

**~~CB1.1 Scope [Section 11-102-103, C.R.S.]~~**

~~A. The Rules constitute a procedural guide for appearance and practice before, and action by, the Colorado State Banking Board. The Rules are promulgated pursuant to the provisions of the Colorado Banking Code, Section 11-102-103, C.R.S.~~

~~B. The regulations constitute substantive determinations of the Banking Board implementing various provisions of the Colorado Banking Code, as amended. Such regulations have been promulgated pursuant to the provisions of the Colorado Banking Code, Section 11-102-103, C.R.S.~~

**~~CB1.11~~ ~~Application Documents Confidential.~~**

~~Applications and exhibits attached thereto shall be open to the public for reasonable examination in advance of the hearing. Upon request and for good cause shown, the Commissioner may suppress and treat as confidential all Financial and Biographical Reports attached to the application.~~

**~~CB1.20 Decision and Order.~~**

~~Copies of a decision and order of the Board shall be furnished by the Commissioner to all parties to the proceedings, to appropriate state and federal supervisory authorities, and to such other interested persons as the Commissioner may determine.~~

~~Every decision and order shall be signed by the Commissioner and shall bear the date of official publication. A copy of every decision and order shall be attached to the official minutes of the Board together with a certificate showing the persons to whom copies thereof have been provided.~~

**CB101.7 Messenger Service [Section 11-105-101(3) and 11-105-304(7), C.R.S.]**

**A. Definition.**

For purposes of this Rule, a "messenger service" ~~refers to~~means any service, such as a courier service or armored car service, ~~that is~~ used by a state bank (institution) 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 institution and such customers.

**B. Pickup and delivery of items relating to nonbranching activities.**

An institution may establish and operate a messenger service, or use, with its customers, a third party messenger service, to transport items relevant to the institution's transactions with its customers without regard to the limitations set forth in Title 11, Article 105, C.R.S., provided the service does not engage in branching functions within the meaning of Section 11-101-401(10), C.R.S. In establishing or using such a facility, the institution may establish terms, conditions, and limitations consistent with this Rule, 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. An institution 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 Section 11-101-401(10), C.R.S. without regard to the limitations set forth in Title 11, Article 105, C.R.S., provided the messenger service is established and operated by a third party. In using such a facility, an institution may establish terms, conditions, and limitations, ~~not inconsistent with this Rule~~, as it deems appropriate to assure compliance with safe and sound banking practices.
2. The Division of Banking reviews ~~Whether~~ a messenger service is established by a third party ~~is based~~ on a case-by-case basis ~~review of considering~~ all of the circumstances. ~~However, provided~~ a messenger service is established by a third party if:
  - a. A party other than the institution owns or rents the messenger service and its facilities, ~~or rents them from another party other than the institution~~, and employs the persons ~~engaged in the provision of~~ who provide the service; and
  - b. The messenger service:
    - (1) Makes its services available to the public, including other depository institutions;
    - (2) Retains ~~ultimate~~the discretion to determine in its own business judgement which customers and geographical areas it will serve;
    - (3) Maintains ultimate responsibility for scheduling, movement, and routing;
    - (4) Does not operate under the name of the institution, and the institution and the messenger service do not advertise, or otherwise represent, that the institution itself is providing the service, although the institution may advertise that its customers may use one or more third party messenger services to transact business with the institution;

- (5) Assumes responsibility for the items during transit and maintains adequate insurance covering ~~holdups~~thefts, employee fidelity, and other in-transit losses; and
  - (6) Enters into contracts with customers that provide that the messenger service acts as the agent for the customer when the items are in transit. ~~between the institution and the customer and, in the case of~~deems items intended for deposit, ~~such items shall not to be deemed to have been deposited when credited to the customer's account until delivered to the institution~~ at an established institution office, ~~and, in the case of~~ The institution deems items representing withdrawals, ~~such items shall be deemed~~ to be paid when the items ~~is~~are given to the messenger service.
- 3. An institution is permitted to defray all or a part of the costs incurred by a customer in transporting items through a messenger service. Payment of such expenses may only cover costs associated with each transaction involving the customer and the messenger service. The institution may impose such terms, conditions, and limitations as it ~~may~~ 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 institution.

An institution may establish and operate a messenger service to transport items relevant to the institution's transactions with its customers if such transactions involve one or more branching functions within the meaning of Section 11-101-401(10), C.R.S., provided the institution receives approval to establish the proposed branch pursuant to the relevant provisions of Title 11, Article 105, C.R.S. and Banking Board Rule CB101.54.

#### CB101.10 Fiduciary Self-Dealing [Section 11-102-104, C.R.S.]

- A. Unless lawfully authorized by applicable law ~~the instrument creating the relationship, by court order or by Colorado law~~, funds held by a state bank may not invest funds of ~~as~~ fiduciary account ~~shall for which a bank has investment discretion~~ ~~not be invested~~ in the stock or obligations of, or ~~property~~ assets acquired from: the bank or its directors, officers or employees of ~~such~~ affiliates of the bank or any of their directors, officers, or employees; or individuals or organizations with whom there exists an interest that might affect the exercise of the best judgment of the bank. If the retention of stock or obligations of the bank or its affiliates in a fiduciary account is consistent with applicable law ~~authorized by the instrument creating the relationship, by a court order or by Colorado law~~, a state bank ~~as fiduciary~~ may exercise rights to purchase its own stock or securities convertible into its own stock when offered pro rata ~~to~~ to stockholders. When the exercise of rights or receipt of the stock dividend results in fractional share holding, additional fractional shares may be purchased to compliment the fractional shares acquired.
- B. A state bank may sell assets between any of ~~held by its~~ ~~as~~ fiduciary ~~in one~~ accounts if the transaction is fair to both accounts and ~~if such transaction~~ is not prohibited by ~~the terms of the governing instrument~~ applicable law.
- C. A state bank may deposit funds of the ~~estate or trust~~ fiduciary account as time or demand deposits in its own banking department and may borrow money on behalf of the fiduciary account from itself and may pledge or encumber estate or trust assets as security for such loan, provided such transactions are fair to the fiduciary account.

~~A. — A state bank may invest in an agricultural credit corporation upon application to and approval by the Banking Board. The Banking Board shall retain continuing authority to grant or deny each individual request based upon the information submitted therewith.~~

A. The Colorado State Banking Board (Banking Board) authorizes, pursuant to its authority in Section 11-105-304(7) C.R.S., state-chartered commercial banks to invest in an agricultural credit corporation as outlined in Code of Federal Regulations Title 12 - Banks and Banking Chapter I - Comptroller of the Currency, Department of the Treasury Part 5 Rules, Policies, and Procedures for Corporate Activities Subpart C Expansion of Activities § 5.36 Other equity investments by a national bank (d) Procedure (1) (i) An agricultural credit corporation.

B. The regulation titled "Code of Federal Regulations Title 12 - Banks and Banking Chapter I - Comptroller of the Currency, Department of the Treasury Part 5 Rules, Policies, and Procedures for Corporate Activities Subpart C Expansion of Activities § 5.36 Other equity investments by a national bank (d) Procedure (1) (i) An agricultural credit corporation" as effective on November 29, 2024, is hereby incorporated by reference. No later amendment or edition of the above is incorporated into this Section CB101.24. All referenced laws and regulation shall be available for copying or public inspection during regular business hours from the Division of Banking (Division), Department of Regulatory Agencies, 1560 Broadway, Suite 975, Denver, CO 80202. The Division will provide a certified copy of the material incorporated at cost or will provide the requester with information on how to obtain a certified copy. The incorporated material is also available at <https://banking.colorado.gov/banking-home/rules-statutes>.

C. All notifications required under this rule, must be submitted to the Division. Additionally, any references to "National Bank" in the incorporated federal regulations shall be interpreted to mean "Colorado State-Chartered Commercial Bank."

## **CB101.31      Lease Financing [Section 11-102-104, C.R.S.]**

### **A.      General Authority**

A state bank may engage in lease financing transactions provided the lease is a net, full payout lease, representing a non-cancelable obligation of the lessee. A “net lease” is a lease in which the bank is not directly or indirectly obligated to assume the expenses of maintaining the property. A “full payout” lease is a lease for which the bank expects to realize both return of its full investment and the cost of financing the property over the term of the lease. This payout can come from (1) rentals; (2) estimated tax benefits; and (3) the estimated residual value of the property at the expiration of the term of the lease.

### **B.      Limitations**

Lease financing transactions entered into pursuant to this Rule are subject to the limitations on loans or extensions of credit pursuant to Banking Board Rule CB101.64. The [Colorado State Banking Board \(Banking Board\)](#) Banking Board reserves the right to determine that such leases are also subject to the limitations of any other law, rule, or order.

### **C.      Restrictions on Transactions with Affiliates**

Lease financing transactions entered into pursuant to this Rule are subject to the following restrictions on transactions with affiliates:

1.      The terms and circumstances of the transaction, including credit standards, must be substantially the same, or at least as favorable to the bank or its subsidiary as those prevailing at the time for comparable transactions with or involving other non affiliated companies;
2.      In the case of any affiliate, the aggregate amount of lease transactions of the bank and its subsidiaries does not exceed 10 percent of the total capital of the bank; and
3.      In the case of all affiliates, the aggregate amount of lease transactions of the bank and its subsidiaries does not exceed 20 percent of the total capital of the bank.

For the purposes of this Rule, any transaction by a bank with any person shall be deemed to be a transaction with an affiliate to the extent that the proceeds of the transaction are used for the benefit of, or transferred to that affiliate.

### **D.      A bank may purchase or construct a municipal building, such as a school building, or other similar public facility and, as holder of legal title, lease the same to a municipality or other public authority having resources sufficient to make payment of all rentals as they become due. The lease agreement shall provide that upon its expiration the lessee will become owner of the building or facility.**

### **E.      Reference**

1.      Banking Board Rule CB101.64 is a Rule enacted by the [Banking Board](#) Colorado State Banking Board and is administered by the ~~Colorado~~-Division of Banking.



2. For more detailed information pertaining to these provisions, please contact the [Banking Board Administrator](#) ~~Secretary~~ to the ~~Colorado State~~ Banking Board at 1560 Broadway, Suite ~~911~~75, Denver, Colorado 80202, (303) 894-7575.

CB101.32 Activities That are Primarily Investments in Real Estate [Section 11-105-304(9)(a), C.R.S.

A. Pursuant to the provisions of Section 11-105-304(9)(a), C.R.S., a state chartered bank may make investments, not to exceed ten percent of its total assets, that are primarily investments in real estate, or may acquire and hold the voting stock of one or more corporations the activities of which are primarily investments in real estate; except that, unless otherwise approved by the Banking Board:

1. No state bank that has a regulatory composite examination rating (CAMELS) of "4" or "5" from any regulator shall make investments pursuant to Section 11-105-304(9)(a), C.R.S.; and

2. No state bank that has a regulatory composite examination rating (CAMELS) of "3" from any regulator and that is subject to a memorandum of understanding, cease and desist order, written agreement imposed by or entered into with any regulator of the state bank shall make total investments pursuant to Section 11-105-304(9)(a), C.R.S., in excess of five percent of its total assets.

3. A state bank that intends to initiate a program of investments under the authority of this statute and rule shall give sixty calendar days' advance notice to the Division of Banking (Division) of such intent; except that such notice may be waived in the Colorado State Banking Board's (Banking Board) discretion where such notice is impracticable or unnecessary. The state bank shall also notify the Division within ten calendar days after the commencement of the investment program.

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CB101.37 Transactions With Affiliates and Loans to Executive Officers, Directors, and Principal Shareholders [Section 11-105-302, C.R.S.]

~~A. Transactions With Affiliates~~

~~1. General Restrictions~~

~~a. A bank and its subsidiaries may engage in a covered transaction with an affiliate only if:~~

~~(1) In the case of any affiliate, the aggregate amount of covered transactions of the bank and its subsidiaries will not exceed 10 percent of the capital stock and surplus of the bank; and~~

~~(2) In the case of all affiliates, the aggregate amount of covered transactions of the bank and its subsidiaries will not exceed 20 percent of the capital stock and surplus of the bank.~~

~~b. For the purpose of this Rule, any transaction by a bank with any person shall be deemed to be a transaction with an affiliate to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that affiliate.~~

~~c. A bank and its subsidiaries may not purchase a low quality asset from an affiliate unless the bank or such subsidiary, pursuant to an independent credit evaluation, committed itself to purchase such asset prior to the time such asset was acquired by the affiliate.~~

~~d. Any covered transactions and any transactions exempt under Paragraph (A)(4) of this Rule between a bank and an affiliate shall be on terms and conditions that are consistent with safe and sound banking practice.~~

~~2. Definitions~~

~~a. For the purpose of this Rule, the term "affiliate" with respect to a bank means:~~

~~(1) — Any company that controls the bank and any other company that is controlled by the company that controls the bank;~~

~~(2) — A bank subsidiary of the bank;~~

~~(3) — Any company:~~

~~(a) — That is controlled directly or indirectly, by a trust or otherwise, by or for the benefit of shareholders who beneficially or otherwise control, directly or indirectly, by trust or otherwise, the bank or any company that controls the bank; or~~

~~(b) — In which a majority of its directors or trustees constitute a majority of the persons holding any such office with the bank or any company that controls the bank.~~

~~(4) — Any company, including a real estate investment trust, that is sponsored and advised on a contractual basis by the bank or any subsidiary or affiliate of the bank; or~~

~~(5) — Any investment company with respect to which a bank or any affiliate thereof is an investment advisor as defined in paragraph (1)(a)(20) of the investment company act of 1940; and~~

~~(6) — Any company that the Division of Banking determines to have a relationship with the bank or any subsidiary or affiliate of the bank, such that covered transactions by the bank or its subsidiary with that company may be affected by the relationship to the detriment of the bank or its subsidiary.~~

~~b. — The following shall not be considered to be an affiliate:~~

~~(1) — Any company, other than a bank, that is a subsidiary of a bank, unless a determination is made under Paragraph (A)(2)(a)(6) of this Rule not to exclude such subsidiary company from the definition of affiliate;~~

~~(2) — Any company engaged solely in holding the premises of the bank;~~

~~(3) — Any company engaged solely in conducting a safe deposit business;~~

~~(4) — Any company engaged solely in holding obligations of the United States or its agencies or obligations fully guaranteed by the United States or its agencies as to principal and interest; and~~

~~(5) — Any company where control results from the exercise of rights arising out of a bonafide debt previously contracted, but only for the period of time specifically authorized under applicable state or federal law or regulation or, in the absence of such law or regulation, for a period of two years from the date of the exercise of such rights or the effective date of this Rule, whichever date is later, subject upon application to authorization by the Banking Board for good cause shown for extensions of time of not more than one year at a time; however, such extensions in the aggregate shall not exceed three years.~~

~~c. — A company or shareholder shall be deemed to have control over another company if:~~

~~(1) — Such company or shareholder, directly or indirectly, or acting through one or more other persons, owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other company;~~

~~(2) — Such company or shareholder controls in any manner the election of a majority of the directors or trustees of the other company; or~~

~~(3) — The Division of Banking determines that such company or shareholder, directly or indirectly, exercises a controlling influence over the management or policies of the other company; and~~

~~(4) — Notwithstanding any other provision of this Rule, no company shall be deemed to own or control another company by virtue of its ownership or control of shares in a fiduciary capacity, except as provided in Paragraph (A)(2)(a)(3) of this Rule, or if the company owning or controlling such shares is a business trust.~~

~~d. — The term “subsidiary” with respect to a specified company means a company that is controlled by such specified company.~~

~~e. — The term “bank” includes a state bank, industrial bank, and banking association.~~

f. ~~\_\_\_\_\_ The term “company” means a corporation, partnership, business trust, association, or similar organization and, unless specifically excluded, the term “company” includes a “member bank” and a “bank.”~~

g. ~~\_\_\_\_\_ The term “covered transaction” means with respect to an affiliate of a bank:~~

(1) ~~\_\_\_\_\_ Loan or extension of credit to the affiliate;~~

(2) ~~\_\_\_\_\_ A purchase of or an investment in securities issued by the affiliate; and~~

(3) ~~\_\_\_\_\_ A purchase of assets, including assets subject to an agreement to repurchase, from the affiliate, except such purchase of real and personal property as may be specifically exempted by the Banking Board by order of regulation.~~

h. ~~\_\_\_\_\_ The term “aggregate amount of covered transactions” means the amount of the covered transactions about to be engaged in added to the current amount of all outstanding covered transactions.~~

i. ~~\_\_\_\_\_ The term “securities” means stocks, bonds, debentures, notes, or other similar obligations.~~

j. ~~\_\_\_\_\_ The term “low quality asset” means an asset that falls in any one or more of the following categories:~~

(1) ~~\_\_\_\_\_ An asset classified as “substandard,” “doubtful,” or “loss,” or treated as “other loans especially mentioned” in the most recent report of examination or inspection of an affiliate prepared by either a federal or state supervisory agency;~~

(2) ~~\_\_\_\_\_ An asset in a nonaccrual status;~~

(3) ~~\_\_\_\_\_ An asset on which principal or interest payments are more than thirty days past due; or~~

~~(4) — An asset whose terms have been renegotiated or compromised due to the deteriorating financial condition of the obligor.~~

~~k. — The term “person” means an individual or a company.~~

### ~~3. — Collateral for Certain Transactions with Affiliates~~

~~a. — Each loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, an affiliate by a bank or its subsidiary shall be secured at the time of the transaction by collateral having a market value equal to:~~

~~(1) — One hundred percent of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit, if the collateral is composed of:~~

~~(a) — Obligations of the United States or its agencies;~~

~~(b) — Obligations fully guaranteed by the United States or its agencies as to principal and interest;~~

~~(c) — Notes, drafts, bills of exchange or bankers acceptances that are eligible for rediscount or purchase by a Federal Reserve Bank; or~~

~~(d) — A segregated, earmarked deposit account with the member bank.~~

~~(2) — One hundred ten percent of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of obligations of any state or political subdivision of any state;~~

~~(3) — One hundred twenty percent of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of other debt instruments, including receivables; or~~

~~(4) — One hundred thirty percent of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of stock, leases, or other real or personal property.~~

~~b. — Any such collateral that is subsequently retired or amortized shall be replaced by additional eligible collateral where needed to keep the percentage of the collateral value relative to the amount of the outstanding loan or extension of credit, guarantee, acceptance, or letter of credit equal to the minimum percentage required at the inception of the transaction.~~

~~c. — A low-quality asset shall not be acceptable as collateral for a loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, an affiliate.~~

~~d. — The securities issued by an affiliate of the bank shall not be acceptable as collateral for a loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, that affiliate or any other affiliate of the bank.~~

~~e. — The collateral requirements of this paragraph shall not be applicable to an acceptance that is already fully secured either by attached documents or by other property having an ascertainable market value that is involved in the transaction.~~

~~4. — Exemptions: The provisions of this section, except Paragraph (A)(1)(d) of this Rule, shall not be applicable to:~~

~~a. — Any transaction, subject to the prohibition contained in Paragraph (A)(1)(c) of this Rule, with a bank:~~

~~(1) — Which controls 80 percent or more of the voting shares of the member bank;~~

~~(2) — In which the bank controls 80 percent or more of the voting shares; or~~

~~(3) — In which 80 percent or more of the voting shares are controlled by the company that controls 80 percent or more of the voting shares of the bank.~~



~~b. — Making deposits in an affiliated bank or affiliated foreign bank in the ordinary course of correspondent business, subject to any restrictions that the Division of Banking may prescribe.~~

~~c. — Giving immediate credit to an affiliate for uncollected items received in the ordinary course of business.~~

~~d. — Making a loan or extension of credit to, or issuing a guarantee, acceptance, or letter of credit on behalf of, an affiliate that is fully secured by:~~

~~(1) — Obligations of the United States or its agencies;~~

~~(2) — Obligations fully guaranteed by the United States or its agencies as to principal and interest; or~~

~~(3) — A segregated, earmarked deposit account with the bank.~~

~~e. — Purchasing securities issued by any company of the kinds described in section 4(c)(1) of the Bank Holding Company Act of 1956.~~

~~f. — Purchasing assets having a readily identifiable and publicly available market quotation and purchased at that market quotation or, subject the prohibition contained in Paragraph (A)(1)(3) of this Rule, purchasing loans on a nonrecourse basis from affiliated banks.~~

~~g. — Purchasing from an affiliate a loan or extension of credit that was originated by the bank and sold to the affiliate subject to a repurchase agreement or with recourse.~~

#### ~~5. — Rulemaking and Additional Exemptions~~

~~a. — The Banking Board may issue such further regulations, including definitions consistent with this Paragraph (A)(2) of this Rule, as may be necessary to administer and carry out the purposes of this section and to prevent evasions thereof and as are consistent with federal banking law or regulation.~~

~~b. — The Banking Board may, at its discretion, by regulation exempt transactions or relationships from the requirements of Paragraph (A)(1) and (A)(3) of this Rule if it finds such exemptions to be in the public interest and consistent with the purposes of this paragraph and as are consistent with federal banking law or regulation.~~

~~B. — Restrictions on Transactions With Affiliates~~

~~1. — General Provisions~~

~~a. — Terms. A bank and its subsidiaries may engage in any of the transactions described in Paragraph (B)(1)(b) of this Rule only:~~

~~(1) — On terms and under circumstances, including credit standards, that are substantially the same, or at least as favorable to such bank or its subsidiary, as those prevailing at the time for comparable transactions with or involving other nonaffiliated companies; or~~

~~(2) — In the absence of comparable transactions, on terms and under circumstances, including credit standards, that in good faith would be offered to or would apply to nonaffiliated companies.~~

~~b. — Transactions covered. Paragraph (B)(1)(a) of this Rule applies to the following:~~

~~(1) — Any covered transaction with an affiliate;~~

~~(2) — The sale of securities or other assets to an affiliate, including assets subject to an agreement to repurchase;~~

~~(3) — The payment of money or the furnishing of services to an affiliate under contract, lease, or otherwise;~~

~~(4) — Any transaction in which an affiliate acts as an agent, or broker, or receives a fee for its services to the bank or to any other person; and~~

~~(5) — Any transaction or series of transactions with a third party;~~

~~(a) — If an affiliate has a financial interest in the third party; or~~

~~(b) — If an affiliate is a participant in such transaction or series of transactions.~~

~~c. — Transactions that Benefit an Affiliate. For the purpose of Paragraph (B)(1) of this Rule, any transaction by a member or its subsidiary with any person shall be deemed to be a transaction with an affiliate of such bank if any of the proceeds of the transaction are used for the benefit of, or transferred to, such affiliate.~~

## ~~2. — Prohibited Transactions~~

~~a. — In General. A bank or its subsidiary:~~

~~(1) — Shall not purchase as fiduciary any securities or other assets from any affiliate unless such purchase is permitted:~~

~~(a) — Under the instrument creating the fiduciary relationship;~~

~~(b) — By court order; or~~

~~(c) — By law of the jurisdiction governing the fiduciary relationship; and~~

~~(2) — Whether acting as a principal or fiduciary, shall not knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security if a principal underwriter of that security is an affiliate of such bank.~~

~~b. Exception. Paragraph (B)(1)(a)(2) of this Rule shall not apply if the purchase or acquisition of such securities has been approved, before such securities are initially offered for sale to the public, by a majority of the directors of the bank who are not officers or employees of the bank or any affiliate thereof.~~

~~c. Definitions. For the purpose of Paragraph (B) of this Rule:~~

~~(1) The term "security" has the meaning given to such term in section 3(a)(10) of the Securities Exchange Act of 1934; and~~

~~(2) The term "principal underwriter" means any underwriter who, in connection with a primary distribution of securities:~~

~~(a) Is in privity of contract with the issuer or an affiliated person of the issuer;~~

~~(b) Is acting alone or in concert with one or more other persons, initiates or directs the formation of an underwriting syndicate; or~~

~~(c) Is allowed a rate of gross commission, spread, or other profit greater than the rate allowed another underwriter participating in the distribution.~~

~~3. Advertising Restriction. A member bank or any subsidiary or affiliate of a member bank shall not publish any advertisement or enter into any agreement stating or suggesting that the bank shall in any way be responsible for the obligations of its affiliates.~~

~~4. Definitions. For the purpose of Paragraph (B) of this Rule:~~

~~a. The term "affiliate" has the meaning given to such term in Paragraph (A)(2)(a) of this Rule; but does not include any company described in Paragraph (A)(2)(b) of this Rule, or any bank;~~

~~b. The terms "bank," "subsidiary," "person," and "security," other than security as used in Paragraph (B)(2) of this Rule have the meanings given to such terms in Paragraph (A)(2) of this Rule; and~~

~~c. — The term “covered transaction” has the meaning given to such term in Paragraph (A)(2)(g) of this Rule, but does not include any transaction which is exempt from such definition under Paragraph (A)(4) of this Rule.~~

~~5. — Regulations. The Banking Board may prescribe regulations as are consistent with federal banking law or regulation to administer and carry out the purposes of Paragraph (B) of this Rule, including:~~

~~a. — Regulations to further define terms used in Paragraph (B) of this Rule; and~~

~~b. — Regulations to:~~

~~(1) — Exempt transactions or relationships from the requirements of Paragraph (B) of this Rule; and~~

~~(2) — Exclude any subsidiary of a bank holding company from the definition of affiliate for purposes of Paragraph (B) of this Rule if the Banking Board finds such exemptions or exclusions are in the public interest and are consistent with the purposes of Paragraph (B) of this Rule.~~

~~C. — Loans to Executive Officers, Directors, and Principal Shareholders~~

~~1. — General Prohibitions~~

~~a. — Terms and Creditworthiness~~

~~No bank may extend credit to any of its executive officers, directors, or principal shareholders or to any related interest of that person unless the extension of credit:~~

~~(1) — Is made on substantially the same terms (including interest rates and collateral) as, and following credit underwriting procedures that are not less stringent than, those prevailing at the time for comparable transactions by the bank with other persons that are not covered by this Rule; and~~

~~(2) — Does not involve more than the normal risk of repayment or present other unfavorable features.~~

~~(3) — Exception. Nothing in this Rule shall prohibit any extension of credit made pursuant to a benefit or compensation program that:~~

~~(a) — Is widely available to employees of the bank and, in the case of extensions of credit to an insider of its affiliates, is widely available to employees of the affiliates at which that person is an insider; and~~

~~(b) — Does not give preference to any insider of the bank over the other employees of the bank and, in the case of extensions of credit to an insider of its affiliates, does not give preference to any insider of its affiliates over other employees of the affiliates at which that person is an insider.~~

~~b. — Prior Approval~~

~~(1) — No bank may extend credit (which term includes granting a line of credit) to any of its executive officers, directors, or principal shareholders or to any related interest of that person in an amount that, when aggregated with the amount of all other extensions of credit to that person and to all related interests of that person, exceeds the higher of \$25,000 or 5 percent of the bank's total capital unless:~~

~~(a) — The extension of credit has been approved in advance by a majority of the entire Board of Directors of the bank; and~~

~~(b) — The interested party has abstained from participating directly or indirectly in the voting.~~

~~(2) — In no event may a bank extend credit to any one of its executive officers, directors, or principal shareholders, or to any related interest of that person, in an amount that, when aggregated with all other extensions of credit to that person, and all related interests of that person, exceeds \$500,000, except by complying with the requirements of this paragraph.~~

~~(3) — Approval by the Board of Directors under Paragraph (C)(1)(b)(1) and (b)(2) of this<sup>44</sup> Rule is not required for an extension of credit that is made pursuant to a line of credit that was approved under~~

~~Paragraph (C)(1)(b)(1) of this Rule within 14 months of the date of the extension of credit. The extension of credit must also be in compliance with the requirements of Paragraph (C) of this Rule.~~

~~(4) — Participation in the discussion, or any attempt to influence the voting by the Board of Directors regarding an extension of credit constitutes indirect participation in the voting by the Board of Directors on an extension of credit.~~

~~c. — Lending Limit~~

~~No bank may extend credit to any of its executive officers or principal shareholders or to any related interest of that person in an amount that, when aggregated with the amount of all other extensions of credit by the bank to that person, exceeds the lending limit of the bank specified in Banking Board Rule CB101.64. This prohibition does not apply to an extension of credit by a bank to a company of which the bank is a subsidiary or to any other subsidiary of that company.~~

~~d. — Aggregate Lending Limit~~

~~(1) — General Limit. A bank may not extend credit to any insider unless the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to all of its insiders, does not exceed the bank's total capital.~~

~~(2) — Banks with Deposits of Less Than \$100,000,000. Banks with deposits of less than \$100,000,000 may by resolution of its Board of Directors increase the general limit specified in Paragraph (C)(1)(d)(1) of this Rule for a period ending May 18, 1993, to a level not to exceed two times the bank's total capital, if:~~

~~(a) — The Board of Directors determines that such higher limit is consistent with prudent, safe, and sound banking practices in light of the bank's experience in lending to its insiders and is necessary to attract or retain directors or to prevent restricting the availability of credit in small communities;~~

~~(b) — The resolution sets forth the facts and reasoning on which the Board of Directors bases the finding, including the amount of the bank's lending limit to its insiders as a percentage of the bank's total capital as of the date of the resolution;~~

~~(c) — The bank has submitted the resolution to the Division of Banking;~~

~~(d) — The bank meets or exceeds, on a fully phased-in basis, all applicable capital requirements established by the Banking Board; and~~

~~(e) — The bank received a satisfactory composite rating in its most recent report of examination.~~

~~e. — Overdrafts~~

~~(1) — No bank may pay an overdraft of an executive officer or director of the bank or executive officer or director of its affiliates on an account at the bank, unless the payment of funds is made in accordance with:~~

~~(a) — A written, preauthorized, interest-bearing extension of credit plan that specifies a method of repayment; or~~

~~(b) — A written, preauthorized transfer of funds from another account of the account holder at the bank.~~

~~(2) — This prohibition does not apply to payment of inadvertent overdrafts on an account in an aggregate amount of \$1,000 or less, provided:~~

~~(a) — The account is not overdrawn for more than five business days; and~~

~~(b) — The bank charges the executive officer or director the same fee charged any other customer of the bank in similar circumstances.~~

~~(3) — This prohibition does not apply to the payment by a bank of an overdraft of a principal shareholder of the bank, unless the principal shareholder is also an executive officer or director. This~~



~~prohibition also does not apply to the payment by a bank of an overdraft of a related interest of an executive officer, director, or principal shareholder of the bank.~~

~~2. Additional Restrictions on Loans to Executive Officers~~

~~a. No bank may extend credit to any of its executive officers, and no executive officer of a bank shall borrow from or otherwise become indebted to the bank, except in the amounts, for the purposes, and upon the conditions specified in Paragraphs (C)(2)(c) and (d) of this Rule.~~

~~b. No bank may extend credit in an aggregate amount greater than the amount permitted in Paragraph (C)(2)(c)(3) of this Rule to a partnership in which one or more of the bank's executive officers are partners, and either individually or together, hold a majority interest. For the purposes of Paragraph (C)(2)(c)(3) of this Rule, the total amount of credit extended by a bank to such partnership is considered to be extended to each executive officer of the bank who is a member of the partnership.~~

~~c. A bank is authorized to extend credit to any executive officer of the bank:~~

~~(1) In any amount to finance the education of the executive officer's children;~~

~~(2) In any amount to finance or refinance the purchase, construction, maintenance, or improvement of a residence of the executive officer, if the extension of credit is secured by a first lien on the residence and the residence is owned (or expected to be owned after the extension of credit) by the executive officer. ("First lien" for the purpose of this Paragraph of this Rule includes not only a first mortgage or deed of trust but also a second or other junior mortgage or deed of trust where the bank holds all prior encumbrances and such junior encumbrance has the same priority with respect to liens of third parties as the first mortgage or deed of trust); and in the case of a refinancing, that only the amount thereof used to repay the original extension of credit, together with the closing costs of the refinancing, and any additional amount thereof used for any of the purposes enumerated in this paragraph (C)(2)(c)(2), are included within this category of credit; and~~

~~(3) For any other purpose not specified in Paragraphs (C)(2)(c)(1) and (2) of this Rule, if the aggregate amount of loans to that officer under this paragraph does not exceed at any one time the higher of 2.5 percent of the bank's total capital or \$25,000, but in no event more than \$100,000.~~

~~d. Any extension of credit by a bank to any of its executive officers shall be:~~

~~(1) Promptly reported to the bank's board of directors;~~

~~(2) In compliance with the requirements of general prohibitions, of Paragraph (C)(1) of this Rule;~~

~~(3) Preceded by the submission of a detailed current financial statement of the executive officer;  
and~~

~~(4) Made subject to the condition that the extension of credit will, at the option of the bank, become due and payable at any time that the officer is indebted to any other bank or banks in an aggregate amount greater than the amount specified for a category of credit in Paragraph (C)(2)(c) of this Rule.~~

### ~~3. Reference~~

~~a. Banking Board Rule CB101.64 is a Rule enacted by the Colorado State Banking Board and is administered by the Colorado Division of Banking.~~

~~b. This Rule does not include amendments to or editions of the referenced material later than the effective date of this Rule, June 30, 1997.~~

~~c. For more detailed information pertaining to these provisions, please contact the secretary to the Colorado State Banking Board at 1560 Broadway, Suite 1175, Denver Colorado 80202, (303) 894-7575.~~

A. The Colorado State Banking Board (Banking Board) authorizes, pursuant to its authority in Section 11-105-304(7) C.R.S., state-chartered commercial banks to adhere to requirements pertaining to transactions with affiliates and loans to executive officers, directors, and principal shareholders as outlined in Code of Federal Regulations Title 12 - Banks and Banking Chapter II - Federal Reserve System - Subchapter A - Board of Governors of the Federal Reserve System - Part 223 Transactions Between Member Banks and Their Affiliates ("Regulation W") and Code of Federal Regulations Title 12 - Banks and Banking Chapter II - Federal Reserve System - Subchapter A - Board of Governors of the Federal Reserve System - Part 215 - Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks ("Regulation O").

- B. The regulations titled "Code of Federal Regulations Title 12 - Banks and Banking Chapter II - Federal Reserve System - Subchapter A - Board of Governors of the Federal Reserve System - Part 223 Transactions Between Member Banks and Their Affiliates ("Regulation W")" and "Code of Federal Regulations Title 12 - Banks and Banking Chapter II - Federal Reserve System - Subchapter A - Board of Governors of the Federal Reserve System - Part 215 - Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks ("Regulation O")" as effective on December 20, 2024, are hereby incorporated by reference. No later amendment or edition of the above are incorporated into this Section CB101.37. All referenced laws and regulations shall be available for copying or public inspection during regular business hours from the Division of Banking (Division), Department of Regulatory Agencies, 1560 Broadway, Suite 975, Denver, CO 80202. The Division will provide a certified copy of the material incorporated at cost or will provide the requester with information on how to obtain a certified copy. The incorporated material is also available at <https://banking.colorado.gov/banking-home/rules-statutes>.
- C. All notifications required under this rule, must be submitted to the Division. Additionally, any references to "Member Bank" in the incorporated federal regulations shall be interpreted to mean "Colorado State-Chartered Commercial Bank."

CB101.40      [\(Repealed and Reserved for Future Use.\)](#) ~~Investment in Small Business Investment Companies [Section 11-105-304, C.R.S.]~~

~~A.——Shares of stock in small business investment companies organized under the Small Business Investment Act of 1958, 15 USC 661 et seq., administered by the Small Business Administration, shall be eligible for purchase by state banks to the extent that in no event shall any state bank hold shares in an amount aggregating more than three percent of the bank's total capital.~~

~~B.——This Rule does not include amendments to or editions of the referenced material later than the effective date of the Rule, July 1, 1990. For more detailed information pertaining to these provisions, please contact the secretary to the Colorado State Banking Board at 1560 Broadway, Suite 1175, Denver, Colorado 80202, 303-894-7584.~~

CB101.41 Investment in a Bank Service Corporation [Section 11-105-304, C.R.S.]

A. A state bank may invest not more than 10 percent of total capital, as defined in Banking Board Rule CB101.52, ~~Paragraph (B)(33)~~, in a bank service corporation. No state bank shall invest more than 5 percent of its total assets in a bank service corporation.

**CB101.42      Loans [Section 11-105-303, C.R.S.]**

Any state bank may make, arrange, purchase, or sell the following types of loans and extensions of credit.

**A.      Real Estate Lending**

**1.      General.**

- a.      Any state bank may make, arrange, purchase, or sell loans or extensions of credit secured by liens on interests in real estate.

**2.      Scope.**

- a.      For the purposes of this Rule, loans secured by liens on interests in real estate include loans made upon the security of condominiums, leaseholds, cooperatives, forest tracts, construction project loans (except as specified in Paragraphs (B)(6) and (7) of this Rule), and land sales contracts.

**B.      Other**

**1.      Insured or Guaranteed Loans.**

- a.      When the bank relies substantially on the insurance or guaranty of a governmental agency in making a loan. This includes loans that are:
  - (1)      Insured under the provisions of the National Housing Act, 12 USC 1701 et seq., administered by the Secretary of Housing and Urban Development;
  - (2)      Insured under the provisions of the Bankhead-Jones Farm Tenant Act, 7 USC 1000 et seq., administered by the Secretary of Agriculture, or under the Housing Act of August 28, 1937, 42 USC 1401 et seq., administered by the Department of Housing and Urban Development, or Title V of the Housing Act of 1949, 42 USC 1441 et seq., administered by the Department of Housing and Urban Development;
  - (3)      Guaranteed by the Secretary of Housing and Urban Development, for the payment of obligations of which the full faith and credit of the United States is pledged;

- (4) Fully guaranteed or insured by a state, any agency or instrumentality of a state, or by a state authority for the payment of obligations of which the full faith and credit of the state is pledged, if under the terms of the guaranty or insurance agreement the bank will be assured of repayment in accordance with the terms of the loan;
  - (5) At least 20 percent guaranteed or insured under the provisions of the Servicemen's Readjustment Act, 38 USC 1801 et seq., administered by the Administrator of Veterans Affairs;
  - (6) Guaranteed under section 802 of the Housing and Community Development Act, 42 USC 5301 et seq., administered by the Secretary of Housing and Urban Development;
  - (7) Subject to a firm commitment to insure by a Governmentinsuring agency. A firm commitment is a commitment in which a specific mortgagor is named; and
  - (8) Loans in which the Small Business Administration cooperates through agreements to participate on an immediate or deferred or guaranteed basis under the Small Business Act, 15 USC 631 et seq., administered by the Small Business Administration.
- b. When the bank relies substantially upon private company mortgage insurance or guaranty, but only to the extent of the insurance or guaranty.
- 2. Loans where the Bank looks for repayment by relying primarily on the borrower's general credit standing and forecast of income.
- 3. Loans secured by an assignment of rents under a lease.
- 4. Loans secured by the pledge or assignment of another real estate mortgage.
- 5. Loans secured by a valid lien on timber.
- 6. Loans having maturities not to exceed sixty (60) months made to finance the construction of a building or buildings, where there is a valid and binding agreement entered into by a financially responsible lender or other party to advance the full amount of the bank's loan upon completion of the building or buildings.
- 7. Loans having maturities not to exceed sixty (60) months made to finance the construction of residential or farm buildings.
- 8. Loans for which a security interest is taken in a mobile home.
- 9. Loans made previously where a security interest in real estate is taken subsequently in good faith.
- 10. Any type loan that a national bank has the authority to make pursuant to the provisions of Section 24 of the National Bank Act, 12 USC 1 et seq., administered by the Comptroller of the Currency.
- 11. Any type loan approved from time to time by the Banking Board.

### C. Reference

This Rule does not include amendments to or editions of the referenced material later than the effective date of the rule, July 1, 1990. For more detailed information pertaining to these provisions, please contact the secretary to the Colorado State Banking Board at 1560 Broadway, Suite ~~4175~~975, Denver, Colorado 80202, 303-~~894-75~~75~~84~~.



## **CB101.44 Dividends [Section 11-103-406, C.R.S.]**

### **A. Purpose**

This Rule applies restrictions to the declaration and payment of dividends by a state chartered commercial bank.

### **B. Definitions**

For the purposes of this Rule, the following definitions apply:

1. Capital surplus means the total of surplus as reported ~~edable~~ in the bank's Reports of Condition and Income (Call Report) and surplus on perpetual preferred stock.
2. Permanent capital means the total of perpetual preferred stock and related surplus, common stock and surplus, and minority interest in consolidated subsidiaries, as reported in the bank's Call Report.
- ~~2.3.~~ Retained net income means the net income of a specified period less the total amount of all dividends declared in that period.
4. Undivided profits means retained earnings as reported in the bank's Call Report.

### **C. Earnings Limitation on Payment of Dividends**

Subject to paragraph D(1) of this Rule, a state bank may declare and pay dividends of so much of the undivided profits as they judge to be expedient. However, Uunless the dividend is approved by the Colorado State Banking Board (Banking Board), a bank shall not declare a dividend if the total amount of all dividends, including the proposed dividend, declared by such state bank in any calendar year exceeds the total of the bank's ~~retained~~ net income of that year to date, combined with its retained net income of the preceding two years. The bank's net income during the current year and its retained net income from the prior two calendar years is reduced by any net losses incurred in the current or prior two years, and any required transfers to surplus or to a fund for the retirement of preferred stock.

### **D. Capital Limitation on Payment of Dividends or Otherwise**

1. General Limitation. A state bank may not declare a dividend in excess of undivided profits, unless the bank has received the prior approval of the Banking Board and of at least two-thirds of the shareholders of each class of stock outstanding.
2. A state bank may not permit any portion of its permanent capital to be withdrawn unless the withdrawal has been approved by the Banking Board and by at least two-thirds of the shareholders of each class of stock outstanding.
3. If a state bank has capital surplus in excess of that required by law, the excess amount may be transferred to the bank's undivided profits account and be available for the payment of dividends if:
  - a. The amount transferred came from the earnings of prior periods, excluding earnings transferred as a result of stock dividends;
  - b. The bank's board of directors approves the transfer of funds; and

c. The transfer has been approved by the Banking Board.

4. Restrictions on undercapitalized institutions. Notwithstanding any other provision in this Rule, a bank may not declare or pay any dividend, if, after making the dividend, the bank would be "undercapitalized" as determined according to Code of Federal Regulations Title 12 – Banks and Banking Chapter III – Federal Deposit Insurance Corporation Subchapter B – Regulations and Statements of General Policy Part 324 Capital Adequacy of FDIC-Supervised Institutions - Subpart H Prompt Corrective Action ("12 CFR 324 FDIC, Subpart H"). 12 CFR 324 FDIC, Subpart H as effective on December 12, 2024, is hereby incorporated by reference. No later amendment or edition of 12 CFR 324 FDIC, Subpart H is incorporated into this Section of CB101.44. All referenced laws and regulation shall be available for copying or public inspection during regular business hours from the Division of Banking, Department of Regulatory Agencies, 1560 Broadway, Suite 975, Denver, CO 80202. The Division of Banking will provide a certified copy of the material incorporated at cost or will provide the requester with information on how to obtain a certified copy. 12 CFR 324 FDIC, Subpart H is also available at: <https://banking.colorado.gov/banking-home/rules-statutes>.

~~D~~.E. Date of Declaration of Dividend

The state bank shall use the date a dividend is declared for the purposes of determining compliance with this Rule

**CB101.45 ~~Generally Accepted Accounting Principles~~ Financial Reporting [Section 11-103-502(3)(a), C.R.S.]**

- A. ~~Generally accepted accounting principles (GAAP) as defined in this Rule shall consist of those opinions and statements generally recognized and supported by the Accounting Principles Board (APB) or the Financial Accounting Standards Board (FASB).~~
- B. While it is the Colorado State Banking Board's (Banking Board) intention to require that generally accepted accounting principles (GAAP) be followed ~~whenever appropriate~~, certain statements filed by banks with various state and federal regulatory agencies are supervisory and regulatory documents, not primarily accounting documents. Because of the special supervisory, regulatory, and economic policy needs of these reports, the instructions do not always follow generally accepted accounting principles GAAP. In reporting transactions not covered in principle by regulatory instructions, banks ~~may~~ must follow generally accepted accounting principles GAAP. However, in such circumstances, unless the bank has already obtained a ruling from another regulatory agency pursuant to the policies expressed in Section 11-101-102, C.R.S., a specific ruling shall be sought promptly from the Banking Board
- C. ~~References: GAAP are issued by the FASB which is an arm of the Financial Accounting Foundation, an independently chartered institution. The APB is a committee of the American Institute of Certified Public Accountants. This Rule does not include amendments to or editions of the referenced material later than the effective date of this Rule. For more detailed information pertaining to this Rule, please contact the Secretary to the Colorado State Banking Board at 1560 Broadway, Suite 1175, Denver, Colorado 80202, 303-894-7584. CB101.46 Standards for Determining Value of Asset [Section 11-102-102(3)(a), C.R.S.]~~

~~CB101.46 — Standards for Determining Value of Asset [Section 11-102-102(3)(a), C.R.S.]~~

~~A. — For purposes of this Rule, the standard for the value of an asset shall be the lower of cost or market.~~

~~B. — Valuation reserves, such as for bad debts or fixed asset depreciation, shall be established and assets will be depreciated or amortized, where appropriate, as required by generally accepted accounting principles or regulatory authorities.~~

~~C. — References: Generally accepted accounting principles are issued by the Financial Accounting Standards Board which is an arm of the Financial Accounting Foundation, an independently chartered institution. This Rule does not include amendments to or editions of the referenced material later than the effective date of the rule, July 1, 1990. For more detailed information pertaining to these provisions, please contact the secretary to the Colorado State Banking Board at 1560 Broadway, Suite 1175, Denver, Colorado 80202, 303-894-7584.~~

**CB101.47 Reports of New Executive Officers, Directors, and Persons in Control and Related Late Filing Penalty [Section 11-102-303(8) and (9), C.R.S.]**

- A. Any person who becomes an executive officer, director, or person responsible, directly or indirectly, for the management, control or operation of a bank, must notify the Division of Banking ([Division](#)) in writing within ninety (90) days thereafter.

The written notice must include a statement describing any civil or criminal offenses of which such person has been found guilty or liable by any federal or state court or federal or state regulatory agency

- B. In addition, any person who becomes an executive officer, director, or person responsible, directly or indirectly, for the management, control, or operation of a bank, must file a biographical report with the Division ~~of Banking~~ within ninety (90) days thereafter, if:

1. The bank has been chartered less than two (2) years;
2. Within the preceding two (2) years, the bank has undergone a change in control that required a notice to be filed pursuant to Section 11-102-303, C.R.S.;
3. Within the preceding two (2) years, the bank holding company became a registered bank holding company, unless the bank holding company is owned or controlled by a registered bank holding company, or the bank holding company was established in a reorganization in which substantially all of the shareholders of the bank holding company were shareholders of the bank prior to the bank holding company's formation; or
4. The bank or bank holding company is not in compliance with all minimum capital requirements applicable to the institution as determined on the basis of the institution's most recent report of condition, examination, or is otherwise in a troubled condition as indicated by a composite rating of 3, 4, or 5 at the institution's most recent examination by a state or federal banking regulator.

The biographical report to be filed with the Division ~~of Banking~~ may be either on the form provided by the Division ~~of Banking~~ or the form filed with the institution's federal regulator for reporting the change of executive officer, director, or person in control.

- C. For the purposes of this Rule, except as provided in Paragraph (D), the term "director" does not include an advisory director who:

1. Is not elected by the shareholders of the bank;
2. Is not authorized to vote on any matters before the board of directors; and
3. Provides solely general policy advice to the board of directors.

- D. The [Colorado State Banking Board \(Banking Board\)](#) or the Division ~~of Banking~~ may otherwise determine that additional reporting is required of any person who becomes an executive officer, director, or person in control. Written notice will be provided by the Division ~~of Banking~~ to such person of any additional requirements.

- E. The Banking Board may assess a ~~\$25~~[\\$100](#).00 per day penalty for late filing of reports of new executive officers, directors, and persons in control that are required by Section 11-102-303(8) and (9), C.R.S., and this Rule. Said penalty may be waived by the Banking Board pursuant to statute. Filing of an incorrect report form is not grounds for the waiving of the penalty.

CB101.48      ~~Investment in Federal Home Loan Bank [Section 11-105-304(7), C.R.S.]~~ [\(Repealed and Reserved for Future Use.\)](#)

~~A. — A state bank may purchase and hold stock in and become a member of the Federal Home Loan Bank for the purpose of utilizing the services of, or otherwise interacting with, the Federal Home Loan Bank. The Federal Home Loan Bank Act, 12 USC 1424, provides Federal Home Loan Bank membership to any eligible bank insured by the Federal Deposit Insurance Corporation.~~

~~B. — The Federal Home Loan Bank Act, also known as 12 USC 1424, amended 1989, is a law enacted by the United States Congress and administered by the Federal Housing Finance Board. This Rule does not include amendments to or editions of the referenced material later than the effective date of this Rule, November 30, 1990. For detailed information pertaining to these provisions, please contact the secretary to the Colorado State Banking Board at 1560 Broadway, Suite 1175, Denver, Colorado 80202, 303-894-7584.~~

CB101.52      Capital Standards [Section 11-103-201, C.R.S.]

A.      Incorporation by Reference

The terms “leverage ratio,” “Total Capital,” “Tier 1,” and “Tier 2” are defined in the following federal regulations, which are incorporated by reference herein:

Code of Federal Regulations Title 12 - Banks and Banking Chapter II - Federal Reserve System Subchapter A - Board of Governors of the Federal Reserve System Part 217 Capital Adequacy of Bank Holding Companies, Savings and Loan Holding Companies, and State Member Banks (Regulation Q) (“12 CFR 217 FRB”), as effective on April 10, 2023 is hereby incorporated by reference. No later amendment or edition of 12 CFR 217 FRB is incorporated into this Section CB101.52. All referenced laws and regulation shall be available for copying or public inspection during regular business hours from the Division of Banking, Department of Regulatory Agencies, 1560 Broadway, Suite 975, Denver, CO 80202. The Division of Banking will provide a certified copy of the material incorporated at cost or will provide the requester with information on how to obtain a certified copy. 12 CFR 217 FRB is also available at: <https://banking.colorado.gov/banking-home/rules-statutes>.

Code of Federal Regulations Title 12 - Banks and Banking Chapter II - Federal Reserve System Subchapter A - Board of Governors of the Federal Reserve System Part 208-Membership of State Banking Institutions in the Federal Reserve System (Regulation H) (“Prompt Corrective Action-FRB”) as effective on April 10, 2023 is hereby incorporated by reference. No later amendment or edition of Prompt Corrective Action-FRB is incorporated into this Section CB101.52. All referenced laws and regulation shall be available for copying or public inspection during regular business hours from the Division of Banking, Department of Regulatory Agencies, 1560 Broadway, Suite 975, Denver, CO 80202. The Division of Banking will provide a certified copy of the material incorporated at cost or will provide the requester with information on how to obtain a certified copy. 12 CFR 217 FRB is also available at: <https://banking.colorado.gov/banking-home/rules-statutes>.

Code of Federal Regulations Title 12 - Banks and Banking Chapter III - Federal Deposit Insurance Corporation Subchapter B - Regulations and Statements of General Policy Part 324 Capital Adequacy of FDIC-Supervised Institutions, which includes Subpart H Prompt Corrective Action (“12 CFR 324 FDIC”) as effective on April 10, 2023 is hereby incorporated by reference. No later amendment or edition of 12 CFR 324 FDIC is incorporated into this Section CB101.52. All referenced laws and regulation shall be available for copying or public inspection during regular business hours from the Division of Banking, Department of Regulatory Agencies, 1560 Broadway, Suite 975, Denver, CO 80202. The Division of Banking will provide a certified copy of the material incorporated at cost or will provide the requester with information on how to obtain a certified copy. 12 CFR 324 FDIC is also available at: <https://banking.colorado.gov/banking-home/rules-statutes>.

B. Statute References to Capital

1. As referenced in Colorado’s revised statutes the following definitions will apply:

a. Sections 11-103-202(1) and (2), C.R.S., shall refer to the leverage ratio.

b. Sections 11-103-203(3) and (4), C.R.S., shall refer to the leverage ratio.

c. Section 11-103-303(1)(a), C.R.S., shall refer to Total Capital.

- [d. Section 11-103-304\(1\)\(d\), C.R.S., shall refer to the leverage ratio and Tier 1, Tier 2, and Total Capital.](#)
- [e. Section 11-103-402\(1\), C.R.S., shall refer to Total Capital.](#)
- [f. Section 11-103-502\(2\)\(a\), C.R.S., shall refer to Total Capital.](#)
- [g. Section 11-103-405\(2\), C.R.S., shall refer to Total Capital.](#)
- [h. Section 11-103-702\(1\)\(b\), C.R.S., shall refer to the leverage ratio and Tier 1, Tier 2, and Total Capital.](#)
- [i. Section 11-103-703\(3\)\(b\), C.R.S., shall refer to the leverage ratio and Tier 1, Tier 2, and Total Capital.](#)
- [j. Section 11-103-801\(1\), C.R.S., shall refer to Total Capital.](#)
- [k. Section 11-103-802\(1\)\(a\), C.R.S., shall refer to the leverage ratio.](#)
- [l. Section 11-103-803\(1\)\(b\), C.R.S., shall refer to the leverage ratio and Tier 1, Tier 2, and Total Capital.](#)
- [m. Section 11-103-806\(1\), C.R.S., shall refer to the leverage ratio.](#)
- [n. Sections 11-105-304\(2\),\(5\),\(6\), and \(8\), C.R.S., shall refer to Total Capital.](#)
- [o. Section 11-105-402\(1\), C.R.S., shall refer to Tier 1 Capital.](#)
- [p. Section 11-105-501\(2\), C.R.S., shall refer to Tier 1 Capital.](#)



**CB101.53      Loan Production Office [Section 11-105-101(1) and 11-102-104(1)(a)]**

A.      Definitions:

1.      A Loan Production Office (LPO) is any location in Colorado that is not a branch and where the only activities conducted are the solicitation, ~~and~~ origination and approval of loans by employees or agents of a bank or a subsidiary. ~~Loan approvals must be made at the main office or branch location of a bank or its subsidiary.~~
2.      A Branch means any branch bank, branch office, branch agency, additional office, or branch place of business situated in Colorado or another state of a financial institution located in this or another state at which deposits are received, checks are paid, and money is lent and trust powers may be exercised, if approved by its chartering authority.

B.      A Colorado state bank or a state bank chartered in another jurisdiction that intends to open a LPO in Colorado, change the location of a LPO, or operate a LPO under a name which differs in any way from the name approved by the Banking Board, shall file an application on the appropriate form provided by the Division of Banking (Division).

C.      A bank or bank holding company that intends to open a LPO in Colorado shall provide the ~~b~~Banking ~~b~~Board with the name or names under which it proposes to conduct the business of such bank, or bank holding company. The bank or bank holding company shall not be eligible to open a LPO if the proposed name is either:

1.      Identical to or deceptively similar to the name of any existing Colorado financial institution or LPO previously approved to operate in Colorado; except that this paragraph (a) shall not apply if the bank or bank holding company obtains express written consent of the affected existing Colorado financial institution or LPO; or
2.      Likely to cause the public to be confused, deceived, or mistaken.

D.      Application to Operate a LPO or Application to Change Location of a LPO. ~~shall be filed with the Banking Board on a form provided by the Division.~~ The completed application shall be filed at least thirty (30) days prior to the anticipated first day of operations or use of a new name.

1.      Every LPO application shall include the name or names under which the applicant proposes to conduct the business of such LPO. The application shall be accompanied by the applicable fee as set by the Colorado State Banking Board (Banking Board) pursuant to Section 11-102-104(11), C.R.S.

~~E.~~ 2. When processing a LPO application:

- ~~1.~~ a. The Division will review all existing names and DBAs of banks or LPOs operating within the State of Colorado and compare the proposed name with existing approved bank or LPO names. Division staff will evaluate the proposed name to ensure it's not identical to existing names. If the proposed name is not identical, staff will conduct the procedure outlined in subsection ~~ED-(2)(b)~~. If the proposed name is identical, then the applicant will be notified and asked to provide a new name.

- ~~2.~~ b. The Division shall commence a fourteen (14) calendar day comment period by posting the proposed name on the Division's website and distributing the proposed name by email to its distribution mailing list;

~~a.~~ (1) If no objections are received within the fourteen (14) calendar day period, the Division shall proceed with processing the application and submitting it to the Banking Board for approval;

~~b.~~ (2) If an objection is received within the fourteen (14) calendar day period, the Division will notify the applicant. The applicant and the objector should provide a written response to the Division within thirty (30) calendar days, which the Division will provide to the Banking Board for its consideration.

~~c.~~ (3) If the objector wishes to withdraw its objection, it may do so and provide express written consent to the LPO name.

~~3~~ 3 c. The Banking Board will evaluate the objection and written response, if any, and approve or deny the LPO name.

~~4.~~ 4. d. In the event of the Banking Board's denial of a proposed name, with or without an objection, the Applicant must submit a new name, which will be evaluated and published by the Division as outlined in (~~ED~~)(~~42~~)(a) and (~~ED~~)(2)(b), to operate in Colorado so that the new name is not identical to or deceptively similar to the name of any existing Colorado financial institution, or likely to cause the public to be confused, deceived, or mistaken.

~~F.~~

~~G.~~ 3. The applicant shall have one year from the date of approval in which to open the LPO and will notify the Division of its opening.

**CB101.54      Branch Establishment, Conversion, Acquisition, Relocation, Closure, and Hours of Operation**~~Branching Practices~~ [Section 11-105-601, C.R.S., et. seq.]

A.      **General Provisions for Branch Establishment, Conversion, and Acquisition**~~Notification of intent to establish a branch pursuant to Section 11-105-602(3)(a), C.R.S.~~

~~1. Any bank, no matter the location of its principal place of business, upon thirty (30) days' prior written notice to the Banking Board or the Commissioner, may establish one or more de novo branches anywhere in this or any other state.~~

1. The notice of intent to establish a branch shall be filed on a form provided by the Division of Banking.

De Novo Branch Establishment

a. Any bank, regardless of its principal place of business, may establish one or more de novo branches in this state or another state, upon thirty (30) days' prior written notice to the Colorado State Banking Board (Banking Board).

b. De novo branches include a mobile branch, which is a service, other than a messenger service, that does not have a single, permanent site and uses a vehicle that travels to various locations to enable the public to conduct banking business. The other provisions of this Rule, except for Paragraph (B), shall be applicable to mobile branches.

c. Notification of intent to establish a branch shall be filed on a form provided by the Division of Banking (Division).

2. Conversion of an Affiliate or an Acquisition of Financial Institution

a. Financial institutions, regardless of their principal location, may convert affiliate financial institutions into branches or acquire and convert other financial institutions into branches within this or any other state.

~~2.~~ b. Notification for such conversions or acquisitions shall be filed on a form provided by the Division.

B.      **Relocation of Branches**~~Change in Location of a Branch~~

1.      The Banking Board may ~~take into consideration the following factors in determining whether to approve or to deny an application~~ to relocate ~~for change in location of a branch based on:~~

a.      ~~There are significant supervisory concerns with respect to the applicant or its affiliates~~ any affiliated institution; or,

b.      ~~Less~~ The applicant's record of helping to meet the credit needs of its entire community, including low and moderate income neighborhoods, consistent with the safe and sound operation of an financial institution, is less than satisfactory record in meeting community credit needs; or,

c.      Favorable terms offered to ~~Any financial or other business arrangement, direct or indirect, involving the principal office or branch and~~ insiders (directors, officers, employees, and shareholders owning or controlling, directly or indirectly, ten percent or more of the outstanding voting stock thereof) over ~~involves terms and conditions more favorable to the insiders than would be available in a comparable~~ third-party transactions ~~with unrelated parties.~~

2.      Relocation Process~~The location of a branch can be changed as follows:~~

- a. Short-distance Relocation: ~~A financial institution, without Banking Board approval, may relocate a~~ branch may relocate up to not in excess of one-half (0.5) mile from its approved location without Banking Board approval, provided written notice is submitted to the ~~Bank~~ Commissioner at least thirty (30) days prior to relocation. The notice ~~shall~~must include the new address of the branch and the effective date of the relocation.
- b. Long-distance Relocation: ~~For relocations beyond~~A financial institution desiring to relocate a branch more than one-half (0.5) mile from the approved location, a formal application shall be submitted to~~file an application with~~ the Banking Board for approval using a form provided by the Division.

~~3. Application to change location of a branch shall be filed on a form approved by the Division of Banking.~~

### ~~C.~~ C. Establishment of a Mobile Branch

#### ~~1. Definitions~~

~~For purposes of this Rule, the term mobile branch shall refer to a vehicle equipped and operated in such a manner as to permit employees or agents of the financial institution to conduct transactions pertaining to branching activities as defined pursuant to Section 11-101-401, C.R.S. A messenger service established by the financial institution pursuant to Banking Board Rule CB101.7(D) for the pickup and delivery of items pertaining to branching activities is considered a mobile branch. The other provisions of this Rule, except for Paragraph (B), shall be applicable to mobile branches.~~

~~2. A financial institution authorized to operate a mobile branch shall comply with the following limitations:~~

- a. ~~A financial institution may equip and utilize interchangeable vehicles in the operation of a single mobile branch, provided such vehicles are not operated simultaneously.~~
- b. ~~A monthly log shall be maintained for each mobile branch operated. Such log shall identify the routes traveled and the locations of stops made during the month. This information shall be made available to Division of Banking staff in the same manner as required by Paragraph (F) of this Rule.~~
- c. ~~Physical security devices reasonably designed to provide for the protection of assets and the physical safety of the mobile branch personnel and customers shall be developed and implemented.~~
- d. ~~Surety bond coverage appropriate to the activities of the mobile branch shall be maintained.~~
- e. ~~A mobile branch shall only be operated at locations within the service area approved by the Banking Board.~~
- f. ~~A mobile branch shall not be operated in such a manner as to limit or exclude services to any class of customer within the approved service area.~~

### ~~D.C.~~ C. Closing a Branch [Section 11-105-606, C.R.S.]

~~Any financial institution that seeks to close a branch previously in operation shall notify the Banking Board in writing of its intention and its reasons for such action, and shall include with such notice a copy of "The Notice of Branch Closing" required to be filed with the appropriate federal regulatory agency. Such notice shall be received by the Banking Board ninety (90) days prior to the proposed closing. Such branch may be closed, unless the Banking Board or Bank~~

~~Commissioner, within fifteen (15) days of receipt of such notification, gives written notification of objections and the grounds therefore to the financial institution, or requests additional information. If the Banking Board or Bank Commissioner requests additional information, the above ninety (90) day period shall commence running upon receipt of such additional information.~~

1. Financial institutions shall notify the Banking Board in writing in a format approved by the Division at least ninety (90) days prior to the proposed closing of a branch.
2. Branch closure may proceed unless the Banking Board provides written notification, within fifteen (15) days of receipt of such notification, or requests additional information. If the Banking Board requests additional information, the above ninety (90) day period shall commence running upon receipt of such additional information.

#### D. Branch Hours of Operation

1. Financial institutions shall notify the Commissioner of the operating hours of any branch and provide notice of any changes on or before the effective date.

##### 2. Federal Holidays on Saturdays

- a. The Friday before a federal holiday falling on a Saturday is considered a normal banking day.
- b. Banks wishing to close early on such Fridays shall notify the Division and inform customers of any changes to operating hours.

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#### ~~E. Branch Hours of Operation~~

~~A financial institution shall notify the Bank Commissioner of the hours during which a branch will be open for business and any changes thereto on or before the effective date of the hours of operation.~~

#### ~~F. Branch Records~~

~~Records of loans and deposits originating at a branch shall be made available to the Division of Banking staff at the principal office of the financial institution or such other central location as may be mutually agreed upon by the financial institution's management and the Bank Commissioner. A principal office is that office in this state that is designated as the principal office of the financial institution in its articles of incorporation and may also be known as a main office or a head office.~~

#### ~~G. Notification of Conversion of an Affiliate or an Acquisition to a Branch~~

~~Notice of intent to convert an affiliate or an acquisition to a branch shall be filed on the form provided by the Division of Banking.~~

#### ~~H. Meaning of Control and Controlling~~

~~For the purpose of Section 11-101-401, C.R.S., a financial institution shall be deemed to control an affiliate institution if the financial institution:~~

1. ~~Directly or indirectly owns, controls, holds with power to vote, or holds proxies representing twenty-five percent or more of the outstanding voting stock thereof;~~
2. ~~Controls in any manner the election of a majority of the directors thereof; or~~
3. ~~Exercises a controlling influence over the management or policies thereof.~~

~~CB101.55 — Contractual Acceptance of Deposits [Section 11-105-604, C.R.S.]~~

~~A. — Board of Directors' Review and Approval~~

~~The board of directors of a financial institution shall fully review all relevant issues involved in a contract pursuant to Section 11-105-604, C.R.S. (deposit contract). Review and approval shall be noted in the minutes.~~

~~B. — Filing of Deposit Contract~~

~~A financial institution that enters into a deposit contract must file with the State Bank Commissioner a copy of the deposit contract within thirty (30) days after its effective date.~~

~~C. — Contents of Deposit Contract~~

~~In addition to the terms that would be found in any contract, including, but not limited to, the names of the parties, purpose of the contract, place of performance, consideration, and term, the following provisions are required in a deposit contract:~~

~~1. — Extension or amendment. The contract shall provide that notice be given to the State Bank Commissioner within thirty (30) days after any extension or amendment to the contract.~~

~~2. — Termination. The contract shall provide that notice be given to the State Bank Commissioner within thirty (30) days after the termination of the agreement and shall provide for reasonable disclosure to the customer prior to termination.~~

~~D. — Any deposit contract entered into pursuant to the provisions of Section 11-105-604, C.R.S., shall not constitute a branch.~~

~~A. General Matters~~

~~1. Any institution desiring to invest in Tax Lien Sale Certificates of Purchase (TLSCP) must receive approval of the Banking Board prior to the commencement of the activity. The institution must file an application with the Banking Board on the form provided by the Division of Banking.~~

~~2. No institution that has a regulatory composite examination rating (CAMELS) of "4" or "5" from any regulator shall purchase TLSCPs. No institution that has a regulatory composite examination rating CAMELS of "3" from any regulator and that is subject to a memorandum of understanding, cease and desist order, or written agreement imposed by or entered into with any regulator of the institution shall purchase TLSCPs. In the event that a institution's CAMELS rating is reduced to a "4" or "5" or to a "3" subject to regulatory action, that institution shall make no additional purchases of TLSCPs except such endorsements to previously purchased TLSCPs as may be necessary to protect the institution's investment in TLSCP purchases made prior to the reduction in its CAMELS rating, or until such time as its CAMELS rating has been restored to "3" or better, and it otherwise qualifies to purchase TLSCPs.~~

~~3. Institutions that are approved to purchase TLSCPs shall be restricted to purchases of TLSCPs on property situated in the county in which that institution has its principal place of business, or situated in a contiguous county.~~

~~4. The purchase of TLSCPs shall be restricted to certificates arising from delinquent ad valorem taxes representing liens on 1-4 single family occupied residences, or undeveloped residential lots in established subdivisions the improvements of which are maintained by the county in which they are situated.~~

~~5. The purchase of a TLSCP and related endorsements shall not be considered an investment in real estate for purposes of Section 11-105-304(9)(a), C.R.S. until such time as a treasurer's deed to the underlying property is issued to the institution.~~

~~B. Capital Restrictions~~



~~1. The aggregate value of TLSCPs and endorsements owned by an institution shall not exceed 15 percent of the institution's Tier 1 Capital plus its loan loss reserves.~~

~~2. The face value of TLSCPs, not including endorsements, purchased in any one year shall not exceed 6 percent of Tier 1 Capital plus loan loss reserves. This restriction will provide a cushion for endorsements of certificates in future periods.~~

~~3. At no time shall the face value of any TLSCP for a single property exceed one percent of the institution's Tier 1 Capital plus loan loss reserves.~~

~~4. The value of a TLSCP shall mean the redemption price of the original certificate and subsequent endorsements.~~

~~C. Due Diligence Must Be Exercised By The Purchasing Institution:~~

~~1. Prior to acquiring a TLSCP, institutions shall:~~

~~a. Obtain a written owners and encumbrances report;~~

~~b. Make a physical inspection of the property;~~

~~c. Obtain photographs of the property; and~~

~~d. Obtain a copy of the assessment card for the property as prepared by the county assessor's office.~~

~~2. Prior to making an endorsement of a TLSCP, the institution shall update and review the property, including:~~

~~a. A written updated owners and encumbrances report;~~

~~b. — Make a physical inspection of the property;~~

~~c. — Obtain photographs of the property; and~~

~~d. — Obtain an updated copy of the assessment card for the property as prepared by the county tax assessor's office.~~

~~3. — Prior to making an application for a treasurer's deed on a TLSCP, the institution shall update and review the property, including:~~

~~a. — A written updated owners and encumbrances report;~~

~~b. — Make a physical inspection of the property;~~

~~c. — Obtain photographs of the property;~~

~~d. — Obtain an updated copy of the assessment card for the property as prepared by the county tax assessor's office; and~~

~~e. — Evaluate any and all risks attendant with property ownership at the time, including any potential environmental or hazardous material issues.~~

~~4. — If at any stage of the above due diligence any unsafe or unsound risk is revealed, the institution shall not purchase, endorse, or apply for the deed.~~

~~5. — The institution shall maintain records documenting its due diligence efforts for each TLSCP until such time as the underlying property is redeemed.~~

~~D. — Regulatory Reporting~~

1. ~~TLSCPs shall be included in the Report of Condition as "Other Assets" until such time as the treasurer's deed to the underlying property is issued to the institution.~~

2. ~~TLSCPs shall be assigned to the 100 percent risk weighted category for the calculation of risk-based capital pursuant to Banking Board Rule CB101.52.~~

A. General Limitations

A state bank may invest in an operating subsidiary which includes a corporation, ~~or~~ limited liability company (LLC), limited partnership, or similar entity that engages in activities in which the parent bank may engage, subject to the same limitations the parent bank would be subject to if it were engaged in the activity, provided that:

1. ~~1.~~ the parent bank ~~holds-owns and controls more than at least an 80~~50 percent ~~ownership interest in the subsidiary corporation or LLC~~ of the voting (or similar type of controlling) interest of the operating subsidiary, or the parent bank otherwise controls the operating subsidiary and no other party controls a percentage of the voting (or similar type of controlling) interest of the operating subsidiary greater than the bank's interest;
2. ~~the state bank has the ability to control the management and operations of the subsidiary, and no other person or entity has the ability to exercise effective control or influence over the management or operations of the subsidiary to an extent equal to or greater than that of the state bank or an operating subsidiary thereof;~~
  - a. The ability to control the management and operations means:
    - i. In the case of a subsidiary that is a corporation, the state bank or an operating subsidiary thereof holds voting interests sufficient to select the number of directors needed to control the subsidiary's board and to select and terminate senior management;
    - ii. In the case of a subsidiary that is a limited partnership, the state bank or an operating subsidiary thereof has the ability to control the management and operations of the subsidiary by controlling the selection and termination of senior management; or
    - iii. In the case of a subsidiary that is an LLC, the state bank or an operating subsidiary thereof has the ability to control the management and operations of the subsidiary by controlling the selection and termination of senior management.
3. and the operating subsidiary is consolidated with the state bank under generally accepted accounting principles.

B. Additional Limitations

The state bank through its operating subsidiary ~~of a state bank~~ may invest in a ~~subsidiary~~ corporation, ~~or~~ LLC, partnership, or similar business entity at less than a ~~an 80~~ 50 percent ownership level provided that each of the following conditions are met:

1. The activities of the ~~subsidiary~~ corporation, ~~or~~ LLC, partnership or similar business entity in which the investment is made are limited to activities that are part of, or incidental to, the business of banking;
2. The state bank is able to prevent the ~~subsidiary~~ corporation, ~~or~~ LLC, partnership or similar business entity from engaging in activities that do not meet the foregoing standard or has the ability to withdraw its investment;
3. The state bank's loss exposure is limited; as ~~both~~ a legal ~~and accounting~~ matter; and the state bank does not have ~~open-ended~~ unlimited liability for the obligations of the ~~subsidiary~~ corporation, ~~or~~ LLC, partnership or similar business entity; ~~and~~
4. The investment is convenient ~~or~~ and useful to the state bank in carrying out its business and not a mere passive investment unrelated to the state bank's business; ~~and~~;
5. The corporation, LLC, partnership or similar business entity the state bank is investing in agrees to be subject to Colorado Division of Banking supervision and examination.

~~A. — A state bank may make such investments, subject to such limitations, as a national bank can make pursuant to paragraph Seventh of 12 USC 24 and Part 1 of 12 CFR, Sections 1.3, 1.4, 1.5, 1.7, 1.8, 1.9, 1.10, and 1.11. These investment powers do not relate to underwriting or dealing in securities.~~

~~B. — Reference:~~

~~1. — 12 USC 24 was enacted by the United States Congress and is administered by the Comptroller of the Currency. 12 CFR 1 is issued and administered by the Comptroller of the Currency under the general authority of the national banking laws, 12 USC 1 et seq. and under specific authority contained in paragraph Seventh of 12 USC 24.~~

~~2. — This Rule does not include amendments to or editions of the referenced material later than the effective date of the Rule, March 2, 2006. A copy of 12 USC 24 may be examined at any State Publications Depository.~~

~~3. — For more detailed information pertaining to these provisions, please contact the Secretary to the Colorado State Banking Board at 1560 Broadway, Suite 1175, Denver, Colorado 80202, 303-894-7584.~~

A. — The Colorado State Banking Board (Banking Board) authorizes, pursuant to its authority in Section 11-105-304(7) C.R.S., state-chartered commercial banks' Investments Powers as outlined in Code of Federal Regulations Title 12 - Banks and Banking Chapter I - Comptroller of the Currency, Department of the Treasury Part 1 Investment Securities and 12 U.S.C.A. § 24. Corporate powers of associations - Seventh.

B. — The regulation titled "Code of Federal Regulations Title 12 - Banks and Banking Chapter I - Comptroller of the Currency, Department of the Treasury Part 1- Investment Securities as effective on November 29, 2024, and 12 U.S.C.A. § 24. Corporate powers of associations - Seventh" as effective on November 29, 2024, is hereby incorporated by reference. No later amendment or edition are incorporated into this Section CB101.59. All referenced laws and regulation shall be available for copying or public inspection during regular business hours from the Division of Banking (Division), Department of Regulatory Agencies, 1560 Broadway, Suite 975, Denver, CO 80202. The Division will provide a certified copy of the material incorporated at cost or will provide the requester with information on how to obtain a certified copy is also available at <https://banking.colorado.gov/banking-home/rules-statutes>.

CB101.60 Investments in Community Development Projects and Other Public Welfare Investments  
[Sections 11-103-101(4) and 11-105-304(7), C.R.S.]

~~A. A state bank may make investments as described in Paragraph (C), consistent with safety and soundness. This Rule provides the standards and procedures that apply to these investments.~~

~~B. Definitions.~~

~~For the purposes of this Rule:~~

~~1. "Adequately capitalized" has the same meaning as 12 CFR § 325.103(b)(2) and 208.43(b)(2).~~

~~2. "Capital and surplus" means:~~

~~a. A bank's Tier 1 and Tier 2 capital calculated under the risk-based capital standards under CB101.52, as reported in the bank's Consolidated Report of Condition and Income; plus~~

~~b. The balance of a bank's allowance for loan and lease losses not included in the bank's Tier 2 capital, for purposes of the calculation of risk-based capital under CB101.52, as reported in the bank's Consolidated Report of Condition and Income.~~

~~3. "Community and economic development entity" (CEDE) means an entity that makes investments or conducts activities that primarily benefit low- and moderate-income individuals, low- and moderate-income areas, or other areas targeted by a governmental entity for redevelopment, or would receive consideration as "qualified investments" under the investment test of the Community Reinvestment Act. The following is a non-exclusive list of examples of the types of entities that may be CEDEs:~~

~~a. Community development corporation subsidiaries;~~

~~b. Private or nonbank community development corporations;~~

c. ~~CDFI Fund-certified Community Development Financial Institutions or Community Development Entities;~~

d. ~~Limited liability companies or limited partnerships;~~

e. ~~Community development loan funds or lending consortia;~~

f. ~~Community development real estate investment trusts;~~

g. ~~Business development companies;~~

h. ~~Community development closed-end mutual funds;~~

i. ~~Non-diversified closed-end investment companies; and~~

j. ~~Community development venture or equity capital funds.~~

4. ~~“Community development project” (CD Project): means a project to make an investment that meets the requirements of Paragraph (C) of this Rule.~~

5. ~~“Eligible bank” means, for purposes of Paragraph (E) of this Rule, a state-chartered bank that:~~

a. ~~Is well capitalized;~~

b. ~~Has a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System;~~

c. ~~Has a Community Reinvestment Act (CRA) rating of “Outstanding” or Satisfactory;” and~~



d. ~~Is not subject to a cease and desist order, consent order, formal written agreement or Prompt Corrective Action directive (see Section 38 of the Federal Deposit Insurance Act) or, if subject to any such order, agreement or directive, is informed in writing by the Division of Banking that the bank may be treated as an “eligible bank” for purposes of this Rule.~~

6. ~~“Low income” means an individual income that is less than 50 percent of the area median income, or a median family income that is less than 50 percent, in the case of a geography.~~

7. ~~“Moderate income” means an individual income that is at least 50 percent and less than 80 percent of the area median income, or a median family income that is at least 50 and less than 80 percent, in the case of a geography.~~

8. ~~“Small business” means a business, including a small farm or minority-owned small business, that meets the qualifications for Small Business Administration Development Company or Small Business Investment Company loan programs in 13 CFR 121.301.~~

9. ~~“Well capitalized” has the same meaning as in 12 CFR § 325.103(b)(1) and 208.43(b)(1).~~

C. ~~Public Welfare Investments. A bank or bank subsidiary may make an investment directly or indirectly under this Rule if the investment primarily benefits low- and moderate-income individuals, low- and moderate-income areas, or other areas targeted by a governmental entity for redevelopment, or the investment would receive consideration under the investment test of the Community Reinvestment Act as a “qualified investment.”~~

D. ~~Investment Limits~~

1. ~~A bank’s aggregate outstanding investments under this Rule may not exceed 5 percent of its capital and surplus, unless the bank is at least adequately capitalized and the Division of Banking determines, by written approval of a written request by the bank to exceed the 5 percent limit, that a higher amount of investments will not pose a significant risk to the deposit insurance fund. In no case may a bank’s aggregate outstanding investments under this part exceed 15 percent of its capital and surplus.~~

~~2. — A bank may not make an investment under this part that would expose the bank to unlimited liability.~~

~~E. — After the Fact Notice and Prior Approval Procedures~~

~~1. — After the Fact Notice. Subject to Paragraph (D)(1) of this Rule, an eligible bank may make an investment authorized by this Rule without prior notification to, or approval by, the Commissioner if the bank follows the after the fact notice procedures described in this Paragraph.~~

~~a. — An eligible bank shall provide an after the fact notification of an investment, within 10 business days after it makes the investment. The after the fact notice must include:~~

~~(1) — A description of the bank's investment;~~

~~(2) — The amount of the investment;~~

~~(3) — The percentage of the bank's capital and surplus represented by the investment that is the subject of the notice and by the bank's aggregate outstanding public welfare investments and commitments, including the investment that is the subject of the notice; and~~

~~(4) — A statement certifying that the investment complies with the requirements of Paragraphs (C) and (D) of this Rule.~~

~~b. — A bank that is not an eligible bank but that is at least adequately capitalized, and has a composite rating of at least 3 with improving trends under the Uniform Financial Institutions Rating System, may submit a letter to the Division of Banking requesting authority to submit after the fact notices of its investments. The Commissioner considers these requests on a case-by-case basis.~~

~~c. — Notwithstanding the provisions of this Paragraph, a bank may not submit an after the fact notice of an investment if:~~

~~(1) — The investment involves properties carried on the bank's books as "other real estate owned," or~~

~~(2) — The Division of Banking determines that the investment is inappropriate for after-the-fact notice.~~

~~2. — Investments Requiring Prior Approval. If a bank does not meet the requirements for after-the-fact investment notification set forth in this Paragraph, the bank must submit an investment proposal to the Division of Banking.~~

~~a. — The bank's investment proposal must include:~~

~~(1) — A description of the bank's investment;~~

~~(2) — The amount of the investment;~~

~~(3) — The percentage of the bank's capital and surplus represented by the proposed investment and by the bank's aggregate outstanding public welfare investments and commitments, including the proposed investment; and~~

~~(4) — A statement certifying that the investment complies with the requirements of Paragraphs (C) and (D) of this Rule.~~

~~b. — In reviewing a proposal, the Division of Banking considers the following factors and other available information:~~

~~(1) — Whether the investment satisfies the requirements of Paragraphs (C) and (D) of this Rule;~~

~~(2) — Whether the investment is consistent with the safe and sound operation of the bank; and~~

~~(3) — Whether investment is consistent with the requirements of this Rule and Division of Banking policies.~~

c. ~~Unless otherwise notified in writing by the Commissioner, and subject to Paragraph (D)(1), the proposed investment is deemed approved after 30 calendar days from the date on which the Division of Banking receives the bank's investment proposal.~~

d. ~~The Division of Banking, by notifying the bank, may extend its period for reviewing the investment proposal. If so notified, the bank may make the investment only with the Commissioner's written approval.~~

e. ~~The Commissioner may impose one or more conditions in connection with its approval of an investment under this Rule.~~

#### F. ~~Examples of Qualifying Public Welfare Investments~~

1. ~~Investments that primarily support the following types of activities are examples of investments that meet the requirements of Paragraph (C):~~

a. ~~Affordable housing activities, including:~~

(1) ~~Investments in an entity that finances, acquires, develops, rehabilitates, manages, sells, or rents housing primarily for low- and moderate-income individuals;~~

(2) ~~Investments in a project that develops or operates transitional housing for the homeless;~~

(3) ~~Investments in a project that develops or operates special needs housing for disabled or elderly low- and moderate-income individuals; and~~

(4) ~~Investments in a project that qualifies for the Federal low income housing tax credit;~~

b. ~~Economic development and job creation investments, including:~~

~~(1) Investments that finance small businesses (including equity or debt financing and investments in an entity that provides loan guarantees) that are located in low- and moderate-income areas or other targeted redevelopment areas or that produce or retain permanent jobs, the majority of which are held by low- and moderate-income individuals; and~~

~~(2) Investments that finance small businesses or small farms, including minority- and women-owned small business or small farms, that, although not located in low- and moderate-income areas or targeted redevelopment areas, create a significant number of permanent jobs for low- and moderate-income individuals;~~

~~(3) Investments in an entity that acquires, develops, rehabilitates, manages, sells, or rents commercial or industrial property that is located in a low- and moderate-income area or targeted redevelopment area and occupied primarily by small business, or that is occupied primarily by small businesses that produce or retain permanent jobs, the majority of which are held by low- and moderate-income individuals; and~~

~~(4) Investments in low- and moderate-income areas or targeted redevelopment areas that produce or retain permanent jobs, the majority of which are held by low- and moderate-income individuals;~~

c. ~~Investments in CEDEs, including:~~

~~(1) Investments in a community development financial institution as defined in 12 U.S.C. 4742(5); and~~

~~(2) Investments in a CEDE that is eligible to receive New Markets tax credits under 26 U.S.C. 45D.~~

d. ~~Other public welfare investments, including:~~

~~(1) Investments that provide credit counseling, financial literacy, job training, community development research, and similar technical assistance for non-profit community development organizations, low- and moderate-income individuals or areas or targeted redevelopment areas, or small businesses, including minority- and women-owned small businesses, located in low- and moderate-income areas or that produce or retain permanent jobs, the majority of which are held by low- and moderate-income individuals;~~

~~(2) — Investments of a type approved by the Federal Reserve Board under 12 CFR 208.22 that are consistent with the requirements of Paragraph (C) of this Rule;~~

~~(3) — Investments of a type determined by the Division of Banking to be permissible under this Rule; and~~

~~(4) — Investments in minority and women-owned depository institutions that serve primarily low- and moderate-income individuals or low- and moderate-income areas or targeted redevelopment areas.~~

#### ~~G. — Records and Remedial Action~~

~~1. — Records. Each bank shall maintain in its files information adequate to demonstrate that its investments meet the standards set out in Paragraph (C) of this Rule, and that the bank is otherwise in compliance with the requirements of this Rule.~~

~~2. — Remedial Action. If the Division of Banking finds that an investment under this part is in violation of law or regulation, is inconsistent with the safe and sound operation of the bank, or poses a significant risk to a Federal deposit insurance fund, the bank shall take appropriate remedial action as determined by the Commissioner.~~

#### ~~H. — Materials Incorporated by Reference~~

~~1. — Code of Federal Regulations, (1-1-09 Edition)~~

~~a. — 12 CFR Ch. II, §208.22 — Community development and public welfare investments, pages 195-197, Federal Reserve System;~~

~~b. — 12 CFR Ch. II, §208.43 — Capital measures and capital category definitions, (b)~~

~~(1) and (2), page 216, Federal Reserve System;~~

~~c. — 12 CFR Ch. III, §325.103 — Capital measures and capital category definitions, (b)~~

~~(1) and (2), page 193, Federal Deposit Insurance Corporation; and,~~

~~d. 13 CFR Ch. I, §121.301 — What size standards are applicable to financial assistance programs, pages 363-364, Small Business Administration.~~

~~2. United States Code, (1-8-08 Version)~~

~~a. Title 12 — Banks and Banking, Section 4702 — Definitions, pages 1567-1569; and,~~

~~b. Title 26 — Internal Revenue Code, Section 45D — New Markets Tax Credit, pages 196-199.~~

~~I. This Rule does not include any later amendments to or editions of the referenced material.~~

~~J. Copies of the above referenced information may be examined at the Division of Banking, 1560 Broadway, Denver, Colorado, 80202, by contacting the Secretary to the Colorado State Banking Board at [banking@dora.state.co.us](mailto:banking@dora.state.co.us) or (303) 894-7575.~~

~~K. This information is also available for examination at any State Publications Depository Library.~~

A. The Colorado State Banking Board (Banking Board) authorizes, pursuant to its authority in Section 11-105-304(7) C.R.S., state-chartered commercial banks' Investments in Community Development Projects and Other Public Welfare Investments as outlined in Code of Federal Regulations Title 12 - Banks and Banking Chapter I - Comptroller of the Currency, Department of the Treasury Part 24 Community and Economic Development Entities, Community Development Projects, and Other Public Welfare Investments.

B. The regulation titled "Code of Federal Regulations Title 12 - Banks and Banking Chapter I - Comptroller of the Currency, Department of the Treasury Part 24 Community and Economic Development Entities, Community Development Projects, and Other Public Welfare Investments ("12 CFR 24")" as effective on November 29, 2024, is hereby incorporated by reference. No later amendment or edition of 12 CFR 24 is incorporated into this Section CB101.60. All referenced laws and regulation shall be available for copying or public inspection during regular business hours from the Division of Banking (Division), Department of Regulatory Agencies, 1560 Broadway, Suite 975, Denver, CO 80202. The Division will provide a certified copy of the material incorporated at cost or will provide the requester with information

on how to obtain a certified copy of 12 CFR 24 is also available at <https://banking.colorado.gov/banking-home/rules-statutes>.

C. All notifications required under this rule, including after-the-fact notices and requests for prior approval of investments, must be submitted to the Division. Any references to approval by the Office of the Comptroller of the Currency in incorporated federal regulations shall be understood to mean approval by the Commissioner. Additionally, any references to "National Bank" in the incorporated federal regulations shall be interpreted to mean "Colorado State-Chartered Commercial Bank." The Commissioner will be the responsible authority for granting or denying approval of such investments in accordance with state law.



A.      The initial appraisal, as defined in Section 12-10-602, C.R.S., of Other Real Estate (ORE) shall be performed by a registered, licensed, or certified appraiser as defined in Section ~~12-10-606~~12-61-706, C.R.S. However, if the asset has a current book value of \$400,000 or less for a 1-4 family residential property or \$500,000 or less for all other real property at the time the asset is classified as ORE. an analysis, evaluation, opinion, conclusion, notation, or compilation of data may be performed by an officer, director, or regular salaried employee of a financial institution who has not, directly or indirectly, participated in the lending transaction or by an officer, director, or regular salaried employee of its affiliate who has not, directly or indirectly, participated in the lending transaction.

B.      Subsequent appraisals of an ORE asset with a book value of more than the values noted above in A shall be performed by a licensed or certified appraiser ~~as defined in Section 12-10-602~~12-61-706, ~~C.R.S.~~, according to the following schedule:

1.      All financial institutions shall obtain subsequent appraisals of an ORE asset at intervals not to exceed twenty-four (24) months.

2.      If such an appraiser, as defined in Section ~~12-10-606~~12-61-706, C.R.S., or other person approved by the Colorado State Banking Board (Banking Board) certifies in writing that the fair market value has not declined, such appraiser's or other person's opinion may be substituted for a subsequent appraisal.

~~C.      Reference: Sections 12-61-706 and 718(2), C.R.S., are laws enacted by the Legislature of the State of Colorado and administered by the Board of Real Estate Appraisers of the Colorado Department of Regulatory Agencies. This Rule does not include amendments to or editions of the referenced material later than July 30, 1993. For more detailed information pertaining to these provisions, please contact the Secretary to the Colorado State Banking Board at 1560 Broadway, Suite 975, Denver, Colorado 80202, (303) 894-7575.~~

~~CB101.62 — Pledging Assets [Section 11-102-104(5), C.R.S.]~~

~~A. — A state bank may, upon the deposit with it of any funds by a federally-recognized Indian Tribe, or any officer, employee or agent thereof in his or her official capacity, give security for the safekeeping and prompt payment of the funds so deposited by the deposit of United States bonds and other collateral eligible under Banking Board Rule PDP3 for pledging to protect public deposits.~~

~~B. — A pledge of eligible collateral shall be evidenced by a security agreement that:~~

~~1. — Is in writing;~~

~~2. — Was executed by the bank and the Indian tribe contemporaneously with acquisition of the collateral;~~

~~3. — Was approved by the bank's board of directors or loan committee, which approval is reflected in the official minutes of a meeting of the board or committee;~~

~~4. — Has been an official record of the bank continuously from the time of execution.~~

CB101.66 Board of Directors: Meeting — Frequency, Attendance, Key Transaction Reviews, and Record Keeping ~~of Board Meetings~~ [Section 11-103-502, C.R.S.]

A. Frequency of Board Meetings

The board of directors (Board) of a state bank shall meet at least once each calendar quarter, unless the Colorado State Banking Board (Banking Board) directs the meetings be held on a more frequent basis or less frequent basis in case of a disaster or emergency. ~~If the Board of a state bank plans to change its current meeting schedule, the bylaws should be reviewed with regard to meeting frequency and updated, if necessary. A revised Board of Directors meeting schedule and a copy of the revised bylaws, if necessary, shall be provided to the Division no less than 30 days following receipt of approval of the change.~~

Any proposed changes to a Board meeting schedule must first consider the bank's bylaws regarding meeting frequency. If changes are needed, revised bylaws and the new meeting schedule shall be submitted to the Division of Banking (Division) within 30 days of receiving approval for the change.

B. Director Attendance Requirements

If the Board holds meetings on a basis ~~If other than monthly meetings are held, any~~ director who fails to attend two consecutive meetings ~~will shall~~ automatically cease to be a director unless the absence is satisfactorily explained to the ~~B~~anking ~~B~~oard or ~~C~~ommissioner. If an explanation is accepted, the Banking Board or Commissioner, who shall, in that event, notify the bank's ~~the bank's~~ president of their ~~such bank the~~ approval for the of the director's continuation.

~~C. — If the Board holds monthly meetings, any are held, a~~ director who fails to attend three consecutive monthly meetings ~~will shall~~ automatically cease to be a director unless the absence is satisfactorily explained to the ~~B~~anking ~~B~~oard or ~~C~~ommissioner. ~~who shall, in case of an approved absence, If an explanation is accepted, the Banking Board or Commissioner shall that event, notify the bank's~~ president of their ~~such bank the~~ approval of the director's continuation. ~~of the director.~~

C. Review of Key Transactions

The Board or an executive committee of the Board shall review, at least monthly, the following transactions occurring since the last review:

a. Each loan, advance, discount, overdraft, and purchase or sale of a security that exceeds one percent of the capital of the corporation, in accordance with the rules promulgated by the Banking Board.

b. Each loan, advance, discount, and overdraft that causes total obligations from a single obligor to exceed one percent of the bank's capital.

c. Each purchase or sale of a security that, when combined with other purchases and sales of the same security over the preceding two months, exceeds one percent of the bank's capital.

The executive committee of the Board is a Board appointed committee, composed of key members of the Board and/or the bank's executive officers. This committee is authorized to act on behalf of the full Board for purposes of this rule.

D. Record Keeping

The Board or the Board's Executive Committee shall maintain a monthly record of the reviewed transactions listed in Section C. The reviewed transactions should be submitted to the full Board at its next scheduled meeting for ratification.

~~D. ——— Should a state bank's Board decide to again change its meeting schedule, the bank shall follow the process outlined in Section A.~~