



COLORADO

Department of
Regulatory Agencies

Division of Banking

February 20, 2025

BEFORE THE COLORADO STATE BANKING BOARD

IN THE MATTER OF)
) **NOTICE OF PROPOSED RULEMAKING**
RULE PROMULGATION,
AMENDMENT and REPEAL)

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 **virtual and in-person** hearing is scheduled for April 17, 2025, commencing at 10:00 a.m. at 1560 Broadway, Room 100D, Denver, Colorado, 80202. The virtual hearing is available via the Zoom link listed below; the passcode is 832326:
<https://us06web.zoom.us/j/84181226499?pwd=bGNmdFcwOHo3d3hnekJhbIRDUIk1UT09>

II. Purpose of the proposed rulemaking

The purpose of the hearing is to hear comments concerning the proposed promulgation, amendment, and repeal of the following Banking Board Rules:

3 CCR 701-6 Trust Companies

- TC7 Generally Accepted Accounting Principles - **Amendment**
- TC9 Investment Limitations - **Amendment**
- TC19 Investment in a Subsidiary - **Amendment**
- TC29 Audit of Fiduciary Activities - **Promulgation**

3 CCR 701-1 Commercial Banks

- CB1.1 Scope - **Repeal**
- CB1.11 Application Documents Confidential - **Repeal**
- CB1.20 Decision and Order - **Repeal**
- CB101.7 Messenger Service - **Amendment**
- CB101.10 Fiduciary Self-Dealing - **Amendment**
- CB101.24 Agricultural Credit Corporations - **Amendment**



- CB101.31 Lease Financing - **Amendment**
- CB101.32 Activities That are Primarily Investments in Real Estate - **Amendment**
- CB101.37 Transactions With Affiliates and Loans to Executive Officers, Directors, and Principal Shareholders - **Amendment**
- CB101.40 Investment in Small Business Investment Companies - **Repeal**
- CB101.41 Investment in a Bank Service Corporation - **Amendment**
- CB101.42 Loans - **Amendment**
- CB101.44 Dividends - **Amendment**
- CB101.45 Generally Accepted Accounting Principles - **Amendment**
- CB101.46 Standards for Determining Value of Asset - **Repeal**
- CB101.47 Reports of New Executive Officers, Directors, and Persons in Control and Related Late Filing Penalty - **Amendment**
- CB101.48 Investment in Federal Home Loan Bank - **Repeal**
- CB101.52 Capital Standards - **Amendment**
- CB101.53 Loan Production Office - **Amendment**
- CB101.54 Branching Practices - **Amendment**
- CB101.55 Contractual Acceptance of Deposits - **Repeal**
- CB101.56 Investment in Tax Lien Sale Certificates of Purchases - **Repeal**
- CB101.58 Investment in a Subsidiary - **Amendment**
- CB101.59 Investment Powers - **Amendment**
- CB101.60 Investments in Community Development Projects and Other Public Welfare Investments - **Amendment**
- CB101.61 Appraisal of Other Real Estate - **Amendment**
- CB101.62 Pledging Assets - **Repeal**
- CB101.66 Frequency of Board Meetings - **Amendment**

3 CCR 701-10 Financial Institution Administrative Rules

- AR13 **Amendment**

The amendments are to clarify and update definitions, procedures, and requirements, incorporate by reference applicable code of federal code, and make grammatical and technical changes. The incorporated material is available at <https://banking.colorado.gov/banking-home/rules-statutes>.

The repeals are to eliminate duplication of statute and relocate capital information to other rules.

A Statement of Basis, Purpose, and Specific Statutory Authority for each rule follows this notice and is incorporated by reference.

III. Statutory authority for proposed rulemaking

The proposed promulgation, amendments, and repeals of the rules are 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 April 7, 2025**. To submit written comments, please contact Charles Siler, Banking Board Administrator, at

charles.siler@state.co.us. In addition, any interested person(s) has the right to make a virtual presentation at the Hearing, unless the Banking Board deems any oral presentation unnecessary.

SUBMITTED ON BEHALF OF THE
COLORADO STATE BANKING BOARD

A handwritten signature in black ink that reads "Ken Boldt". The signature is written in a cursive, slightly stylized font.

Ken Boldt, State Bank Commissioner



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STATE BANKING BOARD
3 CCR 701-6 TC7
PERTAINING TO TITLE 11, ARTICLE 109, SECTION 402
COLORADO REVISED STATUTES

STATEMENT OF BASIS, PURPOSE AND SPECIFIC STATUTORY AUTHORITY

Statutory Basis

The statutory basis for Banking Board Rule 3 CCR 701-6 TC7 is found in Section 11-109-402 of the Colorado Revised Statutes.

Purpose of this Rulemaking

The purpose of this rule is to require banks to prepare financial statements in accordance with generally accepted accounting principles except where the banking board may allow banks to deviate from such principles in order to establish regulatory and competitive parity.

The purpose of this rulemaking is to amend Rule 3 CCR 701-6 TC7.

The Colorado Division of Banking (Division) finds that the proposed amendments to this rule are necessary as follows:

- Rename the Rule and remove reference verbiage as generally accepted accounting procedures change routinely and banks should prepare financial statements and reports in conformance with current requirements, not those that were in effect as of the date of the Rule.

Rulemaking Authority

- 11-101-102. Declaration of policy.
- 11-102-104. Powers and duties of the banking board.
- 11-109-402. Reports to the banking board and to the commissioner - penalty - rules.





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STATE BANKING BOARD
3 CCR 701-6 TC9
PERTAINING TO TITLE 11, ARTICLE 109, SECTION 902(5)
COLORADO REVISED STATUTES

STATEMENT OF BASIS, PURPOSE AND SPECIFIC STATUTORY AUTHORITY

Statutory Basis

The statutory basis for Banking Board Rule 3 CCR 701-6 TC9 is found in Section 11-109-902(5) of the Colorado Revised Statutes.

Purpose of this Rulemaking

The purpose of this rule is to provide information and requirements pertaining to limitations of a Trust Company's investments.

The purpose of this rulemaking is to amend Rule 3 CCR 701-6 TC9.

The Colorado Division of Banking (Division) finds that the proposed amendments to this rule are necessary as follows:

- To better align investment limitations with federal investment limitations, the following updates are needed:
 - o Clarify that Type II and III securities are limited to 10 percent of capital and surplus;
 - o Clarify that Type IV securities have no investment limitation;
 - o Add that Type V securities are limited to 25 percent of capital and surplus;
 - o Add that when applying the limitation for Type II, III, and V securities, the trust company is to take account of the security type the trust company is legally committed to purchase in addition to its existing holdings;
 - o Add requirements pertaining to the calculation of Type III and V securities holdings;
 - o Add requirement pertaining to certain credit information to be maintained in the trust company's investment files; and,
 - o Add information and a requirement pertaining to the treatment of nonconforming investments.
 - o Clarify rule applicability to the divestiture of a nonconfirming investment.
- Update the current incorporation by reference of Code of Federal Regulations Title 12 - Banks and Banking Chapter I - Comptroller of the Currency, Department of the Treasury Part 1 Investment Securities. The incorporated material is available at <https://banking.colorado.gov/banking-home/rules-statutes>.

Rulemaking Authority

- 11-101-102. Declaration of policy.
- 11-102-104. Powers and duties of the banking board.
- 11-109-103. Applicability of powers of banking board and bank commissioner to trust companies.
- 11-109-902. Investments.





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STATE BANKING BOARD
3 CCR 701-6 TC19
PERTAINING TO TITLE 11, ARTICLE 109, SECTION 902
COLORADO REVISED STATUTES

STATEMENT OF BASIS, PURPOSE AND SPECIFIC STATUTORY AUTHORITY

Statutory Basis

The statutory basis for Banking Board Rule 3 CCR 701-6 TC19 is found in Section 11-109-902(5) of the Colorado Revised Statutes.

Purpose of this Rulemaking

The purpose of this rule is to establish the general and additional limitations for a trust company investing in an operating subsidiary.

The Colorado Division of Banking (Division) finds that the proposed amendments this rule are necessary as follows:

- Modernize the limitations of a trust company's investment in an operating subsidiary to increase parity with the Office of the Comptroller of the Currency's (OCC) regulation of national banks.
- Expand the operating subsidiaries in which a trust company can invest.
- Decrease the percentage of voting interest of the operating subsidiary from 80 percent to 50 percent.
- Establish the conditions in which an operating subsidiary may engage in activities in which the parent trust company may engage.
- Define the meaning of "the ability to control the management and operations" of the subsidiary.
- Expand the business entities in which a trust company, through its operating subsidiary, may invest.
- Decrease the percentage of ownership level in a business that a trust company, through its subsidiary, may invest in from 80 percent to 50 percent.
- Require that the business entity in which the trust company invests, must agree to Division supervision and examination.

Rulemaking Authority

- 11-101-102. Declaration of policy.
11-102-104. Powers and duties of the banking board.
11-109-902. Investments.





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February 20, 2025

**STATE BANKING BOARD
3 CCR 701-6
PERTAINING TO TITLE 11, ARTICLE 109, SECTION 402
COLORADO REVISED STATUTES**

STATEMENT OF BASIS, PURPOSE AND SPECIFIC STATUTORY AUTHORITY

Statutory Basis

The statutory basis for proposed Banking Board Rule 3 CCR 701-6 TC29 is found in Section 11-109-402(4)(c) of the Colorado Revised Statutes.

Purpose of this Rulemaking

The purpose of this rulemaking is to promulgate Rule 3 CCR 701-6 TC29 is to establish the requirements pertaining to the audit of fiduciary activities.

A fiduciary audit is a comprehensive assessment of the trust company's fiduciary practices, governance, investment management, risk management and compliance activities to determine their effectiveness in managing fiduciary activity risk. An audit of fiduciary assets should be performed at least once during the calendar year, or as an alternative, the trust company may adopt a continuous audit system, arranging for discrete audits of each significant fiduciary activity at an interval commensurate with the risk of the activity. A risk assessment of the trust company's fiduciary activity¹ can help in identifying all significant fiduciary activities and determine audit intervals for each activity. The fiduciary audit may be performed by independent auditors with fiduciary-specific expertise commensurate with the trust company's fiduciary activities or conducted by in-house audit staff. The annual audit report results, including any corrective actions taken as a result of the audit, should be noted in the minutes of the board of directors/managers (Board), or in the case of a continuous fiduciary audit system, the results of discrete audits performed since the last audit report, including significant actions taken as a result of these audits, should be noted in the minutes of the Board at least once during each calendar year.

The Colorado Division of Banking (Division) finds that the proposed promulgation of this rule is necessary as follows:

- Require a trust company to annually arrange for a suitable audit (by internal or external auditors) of all significant fiduciary activities, unless the trust company adopts a continuous audit system.
- In lieu of performing annual audits, a trust company may adopt a continuous audit system under which the trust company arranges for a discrete audit (by internal or external auditors) of each significant fiduciary activity (i.e., on an activity-by-activity basis) under the direction of its audit or similar committee, at an interval commensurate with the nature and risk of that activity.

¹ The limitation of the audit requirements to "significant fiduciary activities" is to provide the flexibility to determine, based on specific facts and circumstances, which of the trust company's fiduciary activities are de minimis and therefore not subject to the fiduciary audit requirement. For example, a trust company may determine that activities related to a very limited number of small accounts under a particular fiduciary activity as an incidental service for particular customers are de minimis.



Rulemaking Authority

- 11-101-102. Declaration of policy.
- 11-102-104. Powers and duties of the banking board.
- 11-109-402. Reports to the banking board and to the commissioner.