



**COLORADO**

**Department of  
Regulatory Agencies**

Division of Banking

1560 Broadway, Suite 975  
Denver, CO 80202

**November 17, 2017**

**BEFORE THE  
COLORADO STATE BANKING BOARD**

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

**I. Notice of hearing**

PLEASE BE ADVISED THAT, as required by Section 24-4-103, C.R.S., of the State Administrative Procedures Act, the Colorado State Banking Board (Banking Board) hereby gives notice of proposed rulemaking. A hearing is scheduled for January 18, 2018, commencing at 10:00 a.m., at 1560 Broadway, Suite 975, Denver, Colorado, Division of Banking (Division) Conference Room, which facility is accessible in compliance with the Americans with Disabilities Act (ADA) guidelines.

**II. Purpose of the proposed rulemaking**

The purpose of the hearing is to hear comments concerning the proposed amendment of the following Banking Board Rules to update the rules to reflect changes made to the Prompt Corrective Action Guidelines, effective January 1, 2015. A Statement of Basis, Purpose, and Specific Statutory Authority for each rule follows this notice and is incorporated by reference.

- PDP1 Capital Standards for Eligible Public Depositories
- PDP3 List of Approved eligible Collateral Instruments and Obligations
- PDP4 Standards for Establishing Current Market Value of Eligible Collateral
- PDP5 Criteria and Procedures for Reducing/Removing Uninsured Public Deposits From a Bank, or Increasing Collateral Requirements, if the Eligible Public Depository Fails to Comply With Minimum Capital Standards or Safety and Soundness Standards
- PDP7 Reporting Requirements
- PDP8A Directors' Examination of Public Deposits
- PDP9 Assessments and Fees



### III. Statutory authority for proposed rulemaking

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

### IV. Opportunity to testify and submit written comments

Any interested person(s) has the right to submit written comments or data, view, or argument. Written information should be filed with the Division no later than January 8, 2018. To submit written comments, please contact Diana Gutierrez, Banking Board Secretary, at [diana.gutierrez@state.co.us](mailto:diana.gutierrez@state.co.us). In addition, any interested person(s) has the right to make an oral presentation at the Hearing, unless the Banking Board deems any oral presentation unnecessary.

SUBMITTED ON BEHALF OF THE  
COLORADO STATE BANKING BOARD



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Chris R. Myklebust  
State Bank Commissioner



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**STATE BANKING BOARD  
RULE 3-CCR 701-4 PDP4  
PERTAINING TO TITLE 11, ARTICLE 10.5, SECTION 107(1)(c)  
COLORADO REVISED STATUTES**

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

Statutory Basis

The statutory basis for Banking Board Rule 3-CCR 701-4 PDP4 is found in section 11-10.5-107(1)(c) of the Colorado Revised Statutes (C.R.S.). The purpose of this rule modification is to provide technical language clean-up based on revisions from PCP3(A).

Purpose of this Rulemaking

The purpose of the proposed revision to amend 3-CCR 701-4 PDP4(A) is to reflect the removal of references to medium term and discount notes for establishing current market value. Discount term notes earn the highest credit rating and should be valued the same as the other agency securities. The securities are still issued by the same government-owned or government sponsored agencies and carry the same implicit guarantees. The change simplifies the valuation of the securities for both, the banks and the Division. Added '6' and '8' to the PDP3(A) items valued at market value since the FHLMC and the SLMA securities carry the same implicit guarantees as the other agencies valued at market value. The proposed amendment to the rule would read as such:

1. Market value of the obligations and instruments approved as eligible collateral under Banking Board Rule PDP3(A), items 1, 2, 3, 4, 5, 6, 7 and 8; and all items under Banking Board Rule PDP3(B), shall be the last reported bid or transaction price or, for an inactively traded security, evaluators or other analysts acceptable to the Division of Banking may determine the market value.

The purpose of the proposed rulemaking is to amend 3-CCR 701-4 PDP4(B) is to add PDP3(F) to the provision which refers to Commercial Mortgage-Backed Securities (CMBS). While these products carry government guarantees or implicit guarantees, in a time of financial distress similar to the one experienced in 2007, these securities might not be as liquid as the current market may suggest. The underlying assets of CMBS are comprised of commercial properties such as hotels, office buildings and factories, which makes them more volatile than residential MBS. In addition, the structure of CMBS is often more complicated, similar to a CMO. To be consistent with the reasoning behind the 85% valuation of CMOs, I believe these products should be valued the same. The proposed amendment to the rule would read as such:

1. Market value of the obligations approved as eligible collateral under Banking Board Rule PDP3(E) and PDP3(F) shall be 85 percent of the market value determined by evaluators or other analysts acceptable to the Division of Banking.



The purpose of the proposed rulemaking is to delete 3-CCR 701-4 PDP3(E) to reflect that it is no longer the Divisions' practice to value eligible collateral at 90 percent. The proposed amendment to the rule would be to eliminate the following verbiage:

1. "Market value of the medium term and discount notes approved as eligible collateral under Banking Board Rule PDP3(A), items 3, 4, 5, 6 and 8 shall be 90 percent of the par value of the obligation."

The purpose of the proposed rulemaking is to amend 3-CCR 701-4 PDP3(F) to now be subpart PDP4(E). The removal of above language now moves previous subpart F to E. The proposed amendment to the rule would be to have PDP4(E) read as the following verbiage:

1. Market value of the letters of credit approved as eligible collateral under Banking Board Rule PDP3(A)(10), and the surety bonds approved under Banking Board Rule PDP3(G) shall be 100 percent of the face value of the letter of credit or surety bond.

#### Rulemaking Authority

- 11-101-102. Declaration of policy.
- 11-102-104. Powers and duties of the banking board.
- 11-10.5-107. Eligible collateral – uninsured public deposits.