) requirements when cashing checks for persons other than established customers.

Financial Institutions should have sound policies, procedures, and processes to manage the BSA/AML risks of offering check-cashing services to non-customer. Policies, procedure, and processes may include, but are not limited to, the following:

- Conduct a risk assessment prior to implementing the service and periodically reevaluate the risk assessment for Board review;
- Specify the types of identification that are acceptable, including forms of acceptable alternate identification;
- Establish limits for check cashing, such as a maximum dollar amount per check or number of checks per day or statement period that the institution will process;
- Establish restrictions on transaction types that the institution will accept, such as payroll checks, government checks, tax checks, cashier's checks, insurance settlement checks, 401(k)/retirement disbursement checks, third party checks, "on us" checks, or money orders;
- Monitor and report suspicious activities;
- Maintain documentation consistent with the institution's recordkeeping policies (e.g., copy of check and documentation for verification);
- Develop an appropriate fee structure (e.g., a flat fee over a certain amount);
- Ensure clear disclosures on all fees, if applicable, in all advertisement and signage;
- Consider the extent of, and method for, conducting OFAC searches for check cashing (e.g., all payors and beneficiaries at time of transaction);
- Provide guidelines on exception approval; and
- Monitor and report a summary of activities to appropriate management for review, including aggregate transaction volumes and revenue generated from fees, as applicable.

When considering the costs and benefits of cashing checks for non-customers, the Board and management should thoroughly understand the enterprise risks associated with offering such service. Payroll and government checks typically represent lower risk while personal checks, checks made payable to a company, and third party checks are typically considered high risk. If the institution decides to accept checks with one or more endorsements, it should consider refusing endorsements by people it does not know, or require verification of the endorsement.

Even though the check cashing transaction is conducted by a non-customer, financial institutions should still follow policies and procedures for identifying and reporting suspicious activity and file a Suspicious Activity Report (SAR) when appropriate. For example, if a non-customer consistently cashes payroll checks that have been signed-over to the non-customer, the institution should investigate and determine if a SAR is warranted because the non-customer could be an unlicensed money service business. Given the potential risks associated with offering check-cashing services to a non-customer, financial institutions could also encourage a non-customer to establish an account with the institution to avoid fees.

Although CIP does not apply to non-customers, financial institutions are still responsible for the verification of a person's identity when processing a transaction, such as cashing checks. The institution should verify the identity of the person receiving the proceeds and obtain and retain a record of the name and address, the type of identification reviewed, the number of the identification document (e.g., driver's license), and the person's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance. Verification of the identity of an individual who indicates that he or she is an alien or is not a resident of the United States may be made by passport, alien identification card, or other official document evidencing nationality or residence (e.g., a foreign driver's license with identification of home address).

## Reminder: Georgia Bankers' Input Needed on 2017 National Survey

Don't let bankers from other states speak for you! The National Survey for 2017 on community banks, available at <https://sri.cornell.edu/CB21/2017/>, takes approximately 20 minutes to complete. The purpose of the survey is to give researchers and policy makers an opportunity to hear directly from community banks on a range of important topics. The Department strongly encourages our Georgia community bankers to participate in this survey and provide feedback on the many important issues currently facing Georgia banks.

## Action on Applications for the Month

The following is a summary of official action taken on applications by state financial institutions under Title 7, Chapter 1 of the O.C.G.A. and petitions for certificate of incorporation of financial institutions and other matters of interest during the month of May 2017:

### APPLICATIONS TO ESTABLISH A BRANCH OFFICE

| <u>FINANCIAL INSTITUTION</u>            | <u>BRANCH OFFICE</u>  | <u>APPROVAL DATE</u> | <u>BEGIN BUSINESS DATE</u> |
|---|---|----------------------|----------------------------|
| Delta Community Credit Union<br>Atlanta | Alpharetta<br>11575 Haynes Bridge Road<br>Alpharetta, GA 30009<br>Fulton County                                   | 09-08-2016           | 05-24-2017                 |
| SunTrust Bank<br>Atlanta                | Decatur Crossing<br>2591 Blackmon Drive<br>Decatur, GA 30033<br>DeKalb County                                     | 07-15-2016           | 05-15-2017                 |
| SunTrust Bank<br>Atlanta                | Sugarloaf Market Place<br>2260 Peachtree Industrial Boulevard<br>Suite 110<br>Duluth, GA 30097<br>Gwinnett County | 12-23-2016           | 05-19-2017                 |
| Southeastern Credit Union<br>Valdosta   | Waycross<br>1701-B Boulevard Square<br>Waycross, Georgia 31501<br>Ware County                                     | 05-12-2017           | 05-15-2017                 |

### FINANCIAL INSTITUTION MERGERS

| <u>FINANCIAL INSTITUTION (SURVIVOR)</u>  | <u>MERGED INSTITUTION</u>                       | <u>APPROVAL DATE</u> | <u>EFFECTIVE DATE</u> |
|--|---|----------------------|-----------------------|
| PrimeSouth Bank<br>Blackshear, GA        | Atlantic National Bank<br>Brunswick, GA         | Pending              |                       |
| United Community Bank<br>Blairsville, GA | Horry County State Bank<br>Loris, SC            | Pending              |                       |
| The Piedmont Bank<br>Norcross, GA        | Mountain Valley Community Bank<br>Cleveland, GA | Pending              |                       |

### APPLICATIONS TO BECOME A BANK HOLDING COMPANY AND/OR TO ACQUIRE VOTING STOCK OF A FINANCIAL INSTITUTION

| <u>BANK HOLDING COMPANY</u>                     | <u>TO ACQUIRE</u>                                 | <u>APPROVAL DATE</u> |
|---|---|----------------------|
| United Community Banks, Inc.<br>Blairsville, GA | HCSB Financial Corporation<br>Loris, SC           | Pending              |
| Piedmont Bancorp, Inc.<br>Norcross, GA          | Mountain Valley Bancshares, Inc.<br>Cleveland, GA | Pending              |

## DBF Outreach and Upcoming Speaking Engagements

**Community Bankers Association of Georgia 39th Annual Leadership Division Convention & Mini Trade Show** – Commissioner Kevin Hagler will be speaking at the CBA's 39th Annual Leadership Division Convention & Mini Trade Show at the Ritz-Carlton in Amelia Island, Florida, on June 23, 2017. Please visit <http://www.cbaofga.com/leadership-division-convention.html> for more information.

The Department is the state agency that regulates and examines Georgia state-chartered banks, state-chartered credit unions, state-chartered trust companies, and bank holding companies that own Georgia state-chartered financial institutions. The Department also has responsibility for the supervision, regulation, and examination of Merchant Acquirer Limited Purpose Banks chartered in Georgia.

In addition, the Department has regulatory and/or licensing authority over mortgage brokers, lenders and processors, mortgage loan originators, check cashers, sellers-issuers of payment instruments, money transmitters, and international banking organizations.

Our **Mission** is to promote safe, sound, competitive financial services in Georgia through innovative, responsive regulation and supervision.

Our **Vision** is to be a willing and able partner with our regulated entities in order to support vibrant economic growth and prosperity in Georgia.

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**Department of Banking and Finance**  
2990 Brandywine Road, Suite 200  
Atlanta, Georgia 30341-5565  
Phone: (770) 986-1633  
Fax: (770) 986-1654 or 1655  
<http://dbf.georgia.gov>