

STATE OF COLORADO

Department of Regulatory Agencies

Tambor Williams
Executive Director



Bill Owens
Governor

DIVISION OF BANKING

Richard Fulkerson
State Bank Commissioner

OPERATING MEMORANDUM

TO: State Chartered Commercial and Industrial Banks
Division Staff

FROM: Richard Fulkerson
State Bank Commissioner

DATE: May 30, 2003
March 26, 2004 – Revised
March 28, 2006 – Revised

RE: Lending Limitations – Special Lending Authority
Banking Board Rule CB101.64
Banking Board Rule IB64

In 2003, the Banking Board approved substantial revisions to the rules concerning lending limitations applicable to state chartered commercial and industrial banks. Most notably, a new Paragraph E was added to CB101.64¹ and IB64 that provided special lending authority of an additional 10 percent of capital and surplus for banks that meet certain criteria and are certified² in accordance with Paragraph F of the Rules. The aggregate amount of credit extended under this special lending authority was capped at 150 percent of the bank's capital and surplus.

Last fall, the Banking Board again reviewed the Rules and approved revisions that better define the aggregate cap for purposes of the special lending authority, specifically preclude use of the special lending authority for loans to executive officers, directors, and principal shareholders, and increased the cap from 150 percent of capital to 250 percent of capital. The general limitation under Paragraph B that caps the extension of credit to one borrower at fifteen percent of capital and surplus remains the same, as does the additional 10 percent for loans secured by readily marketable capital, additional limitations set forth under Paragraph C, and exclusions under Paragraph D. The revisions and increased aggregate cap become effective on March 30, 2006.

¹ The language in CB101.64 and IB64 is identical. For simplicity, all references in this operating memorandum are to CB01.64, but by extension are equally applicable to industrial banks under IB64.

² Banks that have been approved by Commissioner pursuant to CB101.64 (F) to exercise special lending authority are referred to as "certified banks" for purposes of this operating memorandum.

Loans made under the special lending authority may not exceed 25 percent of capital; specifically, the additional 10 percent may not be added on top of the readily marketable collateral provision under CB101.64(B), or the additional limitations set forth in CB101.64(C). In addition, the special lending authority does not increase the applicable limits for loans made to executive officers, directors and principal shareholders as provided in Banking Board Rule CB101.37(C), or Banking Board Rule IB40(C).

For illustrative purposes, the following amounts are used to describe the application and calculations of the special lending limits:

State Bank A

Total	Assets	\$100,000,000
	Capital and Surplus [CB101.64(A)(2)]	\$8,000,000
	General Limitation – 15% [CB101.64(B)]	\$1,200,000
	Special Lending Limitation 10% [CB101.64(E)]	\$800,000
	Combined – 25% [CB101.64(E)(2)]	\$2,000,000
	Aggregate limit – 250% [CB101.64(E)(3)]	\$20,000,000

State Bank A, a “certified bank,” may extend credit of up to \$2,000,000 to a single borrower. The total amount of all extensions of credit in excess of \$1,200,000 may not exceed the aggregate cap of \$20,000,000. In other words, the bank may originate ten (10) \$2,000,000 loans, sixteen (16) \$1,250,000 loans, or any combination thereof, provided no single loan exceeds \$2,000,000, and the aggregate outstanding principal balance of loans exceeding the 15 percent general limitation does not exceed 250 percent of capital and surplus. In this example, the principal balance of any loan made under the special lending authority that is subsequently paid down to \$1,200,000 or less may be removed from the aggregate calculation. Only those loans with outstanding principal balances in excess of 15 percent of capital and surplus are aggregated for purposes of the cap, regardless of whether or not the loan was originated under the special lending authority.

Record Keeping Requirements

Certified banks will be expected to maintain sufficient records on loans made under the special lending authority to allow bank managers to monitor compliance with the individual and aggregate limitations, and Division examiners to quickly verify compliance during the course of regular examinations, or as otherwise requested.

Special Lending Authority – Application Process

As provided in CB101.64(F), the Commissioner will approve requests for special lending authority upon receipt of a completed application that includes the following:

- A copy of a written resolution by a majority of the bank’s board of directors approving the use of the special lending limit and confirming the terms and conditions for use of the special lending authority;
- A description of how the board will exercise its continuing responsibility to oversee the use of this special lending authority;
- Confirmation that the bank is in compliance with the minimum capital standards set forth in Banking Board Rule CB101.51 (or IB46 for industrial banks);
- Confirmation that the bank is not operating under a formal or informal enforcement or corrective action based on safety and soundness concerns; and,
- Confirmation that the bank’s composite CAMELS rating is “1” or “2” and that the Capital, Asset Quality, and Management subcomponent ratings are either “1” or “2.”

The form and instructions are available on the Division's website under "Miscellaneous Applications" (link inoperative/removed, 6/20/2012)

Every effort will be made to approve completed applications submitted by qualified institutions within five (5) business days of receipt by the Division. Once approved, a bank's special lending authority remains valid unless rescinded by the Commissioner in accordance with CB101.64(F)(4), or as a result of subsequent changes to the lending limit rules, or statutory authority. ***Banks and industrial banks that were previously certified under the special lending authority do no need to reapply as a result of the March 30, 2006 revisions to the Rules.***

Please direct specific questions to the bank's portfolio manager at the Division, the Director of Examinations, or the Commissioner.