IB60 **Messenger Service**

A. Definition. For purposes of this Rule, a "messenger service" refers to any service, such as a courier service or armored car service, that is used by an industrial bank (institution) and its customers to pick up from, and deliver to, specific customers at locations such as their homes or offices, items relating to transactions between the institution and such customers.

B. Pickup and delivery of items relating to nonbranching activities. An institution may establish and operate a messenger service, or use, with its customers, a third party messenger service, to transport items relevant to the institution's transactions with its customers without regard to the limitations set forth in Title 11, Article 105, C.R.S., provided the service does not engage in branching functions within the meaning of Section 11-101-401, C.R.S. In establishing or using such a facility, the institution may establish terms, conditions, and limitations that it deems appropriate to assure compliance with safe and sound banking practices.

C. Pickup delivery of items pertaining to branching functions by a messenger service established by a third party.

1. An institution and its customers may use a messenger service to pick up from, and deliver to, customers items that relate to branching functions within the meaning of Section 11-101-401, C.R.S. without regard to the limitations set forth in Title 11, Article 105, C.R.S., provided the messenger service is established and operated by a third party. In using such a facility, an institution may establish terms, conditions, and limitations, not inconsistent with this Rule, as it deems appropriate to assure compliance with safe and sound banking practices.
2. Whether a messenger service is established by a third party is based on a case-by-case review of all of the circumstances, provided a messenger service is established by a third party if:
   a. A party other than the institution owns the service and its facilities, or rents them from another party other than the institution, and employs the persons engaged in the provision of the service; and
   b. The messenger service:
      (1) Makes its services available to the public, including other depository institutions;
      (2) Retains ultimate discretion to determine which customers and geographical areas it will serve;
      (3) Maintains ultimate responsibility for scheduling, movement, and routing;
      (4) Does not operate under the name of the institution, and the institution and the messenger service do not advertise, or otherwise represent, that the institution itself is providing the service, although the institution may advertise that its customers may use one or more third party messenger services to transact business with the institution;
      (5) Assumes responsibility for the items during transit and maintains adequate insurance covering holdups, employee fidelity, and other in-transit losses; and
      (6) Enters into contracts with customers that provide that the messenger service acts as the agent for the customer when the items are in transit between the institution and the customer and, in the case of items

intended for deposit, such items shall not be deemed to have been deposited until delivered to the institution at an established institution office, and, in the case of items representing withdrawals, such items shall be deemed to be paid when the item is given to the messenger service.

3. An institution is permitted to defray all or a part of the costs incurred by a customer in transporting items through a messenger service. Payment of such expenses may only cover costs associated with each transaction involving the customer and the messenger service. The institution may impose such terms, conditions, and limitations as it may deem appropriate with respect to the payment of such cost.

D. Pickup and delivery of items pertaining to branching activities where the messenger service is established by the institution.

An institution may establish and operate a messenger service to transport items relevant to the institution's transactions with its customers if such transactions involve one or more branching functions within the meaning of Section 11-101-401, C.R.S., provided the institution receives approval to establish the proposed branch pursuant to the relevant provisions of Title 11, Article 105, C.R.S. and Banking Board Rule IB50.

Amended Effective March 30, 2005

Amendments correct minor grammatical and technical errors.

Amended Effective March 1, 2004

Statutory reference amendment to conform Rule to recodified statutes; update terminology to conform to recodified statutes; formatting changes to comply with Colorado Secretary of State guidelines.