

GUIDANCE DOCUMENT

This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

STATEMENT OF POLICY #12

PARTICIPATION LOANS

The Nebraska Department of Banking and Finance (“Department”) sets forth Statement of Policy #12 regarding participation loans. A state-chartered bank is prohibited from purchasing a loan subject to adverse classification by federal or state regulatory agencies unless the borrower’s credit file contains a clear and definitive written program for the orderly liquidation of the entire line of credit.

The Department permits the renewal of adversely classified loans in non-affiliated banks. However, the Department is concerned about the placement of overlines. This policy permits renewals of adversely classified overline loans in non-affiliated banks only if the customer’s credit file contains a written program providing for the orderly liquidation of the entire line of credit.

When a loan is participated because it is over the bank’s legal lending limit, a state-chartered bank may not place the participation with recourse or otherwise agree to buy back the notes if the borrower defaults or otherwise does not make payment. State-chartered banks should be cautious that they do not make any representations that they will be liable for such placed paper.

Section 23A of the Federal Reserve Act prohibits the purchase of a credit subject to adverse classification by regulatory agencies from an affiliated bank, and allows for renewal of those credits on the books of the purchasing bank at the time of classification only under certain conditions.

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