



**September 27, 2019**

**BEFORE THE  
COLORADO STATE BANKING BOARD**

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

**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](mailto: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



**September 19, 2019**

**STATE BANKING BOARD  
RULE 3-CCR 701-4 PDP1  
PERTAINING TO TITLE 11, ARTICLE 10.5, SECTION 106(2)(b)  
COLORADO REVISED STATUTES**

**STATEMENT OF BASIS, PURPOSE AND SPECIFIC AUTHORITY**

Statutory Basis

The statutory basis for Banking Board Rule 3-CCR 701-4 PDP1 is found in section 11-10.5-106(2)(b) of the Colorado Revised Statutes (C.R.S.).

Purpose of this Rulemaking

The amendment of 3-CCR 701-4 PDP1 is to align verbiage with proposed changes to 3-CCR 701-4 PDP5.

The proposed revision to 3-CCR 701-4 PDP1(C), is to align the requirements of PDP1(C) with the proposed amendments to 3-CCR 701-4 PDP5(D) by directly referencing the Rule, rather than restating the verbiage. The proposed language reflects the following change:

1. Replaced the verbiage with a reference to Banking Board Rule PDP5(D).

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.



## PDP1 Capital Standards for Eligible Public Depositories [Section 11-10.5-106(2)(b), C.R.S.]

For purposes of the Public Deposit Protection Act, a bank meeting adequate capital standards will maintain capital ratios as follows:

- A. An eligible public depository must have and maintain a total risk-based capital to risk-weighted assets ratio greater than or equal to 8 percent.
- B. If an eligible public depository's total risk-based capital to risk-weighted assets ratio is less than 8 percent, but greater than or equal to 6 percent, that eligible public depository shall adopt a written capital improvement plan that is acceptable to the Banking Board, and be able to meet the risk-based collateral requirements in Banking Board Rule PDP5.
- C. If an eligible public depository's total risk-based capital to risk-weighted assets ratio falls below 6 percent, ~~that eligible public depository shall comply with the requirements of Banking Board Rule PDP5(D). the eligible public depository shall submit a plan and timeframe for eliminating its public deposits not fully insured by the Federal Deposit Insurance Corporation (FDIC). The plan will be approved as submitted or modified by the Banking Board on a case-by-case basis.~~
- D. Higher than minimum capital ratios may be required for an individual eligible public depository when the Banking Board determines that the bank's capital is, or may become, inadequate. For example, higher capital ratios may be appropriate for:
  1. A newly chartered bank;
  2. A bank receiving special supervisory attention;
  3. A bank which has, or is expected to have, losses resulting in capital inadequacy;
  4. A bank having a high proportion of off-balance sheet risks, especially standby letters of credit; or exposed to a high degree of asset depreciation or interest rate, funding, transfer, or similar risks; or having a low level of liquid assets in relation to short-term liabilities;
  5. A bank that is growing rapidly, either internally or through acquisitions; or
  6. A bank that may be adversely affected by the activities or condition of its holding company, affiliate(s), or other persons or institutions including chain banking organizations, with which it has significant business relationships, including concentrations of credit.
- E. An eligible public depository's capital is inadequate if it does not meet the provisions of this Rule. For the purposes of this Rule, the total risk-based capital to risk-weighted assets ratio is the combined sum of tier 1 capital and tier 2 capital to risk-weighted assets.