main office or a branch office of the bank or at an office of the subsidiary located on the premises of, or contiguous to, the main office or branch office of the bank.

§7.1005 Credit decisions at other than banking offices.

A national bank or subsidiary corporation also may make credit decisions regarding loan applications at locations other than the main office or a branch office of the bank without violating 12 U.S.C. 36 and 81, provided that loans are not made at those other locations within the meaning of § 7.1003.

§7.1006 Loan agreement providing for share in profits, income or earnings.

A national bank may take as consideration for a loan a share in the profit, income or earnings from a business enterprise of a borrower. Such share may be in addition to, or in lieu of, interest. The borrower's obligation to repay principal, however, shall not be conditioned upon the profit, income, or earnings of the business enterprise.

§7.1007 Acceptances.

A national bank is not limited in the character of acceptances it may make in financing credit transactions. Bankers' acceptances may be used for such purpose, since the making of acceptances is an essential part of banking authorized by 12 U.S.C. 24.

§7.1008 Preparing income tax returns for customers or public.

A national bank may not serve as an expert tax consultant. However, a national bank may assist its customers in preparing their tax returns, either gratuitously or for a reasonable fee.

§ 7.1009 National bank holding collateral stock as nominee.

A national bank that accepts stock of another bank or other corporation as collateral for a loan, may have such stock transferred to the bank's name, as nominee.

§7.1010 Postal service by national bank.

- (a) General. A national bank may maintain and operate a postal substation on banking premises and receive income from it. The services performed by the substation may include meter stamping of letters and packages, and the sale of related insurance. The bank may advertise, develop, and extend the services of the substation for the purpose of attracting customers to the bank.
- (b) Postal regulations. A national bank operating a postal substation shall do so in accordance with the rules and

regulations of the U.S. Postal Service. The national bank shall keep the books and records of the substation separate from those of other banking operations. Under 39 U.S.C. 705 and regulations issued pursuant thereto, the Postal Service may inspect the books and records of the substation.

§ 7.1011 National bank acting as payroll issuer.

A national bank may disburse to employees of its customers payroll funds deposited with the bank by its customers. A national bank may disburse funds by direct payment to any employee, or by crediting an account standing in the employee's name at the disbursing bank.

§7.1012 Messenger service.

- (a) *Definition.* For purposes of this section, a "messenger service" refers to any service, such as a courier service or armored car service, that is used by a national bank 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 bank and those customers.
- (b) Pick-up and delivery of items relating to nonbranching activities. Pursuant to 12 U.S.C. 24(Seventh), a national bank may establish and operate a messenger service, or use, with its customers, a third party messenger service. The bank may use the messenger service to transport items relevant to the bank's transactions with its customers without regard to the limitations set forth in 12 U.S.C. 36, so long as the service does not engage in branching functions within the meaning of 12 U.S.C. 36(j). In establishing or using such a facility, the national bank may establish terms, conditions, and limitations that it deems appropriate to assure compliance with safe and sound banking practices.
- (c) Pickup and delivery of items pertaining to branching functions by a messenger service established by a third party. (1) Pursuant to 12 U.S.C. 24(Seventh), a national bank 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 12 U.S.C. 36(j) without regard to the limitations set forth in 12 U.S.C. 36, provided the messenger service is established and operated by a third party. In using such a facility, a national bank may establish terms, conditions, and limitations, consistent with this ruling, as it deems appropriate to assure compliance with safe and sound banking practices.

(2) The OCC reviews whether a messenger service is established by a third party on a case-by-case basis, considering all of the circumstances. However, a messenger service clearly is established by a third party if:

(i) A party other than the national bank owns the service and its facilities (or rents them from a party other than the bank) and employs the person engaged in the provision of the service; and

(ii) The messenger service:

- (A) Makes its services available to the public, including other depository institutions;
- (B) Retains ultimate discretion to determine which customers and geographical areas it will serve;

(Č) Maintains ultimate responsibility for scheduling, movement, and routing;

- (D) Does not operate under the name of the bank, and the bank and the messenger service do not advertise, or otherwise represent, that the bank itself is providing the service, although the bank may advertise that its customers may use one or more third party messenger services to transact business with the bank;
- (E) Assumes responsibility for the items during transit and for maintaining adequate insurance covering holdups, employee fidelity, and other in-transit losses; and
- (F) Acts as the agent for the customer when the items are in transit. The bank does not deem items intended for deposit to be deposited until credited to the customer's account at an established bank office or other permissible nonbranch facility. The bank deems items representing withdrawals to be paid when the items are given to the messenger service.
- (3) A national bank may defray all or part of the costs incurred by a customer in transporting items through a messenger service. Payment of those costs may only cover expenses associated with each transaction involving the customer and the messenger service. The national bank may impose terms, conditions, and limitations that it deems appropriate with respect to the payment of such costs.
- (d) Pickup and delivery of items pertaining to branching activities where the messenger service is established by the national bank. A national bank may establish and operate a messenger service to transport items relevant to the bank's transactions with its customers if such transactions involve one or more branching functions within the meaning of 12 U.S.C. 36(j), provided the bank receives approval to establish a branch pursuant to § 5.30 of this chapter.