

STATE OF NEW HAMPSHIRE BANKING DEPARTMENT

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Version

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

RULING AND ORDER
[REDACTED]

Gallagher, Callahan & Gartrell, P.C. (Gallagher Firm), as legal counsel to [REDACTED]

[REDACTED], seeks a declaratory ruling pursuant to Ban 206 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 and Order, the Petition from the Gallagher Firm, dated April 12, 2006, is incorporated by reference herein. For the reasons stated below, the question is answered in the affirmative.

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.

Discussion

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, which defines "Public Obligations," at Ban 1450.04(b) (2) expressly includes the obligations of the Federal Home Loan Banks, which also are 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, and finding that this Ruling benefits the public at large, 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 of the Gallagher law firm dated April 12, 2006 and applies only to that factual situation.

/s/

Dated: 8/2/06

Peter C. Hildreth
Bank Commissioner