



September 27, 2019

**BEFORE THE
 COLORADO STATE BANKING BOARD**

**IN THE MATTER OF)
)
 RULE AMENDMENT) **NOTICE OF PROPOSED RULEMAKING****

I. Notice of hearing

PLEASE BE ADVISED THAT, as required by Section 24-4-103, C.R.S., of the State Administrative Procedures Act, the Colorado State Banking Board (Banking Board) hereby gives notice of proposed rulemaking. A hearing is scheduled for November 21, 2019, commencing at 10:00 a.m. at 1560 Broadway, Suite 975, Denver, Colorado, Division of Banking (Division) Conference Room, which facility is accessible in compliance with the Americans with Disabilities Act (ADA) guidelines.

II. Purpose of the proposed rulemaking

The purpose of the hearing is to hear comments concerning the proposed amendment of the following Banking Board Rules to reflect rule alignment, changes made to the Prompt Corrective Action Guidelines, effective January 1, 2015, technical language clean-up, changes to required collateral percentages as well as changes to the criteria and procedures for reducing/removing uninsured public deposits. A Statement of Basis, Purpose, and Specific Statutory Authority for each rule follows this notice and is incorporated by reference.

PDP1	Capital Standards for Eligible Public Depositories
PDP5	Criteria and Procedures for Reducing/Removing Uninsured Public Deposits From a Bank, or Increasing Collateral Requirements, if the Eligible Public Depository Fails to Comply With Minimum Capital Standards or Safety and Soundness Standards



III. Statutory authority for proposed rulemaking

The proposed amendment of the rules is being held under the authority given the Banking Board by the Colorado Banking Code in accordance with Section 11-102-104(1), C.R.S., which states "the banking board is the policy-making and rule-making authority for the division of banking and has the power to: (a) make, modify, reverse, and vacate rules for the proper enforcement and administration of this code..."

IV. Opportunity to testify and submit written comments

Any interested person(s) has the right to submit written comments or data, view, or argument. Written information should be filed with the Division no later than November 11, 2019. To submit written comments, please contact Charles Siler, Banking Board Secretary, at charles.siler@state.co.us. In addition, any interested person(s) has the right to make an oral presentation at the Hearing, unless the Banking Board deems any oral presentation unnecessary.

SUBMITTED ON BEHALF OF THE
COLORADO STATE BANKING BOARD



Kenneth Boldt
State Bank Commissioner



COLORADO

**Department of
Regulatory Agencies**

Division of Banking

September 19, 2019

**STATE BANKING BOARD
RULE 3-CCR 701-4 PDP5
PERTAINING TO TITLE 11, ARTICLE 10.5, SECTION 107(4)(a) and TITLE 11, ARTICLE 10.5,
SECTION 107(4)(b)
COLORADO REVISED STATUTES**

STATEMENT OF BASIS, PURPOSE AND SPECIFIC AUTHORITY

Statutory Basis

The statutory basis for Banking Board Rule 3-CCR 701-4 PDP5 is found in section 11-10.5-107(4)(a) and 11-10.5-107(4)(b) of the Colorado Revised Statutes (C.R.S.).

Purpose of this Rulemaking

The amendment 3-CCR 701-4 PDP5 is to reflect technical language revisions, changes made in the Banking Board and Division's practices, changes made to collateral pledging percentages and to align capital ratios with Prompt Corrective Action (PCA) Capital Guidelines which went into effect on January 1, 2015.

The purpose of this rulemaking is to amend 3-CCR 701-4 PDP5(A) to add the definition of "market value" for clarification purposes. The proposed language reflects the following changes:

1. Added a reference to 3-CCR 701-4 PDP4 which defines the current market value for each eligible collateral type.

The purpose of this rulemaking is to amend 3-CCR 701-4 PDP5(B) to align capital ratios with PCA Capital Guidelines, reflect technical language revisions as well as changes to collateral pledging percentages. The proposed language reflects the following changes:

1. Changed 'total capital to risk-weighted assets' to 'total risk-based capital to risk-weighted assets ratio' to better reflect the description of the total risk-based capital ratio.
2. The total risk-based capital to risk-weighted assets ratio has changed to less than 8 percent, but greater than or equal to 6 percent for an Undercapitalized depository.
3. PDP5(B)(2) was updated to include a reference to the additional requirement stated in 3-CCR 701-4 PDP1(B) for an Undercapitalized depository.
4. Removed PDP5(B)(3) containing the 140 percent pledging category for Rule simplification and alignment with the capital categories of: Adequately Capitalized, Undercapitalized, and Significantly Undercapitalized.





COLORADO

Department of
Regulatory Agencies

Division of Banking

5. The collateral requirement for a Significantly Undercapitalized depository has been reduced from 160 percent to 140 percent while still adequately collateralizing public deposits.

The purpose of this rulemaking is to amend 3-CCR 701-4 PDP5(C) to reflect technical language revisions and changes to collateral pledging percentages. The proposed language reflects the following changes:

1. The collateral requirement for a depository with a composite CAMELS rating of 5 has been reduced from 160 percent to 140 percent while still adequately collateralizing public deposits.

The purpose of this rulemaking is to eliminate 3-CCR 701-4 PDP5(D) by removing the requirement for a depository to not accept any additional uninsured public deposits or renew any uninsured public deposits.

The purpose of this rulemaking is to amend 3-CCR 701-4 PDP5(E) (will change to D) to align capital ratios with PCA Capital Guidelines, reflect technical language revisions as well as changes to Banking Board and Division practices. The proposed language reflects the following changes:

1. Revised language from a depository being required to “eliminate all public deposits” to “reducing uninsured public deposits” per a plan and timeframe approved and/or modified by the Banking Board on a case-by-case basis.
2. The total risk-based capital to risk-weighted assets ratio has changed to less than 6 percent for a Significantly Undercapitalized depository.

The purpose of this rulemaking is to amend 3-CCR 701-4 PDP5(F) (will change to E) to reflect a new requirement that a depository must immediately notify the Banking Board when any capital or rating condition within PDP5 is met.

Rulemaking Authority

- 11-101-102. Declaration of policy.
- 11-102-104. Powers and duties of the banking board.

- 11-10.5-106. Designation as eligible public depository.
- 11-10.5-107. Eligible collateral – uninsured public deposits.



PDP5 Criteria and Procedures for Reducing/Removing Uninsured Public Deposits From a Bank, or Increasing Collateral Requirements, if the Eligible Public Depository Fails to Comply With Minimum Capital Standards or Safety and Soundness Standards. [Sections 11-10.5-107(4)(a)] and [11-10.5-107(4)(b)], C.R.S.

A. Definitions.

For the purposes of this rule:

1. The “composite CAMELS rating” is the numerical rating assigned by a state or federal banking agency at the conclusion of an examination or visitation.
- ~~4.2.~~ “Market value” is the current market value as established in Banking Board Rule PDP4.

B. Each eligible public depository (hereinafter “depository”) must comply with the following collateral requirements based on the depository’s total risk-based capital to risk-weighted assets ratio. The depository is required to pledge the higher of the amount of eligible collateral required under this paragraph or paragraph C below:

1. If the total risk-based capital to risk-weighted assets ratio of a depository is greater than or equal to ~~or exceeds~~ 8 percent, the depository shall pledge eligible collateral having a market value at all times in excess of 102 percent of the aggregate of uninsured public deposits held by it.
2. If the total risk-based capital to risk-weighted assets ratio of a depository is less than 8 percent, but greater than or equal to 67 percent, the depository shall pledge eligible collateral having a market value at all times in excess of 120 percent of the aggregate of uninsured public deposits held by it. The depository must also comply with the requirements of Banking Board Rule PDP1(B).
- ~~3. If the total capital to risk-weighted asset ratio of a depository is less than 7 percent but greater than or equal to 6 percent, the depository shall pledge eligible collateral having a market value at all times in excess of 140 percent of the aggregate of uninsured public deposits held by it.~~
- ~~4.3.~~ If the total risk-based capital to risk-weighted assets ratio of a depository is less than 6 percent, the depository shall pledge eligible collateral having a market value at all times in excess of 140~~160~~ percent of the aggregate of uninsured public deposits held by it. The depository must also comply with the requirements of PDP5(D).

C. Each depository must comply with the following collateral requirements based on the depository’s composite CAMELS rating. The depository is required to pledge the higher of the amount of eligible collateral required under this paragraph or paragraph B above:

1. Upon a depository’s receipt of a final report of examination or other notice that thea depository has been assigned a composite CAMELS rating of 4, the depository shall pledge collateral having a market value at all times in excess of 120 percent of the aggregate of uninsured public deposits held by it.
2. Upon a depository’s receipt of a final report of examination or other notice that thea depository has been assigned a composite CAMELS rating of 5, the depository shall pledge eligible collateral having a market value at all times in excess of 140~~160~~ percent of the aggregate of uninsured public deposits held by it. The depository must also comply with the requirements of PDP5(D).

~~D. A depository shall not accept any additional uninsured public deposits or renew any uninsured public deposits beyond the original maturity dates:~~

~~1. If the depository's total capital to risk-weighted asset ratio is below 6 percent; or~~

~~2. If the depository has received a final report of examination or other notice that the depository has been assigned a composite CAMELS rating of 5.~~

~~E.D. Upon meeting one or both of the following conditions, a depository shall submit to the Banking Board a plan and timeframe for reducing uninsured public deposits. The plan and timeframe will be approved as submitted or modified by the Banking Board on a case-by-case basis. A depository shall eliminate all public deposits in an orderly manner, under a plan and a timeframe approved by the Banking Board:~~

~~1. If the depository's total risk-based capital to risk-weighted assets ratio is ~~equal to or~~ less than 65 percent; or~~

~~2. If the depository has received a final report of examination or other notice that the depository has been assigned a composite CAMELS rating of 5.~~

~~F.E. Compliance with this rule shall be the responsibility of each depository regardless of the frequency or form of the reports required by the Banking Board. A depository shall immediately notify the Banking Board upon meeting any of the capital and/or rating conditions listed in this Rule.~~