



Monthly Bulletin

Volume 8, Number 6

December 2004

DFI Issues Cease and Desist Warning to Malibu Trust Company

A warning to cease and desist from doing business in California without a license from the Commissioner of Financial Institutions was issued to Malibu Trust Company, 418 Santa Rosa Avenue, Santa Rosa, California 95404.

Malibu Trust Company is not authorized to transact business in the way or manner of a bank and is not authorized to transact business under a name which contains the word “trust” or “trust company” and indicates the business is that of a bank or trust company pursuant to Chapter 18 of Division 1 of the California Financial Code. All persons who have communicated with Malibu Trust Company are asked to contact the Department of Financial Institutions, Legal Division, San Francisco, at (415) 263-8528.

Two-Week Absence from Duties Policy

The Department of Financial Institutions (DFI) wishes to clarify its position on what has commonly been referred to as a “two-week vacation policy” for the officers and employees of its licensees. First, we wish to clarify that this is not, and has never been intended to be, a policy to specifically require each officer and employee to take two consecutive weeks of vacation each calendar year.

As a vital internal control to enhance the safety and soundness of its licensees by dramatically reducing the likelihood of internal fraud and/or embezzlement, the DFI strongly encourages each of its licensees to formulate, implement, follow, and monitor a board-approved policy to ensure that each of its officers and employees remains continuously absent from his or her duties for a period of two consecutive weeks during each calendar year. This requirement for continuous absence from one’s duties could include a combination of vacation, jury duty, attendance at training or conferences, business trips, and rotation of employee work assignments.

111 Pine Street, Suite 1100, San Francisco, CA 94111-5613
300 South Spring Street, Suite 15513, Los Angeles, CA 90013-1204
1810—13th Street, Sacramento, CA 95814-7118
7575 Metropolitan Drive, Suite 108, San Diego, CA 92108-4421
Consumer Compliance

(415) 263-8500
(213) 897-2085
(916) 322-5966
(619) 682-7227
(800) 622-0620

An important requirement for any such two-week policy would be for someone other than the “absent” employee to perform his or her duties during this period of two consecutive weeks. This would provide an important opportunity for the individual performing the duties on a substitute basis to identify any discrepancies, irregularities, or other questionable transactions that may have been performed or perpetuated by the absent individual. The DFI considers a two-week period to be a reasonable time period during which an absent employee’s duties can be assumed by another for the purpose of detecting, and reducing the risk of, employee fraud or embezzlement.

If an employee does not hold what would be considered to be a position that could represent financial risk to the institution or its customers, the board’s policy could provide for that employee to be specifically exempted from the institution’s two-week policy. However, we would expect that the reasons for any such exemptions be documented, and any such exemptions should be approved by the board of directors. Such exemptions should be re-evaluated each year as to appropriateness of that employee being granted a continued exemption from the two-week policy.

The proper implementation of such a two-week policy has proven to be an effective safeguard to enhance an institution’s internal controls, risk management practices, and fraud prevention activities in order to reduce the likelihood of internal fraud or embezzlement. Failure to implement and follow an appropriate two-week policy, or failure to properly justify and approve any exceptions to such a policy, could subject a licensee to criticism at future examinations.

Any questions should be addressed to your appropriate Assistant Deputy Commissioner.

DFI to Accept Branch Applications via *FDICconnect*

The California Department of Financial Institutions (DFI) will accept branch applications via *FDICconnect*, a secure Internet-based channel that allows institutions supervised by the Federal Deposit Insurance Corporation (FDIC) to conduct business and exchange information with the FDIC. Starting in 2005, FDIC-supervised banks may file new branch or branch relocation application notices with DFI over the Internet via *FDICconnect* in lieu of mailing a Form 25 to the Department as is now done. When a bank files an application via *FDICconnect*, an email is generated notifying the DFI Licensing Unit that an application has been filed and can be downloaded from the FDIC.

At the present time, only new branch and branch relocation applications that qualify for Financial Code section 490 exemptions will be accepted for filing via *FDICconnect*. New branch and branch relocation applications that are not eligible for exemption and head office relocations may be added at a later date.

Participating in *FDICconnect* allows DFI to leverage technology to meaningfully reduce regulatory burden to its licensees and add value to the state charter. We encourage eligible licensees to join DFI in our efforts to streamline the regulatory process.

For more information on the functionality of *FDICconnect*, see FDIC Financial Institution Letter (FIL) [FIL-93-2003](#) and [FIL-135-2004](#). The DFI contact person for applications via *FDICconnect* is Licensing Unit manager Patrick Carroll. He can be reached at (415) 263-8559 or by email at pcarroll@dfi.ca.gov.

Recent Changes to Credit Union Law

As a result of the passage of AB 2014, changes were made to two sections of the Credit Union Law as of January 1, 2005. More specifically, the changes are as follows:

Changes to Financial Code (FC) sections 14252 and 14703(b)

Impact: FC Section 14252 - Small credit unions less than \$10 million in assets
FC Section 14703(b) - Federally and privately insured credit unions

FC Section 14252

This section required all California state-chartered credit unions to obtain and file an annual opinion audit report containing financial statements prepared in accordance with generally accepted accounting principles, and any other information the Commissioner may specify. The Commissioner may exempt a credit union from the opinion audit requirement, but the credit union must submit a written request for approval of this exemption on an annual basis.

Effective January 1, 2005, FC Section 14252 has been amended to permit small credit unions with total assets of less than \$10 million to submit an audit report consisting of alternative procedures acceptable to the Commissioner, in lieu of an opinion audit, without requesting an exemption each fiscal year. The alternative procedures may be performed by (1) an independent certified public accountant; (2) an independent public accountant; or (3) the credit union's supervisory committee, in accordance with Section 14533. Federally insured state-chartered credit unions are reminded that they must also satisfy the requirements of NCUA Rule 715.6.

FC Section 14703 (b)

This section required all credit unions to make an adjustment to the regular reserves and undivided earnings in an amount equal to the balance in the provision for loan losses expense account. If the balance is a debit, regular reserves shall be charged, and undivided earnings shall be credited, and, if the balance is a credit, undivided earnings shall be charged and regular reserves shall be credited.

Effective January 1, 2005, FC 14703 (b) has been deleted. This change eliminates the accounting entry that makes transfers between the regular reserve and undivided earnings accounts based on the amount of the provision for loan losses expense. It enables credit unions, both federally and privately insured, to retain the amounts previously appropriated to the regular reserve account without continued replenishment or depletion of the account.

Note: While the accounting entry of FC 14703 (b) has been eliminated, the transfer requirements of California Code of Regulations Section 30.404 are still applicable for privately insured credit unions. At the end of each accounting period, privately insured credit unions must continue to transfer 10% of gross income to the regular reserve until the risk asset ratio is 4% and then 5% of gross income until the regular reserve equals 6% of total risk assets.

Closing of U.S. Tour & Remittance, Inc.

On Thursday, December 9, 2004, the Commissioner of Financial Institutions took possession of U.S. Tour & Remittance, Inc. and ordered that it be liquidated. The Commissioner then appointed Robb Evans as a Special Deputy Commissioner of Financial Institutions to supervise the liquidation, and Mr. Evans accepted the appointment.

For more information, please contact Robb Evans & Associates LLC at P.O. Box 880, Sun Valley, California 91353-0880; Telephone: (818) 768-8100; Fax: (818) 768-8802; Email: rea@robbevans.com; Web site: www.robbevans.com

Notice to all Premium Finance Companies Licensed under the Industrial Loan Law

This is to remind all Premium Finance Company licensees about their financial reporting requirements under California Financial Code Sections 18405 and 18407.

Audit Reports

Pursuant to California Financial Code Section 18405, audited financial statements for each California Premium Finance Company licensee for the calendar year 2004 are due by no later than March 15, 2005. These statements should also be sent to: Assistant Deputy Commissioner Douglas Kirkpatrick, Department of Financial Institutions, 300 So. Spring St. Suite 15513, Los Angeles, CA 90013. For good cause, the commissioner may grant an extension in which to file these audited statements. Any such requests must be in writing and received by the Department prior to the March 15th deadline. These requests should also be sent to Assistant Deputy Commissioner Douglas Kirkpatrick's attention.

Please note that the audited statements must be prepared in accordance with generally accepted accounting principles for only the California Corporation that is licensed by our Department. **A consolidated audit report for the parent company will not be acceptable.** This is necessary so that Department can accurately calculate the industry and individual company assessments.

Finally, please be aware that Financial Code Section 18412 imposes a penalty of one hundred (\$100) for each day the report is delayed or withheld by the failure or neglect of the company.

Call Reports

Pursuant to Section 18407, unaudited financial statements ("call reports") for your company consisting of at least a balance sheet and a statement of income for the period of January 1, 2004 to December 31, 2004 are due by no later than January 31, 2005. They should be sent to Assistant Deputy Commissioner Douglas Kirkpatrick's attention at the Department's Los Angeles office. Also as a reminder, and on an ongoing basis, call reports are to be filed by no later than 30 days after the end of each quarter.

If you have any questions regarding these requirements, please call Assistant Deputy Commissioner Douglas Kirkpatrick at (213) 897-2223 or by email at dkirkpatrick@dfi.ca.gov.

Commercial Bank Activity

New Bank

Charter Oak Bank

1739 Trancas Street, Napa, Napa County, CA 94558

(707) 257-6411

Officers: Brian Kelly, President and Chief Executive Officer

Rod Wiessner, Executive Vice President and Chief Financial Officer

Kathryn Sommer, Executive Vice President and Chief Credit Officer

Capitalization: \$17,600,000

Opened: 12/17/04

Pan Pacific Bank

47065 Warm Springs Boulevard, Fremont, Alameda County

Correspondent: Maryam Hamzeh

Carpenter & Company

5 Park Plaza, Suite 950

Irvine, CA 92614

(949) 261-8888

Filed: 12/1/04

Security Bank of California

3403 Tenth Street, City and County of Riverside

Correspondent: Maryam Hamzeh

Carpenter & Company

5 Park Plaza, Suite 950

Irvine, CA 92614

(949) 261-8888

Filed: 10/18/04

Approved: 12/20/04

(Name changed from Security Pacific Bank on 12/10/04)

Tri-Valley Bank

2410 San Ramon Valley Boulevard, San Ramon, Contra Costa County

Correspondent: Grace Wickersham

Carpenter & Company

Five Park Plaza, Suite 950

Irvine, CA 92614

(949) 261-8888

Filed: 12/22/04

Merger

Bank of Amador, Jackson, with and into American River Bank, Sacramento
Effected: 12/3/04

Bank of Lodi, N.A., Lodi, with and into Placer Sierra Bank, Auburn
Effected: 12/11/04

Center Savings Bank of Washington, Lynwood, Washington, with and into Center Bank, Los Angeles
Filed: 12/9/04

Community First National Bank, Fargo, North Dakota, with and into Bank of the West, San Francisco
Effected: 12/3/04

Industrial Bank Activity**New Industrial Bank**

Pentech Bank
910 East Hamilton Avenue, Suite 150, Campbell, Santa Clara County
Correspondent: David L. Redman
910 E. Hamilton Avenue, Suite 400
Campbell, CA 95008
(408) 879-2202
Filed: 12/30/04

Premium Finance Company Activity**New Premium Finance Company**

Global Premium Funding, Inc.
1010 North Hollywood Way, Burbank, Los Angeles County
Correspondent: Moses M. Gazazian
1010 North Hollywood Way,
Burbank, CA 91505
(818) 239-3737
Filed: 12/10/04

NCMIC Finance Corporation of California
980 9th Street, City and County of Sacramento
Correspondent: Mark Raymie
14001 University Avenue
Clive, IA 50325
(515) 313-4527
Filed: 12/27/04

New Premium Finance Company (Continued)

Pi Omega Delta Financial Services, Inc.
14500 Hurricane Lane, Helendale, San Bernardino County
Correspondent: Todd Greenbaum
Input 1, LLC
21820 Burbank Boulevard, Suite 300
Woodland Hills, CA 91367
(818) 676-2140
Filed: 11/30/04

Sequoia Premium Finance Company, Inc.
2211 Plaza Drive, Suite 100, Rocklin, Placer County
Correspondent: Patrick M. Royan
20170 Upper Thompson Road
Los Gatos, CA 95033
(408) 218-6105
Filed: 12/27/04

Foreign (Other State) Bank Activity**Change of Name**

First International Capital to UPS Capital Business Credit (Facility – Uninsured Bank)
Effected: 4/4/03

Foreign (Other Nation) Bank Activity**New Office**

Nacional Financiera, S.N.C.
600 Wilshire Boulevard, Suite 1210, City and County of Los Angeles (Representative Office)
Filed: 3/26/04
Address changed: 11/3/04 from 900 North Broadway, Santa Ana, Orange County
Approved: 12/28/04

Royal Bank of Canada, Montreal, Quebec, Canada
San Francisco, San Francisco County (Representative Office)
Filed: 12/10/04

Credit Union Activity

Mergers

Kai-Perm Sacramento Federal Credit Union, Sacramento into Sacramento Credit Union, Sacramento
Approved: 12/14/04

New World Federal Credit Union, Lafayette into Telesis Community Credit Union, Chatsworth
Approved: 12/14/04

Vallejo Schools Federal Credit Union, Vallejo, into 1st Pacific Credit Union, Vallejo
Approved: 12/8/04

Field of Membership

Thirteen credit unions received approvals to add 33 new fields of membership during November 2004.

Bylaw Amendment

Two credit unions received approval for one bylaw amendments during November 2004.

Variance

One credit union received an approval for a request for variance to sections of the California Code of Regulations during November 2004.

Errata

Twenty-seven new fields of membership applications were approved during the month of October, not 28, as reported in the November 2004 issue of the *Monthly Bulletin*.

Transmitter of Money Abroad Activity

New Transmitter of Money Abroad

Banagricola de El Salvador, Inc.
Filed: 12/8/04

G&T Continental Tranferencias Mundiales, Inc.
Licensed: 12/15/04

Change of Name

Comercial dos Acores, Inc. to BANIF & Comercial dos Acores, Inc.
Effected: 8/27/03

Giromex, Inc. to Omnex Group, Inc.
Effected: 8/20/04

Voluntary Surrender of License

Espirito Santo E Comercial De Lisboa Inc.
Effected: 9/30/04

HOWARD GOULD
Commissioner of Financial Institutions

Bulletin for Month ended
December 2004, issued pursuant
to Financial Code section 258



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