

Title 45 - DEPARTMENT OF BANKING AND FINANCE

Chapter 22 - PREMIUMS, FINDERS FEES, PREPAYMENT OF INTEREST AND PAYMENT OF INTEREST IN MERCHANDISE IN DEPOSITS

001 Pursuant to Section 8-1,123, 45 NAC 22 shall govern banks on depositor promotional plans.

001.01 Premiums Not Considered Payment of Interest

001.01A Premiums, whether in the form of merchandise, credit, or cash, given by a depository institution to a depositor will be regarded as an advertising or promotional expense rather than a payment of interest if: (1) the premium is given to a depositor only at the time of the opening of a new account or an addition to, or renewal of, an existing account; (2) no more than two premiums per account are given within a 12-month period; and (3) the value of the premium or, in the case of articles of merchandise, the total cost (including shipping, warehousing, packaging, and handling costs) does not exceed \$10 for deposits of less than \$5,000 or \$20 for deposits of \$5,000 or more. The costs of premiums may not be averaged. Prior to the beginning of a premium program, an executive officer of the depository institution must certify that the total cost of a premium, including shipping, warehousing, packaging, and handling costs, does not exceed the applicable \$10/\$20 limitations and that no portion of the total cost of any premium has been attributed to development, advertising, promotional or other expenses. The certification and supporting documents must be retained by the institution in its files and must be made available to the Department of Banking and Finance upon request.

001.01B Certifications required by paragraph 001.01A must contain the following language:

001.01B1 (For use with premium programs.)

I, _____,
(name and title of certifying officer and institution)

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do hereby certify, to the best of my knowledge and belief, that the total cost(s) of the premium(s) offered by this institution during a premium program to be conducted from _____ (date)

to _____, including the wholesale cost, shipping, (date)

warehousing, packaging and handling costs, does (do) not exceed \$10 for deposits of less than \$5,000 or \$20 for deposits of \$5,000 or more. I further certify that the costs of premium items have not been averaged, that no portion of the cost of any premium has been attributed to development, advertising, promotional, or other expenses, and that this program complies in all respects with the requirements of 45 NAC 22-001.01.

(Signature)

(Date)

001,01B2 (For use with self-liquidating programs.)

I, _____,
(name and title of certifying officer and institution)

do hereby certify, to the best of my knowledge and belief, that depositors are required to absorb the total costs of items sold by this institution in a self-liquidating program to be conducted from _____ to _____, including the (date) (date)

wholesale cost, shipping, warehousing, packaging and handling costs. I further certify that the costs of items have not been averaged, that no portion of the cost of any item has been attributed to development, advertising, promotional, or other expenses, and that this program complies in all respects with the requirements of 45 NAC 22-001.01.

(Signature)

(Date)

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001.02 Finders Fees Any fee paid by a depository institution to a person who introduces a depositor to the institution must be paid in cash when paid for deposits subject to interest rate ceilings, and will be regarded as payment of interest to the depositor for purposes of determining compliance with interest rate ceilings, except that a depository institution may pay bonuses in cash or merchandise to its employees for participating in an account drive, contest, or other incentive plan, provided such bonuses are tied to the total amount of deposits solicited and are not tied to specific, individual deposits.

001.03 Prepayment of Interest and Payment of Interest in Merchandise

001.03A Interest may be paid in the form of merchandise, cash, or a credit to a deposit account. However, interest on a deposit subject to deposit interest rate ceilings, whether in the form of merchandise, cash, or credit to an account, may not be paid by a depository institution until such interest has been earned, except as provided in 45 NAC 22-001.02. Where merchandise is paid in lieu of cash interest, an executive officer of the depository institution must certify that the total cost of such merchandise includes shipping, warehousing, packaging, and handling costs, and that no portion of the cost has been attributed to development, advertising, promotional or other expenses. The costs of individual items of merchandise may not be averaged. The certification and supporting documents must be retained by the institution in its files and must be made available to the Department of Banking and Finance upon request.

001.03B Certifications required by paragraph 001.01A must contain the following language:

I, _____,
(name and title of certifying officer and institution)

do hereby certify, to the best of my knowledge and belief, that the total cost(s) of the merchandise offered by this institution in lieu of cash interest during a program conducted from _____ to _____,
(date) (date)

includes the wholesale cost, shipping, warehousing, packaging and handling costs, and does not exceed the maximum amount of earned interest that could have been paid in the form of cash or a credit to an account. I further certify that the costs of the

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Items have not been averaged, that no portion of the cost of any item has been attributed to development, advertising, promotional, or other expenses, and that this program complies in all respects with the requirements of 45 NAC 22-001.03.

(Signature)

(Date)