

DOC #9348
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In The Matter of [REDACTED])
Petition for Declaratory Ruling)

RULING and ORDER

[REDACTED] seeks a declaratory ruling on the question:

Is an irrevocable letter of credit (LOC) issued by the Federal Home Loan Bank of Boston (FHLB – Boston) appropriate and acceptable collateral to secure the deposit in a bank of public moneys (public deposit), as defined in RSA 386:57, II and BAN 1450.04(b)(2)?

For the purposes of this Ruling, the Petition in letter form from [REDACTED], dated December 11, 2008, is incorporated by reference herein.

For the reasons stated below, the question is answered in the affirmative.

Discussion

RSA 386:57, II provides, "The bank commissioner shall by rules adopted under RSA 541-A define and classify by risk the nature of securities appropriate for collateral."

Those rules are set forth at BAN 1450, Collateralization of Public Deposits under the "Statutory Authority of RSA 386:57, II." Ban 1450.04, Public Obligations, at paragraph (b) subsection (2) expressly includes among the securities defined pursuant to RSA 386:57, II, obligations of "Federal Home Loan Banks" (BAN 1450.04(b)(2)). FHLB – Boston is a Federal Home Loan Bank.

RSA 387, Investments of Savings Banks, defines the term, "Public Obligations" at RSA 387:1, XV as follows: "PUBLIC OBLIGATIONS: bonds, notes and other obligations of federal, state and local governmental units of the United States and Canada."

At RSA 387:6, certain "public obligations" are expressly listed as "securities" eligible for legal investments. In paragraph II of that section, the eligibility list specifically includes the "authorized...notes...and other securities issued or guaranteed by any federal agency and those of any federal government – sponsored enterprise which is designated by written ruling of the

bank commissioner. As legal investments, the "notes" or "other securities" of federal government sponsored enterprises are prominently defined and classified by risk in the hierarchy of public obligation instruments deemed suitable for legal investment. No distinctions are drawn relative to types of notes.

BAN 1450.04 (b)(2) defines "Public Obligations" and expressly includes the obligations of the Federal Home Loan Banks, which are also federal government sponsored enterprises. The terms "securities" and "obligations" are used interchangeably and can each refer to the same promissory payment instrument.

From the plain meaning of the language applied in the law and the Rules bearing directly on the Question, I find that an irrevocable letter of credit as an irrevocable undertaking of payment by a Federal Home Loan Bank on behalf of a public depositor, qualifies as a "security" or "obligation," and it is thus defined and classified in the laws and in the Rules as having suitable risk characteristics to have been properly defined as such by the bank commissioner.

Conclusion

Based upon New Hampshire statutes and rules, I hereby rule that an irrevocable letter of credit issued by the Federal Home Loan Bank of Boston is appropriate and acceptable collateral to secure the deposit bank of public moneys as defined in RSA 386:57, II and BAN 1450.04(b)(2). This Ruling is based upon the specific facts and representations contained in the Petition letter from [REDACTED] dated December 11, 2008 and applies only to that factual situation.

Dated: December 16, 2008

/s/

Péter C. Hildreth
Bank Commissioner