

IC 28-1-23.5

Chapter 23.5. Electronic Activity by Financial Institutions

IC 28-1-23.5-1

Application of chapter

Sec. 1. This chapter applies to the following financial institutions:

- (1) A bank operating under IC 28-1-11.
- (2) A credit union operating under IC 28-7-1.
- (3) A savings bank operating under IC 28-6.1.
- (4) A savings association operating under IC 28-15.

As added by P.L.10-2006, SEC.32 and P.L.57-2006, SEC.32.

IC 28-1-23.5-2

"Electronic activity"

Sec. 2. As used in this chapter, "electronic activity" refers to:

- (1) any activity or function that a financial institution performs through electronic means or facilities; or
- (2) the provision or delivery of any product or service by a financial institution through the use of electronic technology.

As added by P.L.10-2006, SEC.32 and P.L.57-2006, SEC.32.

IC 28-1-23.5-3

Consistency with safety and soundness standards, consumer protection laws, and supervisory guidance

Sec. 3. An electronic activity performed by a financial institution must be consistent with the following:

- (1) Standards used by the department to determine whether a financial institution is operating or will operate in a safe and sound condition.
- (2) State and federal consumer protection laws and regulations.
- (3) State or federal supervisory guidance considered necessary or appropriate by the director.

As added by P.L.10-2006, SEC.32 and P.L.57-2006, SEC.32.

IC 28-1-23.5-4

Electronic activities; statutory authorization; standards

Sec. 4. (a) The director may determine whether an electronic activity by a financial institution is permitted under:

- (1) IC 28-1-11, with respect to a bank;
- (2) IC 28-7-1, with respect to a credit union;
- (3) IC 28-6.1, with respect to a savings bank;
- (4) IC 28-15, with respect to a savings association; or
- (5) any other state statute that applies to a financial institution described in subdivisions (1) through (4).

(b) The director may establish standards or conditions designed to ensure that the electronic activities of financial institutions are:

- (1) transacted as intended; and
- (2) conducted safely and soundly, in accordance with other applicable statutes, regulations, or supervisory policies.

As added by P.L.10-2006, SEC.32 and P.L.57-2006, SEC.32.

IC 28-1-23.5-5**Electronic activity authorized as part of financial institution's business**

Sec. 5. (a) An electronic activity is authorized for a financial institution as part of the financial institution's business if the activity is described in:

- (1) IC 28-1-11, with respect to a bank;
- (2) IC 28-7-1, with respect to a credit union;
- (3) IC 28-6.1, with respect to a savings bank;
- (4) IC 28-15, with respect to a savings association; or
- (5) any other state statute that applies to a financial institution described in subdivisions (1) through (4).

(b) In determining whether an electronic activity is authorized as part of a financial institution's business, the director shall consider the following:

- (1) Whether the activity is functionally equivalent to, or a logical outgrowth of, a recognized activity of the type of financial institution under consideration.
- (2) Whether the activity strengthens the financial institution by benefiting its customers or its business.
- (3) Whether the activity involves risks similar in nature to those already assumed by the type of financial institution under consideration.
- (4) Whether the activity may be conducted by:
 - (A) the same, or functionally equivalent type, of federally chartered financial institution; or
 - (B) the same, or functionally equivalent type, of financial institution that:
 - (i) is organized or reorganized under the laws of another state; and
 - (ii) does business in Indiana;under the authority of applicable federal or state statutes, regulations, or supervisory policies.

As added by P.L.10-2006, SEC.32 and P.L.57-2006, SEC.32.

IC 28-1-23.5-6**Electronic activity incidental to financial institution's business**

Sec. 6. (a) An electronic activity is authorized for a financial institution as incidental to the financial institution's business if the activity is convenient or useful to an activity that is:

- (1) specifically authorized for the type of financial institution under consideration; or
- (2) otherwise part of the business of the type of financial institution under consideration.

(b) In determining whether an electronic activity is authorized as incidental to a financial institution's business, the director may consider whether the activity:

- (1) facilitates the production or delivery of the financial institution's products or services;
- (2) enhances the financial institution's ability to sell or market

- its products or services;
- (3) improves the effectiveness or efficiency of the financial institution's operations; or
- (4) enables the financial institution to:
 - (A) use capacity acquired for its operations as a financial institution; or
 - (B) otherwise avoid economic loss or waste.

As added by P.L.10-2006, SEC.32 and P.L.57-2006, SEC.32.

IC 28-1-23.5-7

Evaluation of potential risks; authorization to act

Sec. 7. (a) As used in this section, "potential risks", with respect to a proposed electronic activity by a financial institution, include the following:

- (1) Legal risks.
- (2) Transactional risks.
- (3) Risk of the financial institution's noncompliance with applicable statutes, regulations, or supervisory policies.
- (4) Risk of harm to the financial institution's reputation.

(b) A financial institution's board of directors and executive officers are responsible for ensuring that all potential risks are evaluated and taken into account before the financial institution undertakes any electronic activity. The board of directors and the executive officers may not delegate their responsibility under this subsection to other persons within the financial institution or to outside parties.

(c) After a financial institution's board of directors and executive officers have acted under subsection (b) to conduct an evaluation of the potential risks associated with an electronic activity, the financial institution may perform, provide, or deliver through electronic means or facilities any activity, function, product, or service that it is otherwise authorized to perform, provide, or deliver, subject to this chapter and any other applicable statutes, regulations, or supervisory policies.

As added by P.L.10-2006, SEC.32 and P.L.57-2006, SEC.32.

IC 28-1-23.5-8

Activities authorized for national banks and federal credit unions

Sec. 8. (a) A financial institution described in section 1(1), 1(3), or 1(4) of this chapter may perform, provide, or deliver through electronic means or facilities any activity, function, product, or service that a national bank is specifically authorized to perform, provide, or deliver under 12 CFR 7.5000 et seq.

(b) A financial institution described in section 1(2) of this chapter may perform, provide, or deliver through electronic means or facilities any activity, function, product, or service that a federal credit union is specifically authorized to perform, provide, or deliver under Part 721 of the National Credit Union Administration's regulations (12 CFR 721.1 et seq.).

As added by P.L.10-2006, SEC.32 and P.L.57-2006, SEC.32.

IC 28-1-23.5-9

Performing authorized or required activities through electronic means

Sec. 9. A financial institution may perform, provide, or deliver through electronic means or facilities any activity, function, product, or service that it is otherwise authorized or required to perform, provide, or deliver by nonelectronic means or facilities, subject to the following:

(1) The approval of the customer or member to or for whom the activity, function, product, or service is performed, provided, or delivered.

(2) The:

(A) safety and soundness requirements; and

(B) state or federal supervisory guidance;

that the director would apply if the activity were conducted by nonelectronic means or facilities.

As added by P.L.10-2006, SEC.32 and P.L.57-2006, SEC.32.