

~~NEBRASKA ADMINISTRATIVE CODE~~

~~LAST ISSUE DATE: JANUARY 9, 1991~~

TITLE 45 - DEPARTMENT OF BANKING AND FINANCE

Chapter 24 - ~~REPEALED. DIRECTORS' EXAMINATIONS PERFORMED BY CERTIFIED PUBLIC ACCOUNTANTS OR PUBLIC ACCOUNTANTS~~

~~001~~ When the board of directors of a bank accepts one annual audit by an accountant or accounting firm in lieu of the one annual examination by the board of directors, these procedures must be followed:

~~001.01 APPLICATION~~ The accountants or accounting firms desiring to perform the one annual audit, replacing the one statutory annual examination, shall make application for such approval upon forms furnished by the Department of Banking and Finance. If the Director of Banking and Finance determines that the applicant accountant or accounting firm is reputable, qualified and independent, approval shall be granted without an accompanying charge. Approval must be obtained for each individual bank audited, such approval to be perpetual, or until cancelled by the individual bank, or revoked by the Department of Banking and Finance.

~~001.02 QUALIFICATIONS~~ The accountant or accounting firm must be a certified public accountant or public accountant. A certified public accountant or public accountant is deemed to be a person who is duly registered and is in good standing under the Public Accountancy Laws of Nebraska.

~~001.03 INDEPENDENCE~~ A certified public accountant or a public accountant will not be considered independent, if he or she, or any member of the accounting firm:

~~001.03A~~ is connected with the bank or any of its affiliates as an officer, director, attorney, or employee or is a member of the immediate family of an officer, director, attorney or employee of the bank or any of its affiliates;

~~001.03B~~ is the beneficial owner, directly or indirectly, of any shares of stock of the bank or any of its affiliates;

~~001.03C~~ has any proprietary interest in any partnership, firm, corporation, syndicate, or other business or legal entity which, directly or indirectly, controls the bank or any of its affiliates;

~~001.03D~~ is a borrower from the bank or any of its affiliates except with respect to:

~~001.03D1~~ a loan on the security of his or her residence;

~~001.03D2~~ a loan to make alterations, repairs, or improvements to his or her residence; or

~~001.03D3 a loan secured solely by his or her savings credits in a bank.~~

~~001.03E makes entries or postings on the books of account or performs any other operating functions for the bank or any of its affiliates;~~

~~001.03F or any partner or principal of the accounting firm receives any special consideration in any transaction with the bank or its affiliates or has any interest, directly or indirectly, financial or otherwise in any real property owned by or securing any loan or otherwise made by the bank or any of its affiliates except as provided in the fourth point of this subdivision subsection 001.03D, or in any other operating activity or function of the institution or any of its affiliates; or~~

~~001.03G has any conflict of interest, or the appearance thereof, by reason of business or personal relationships with management or its decisions or functions.~~

~~001.04 An accounting firm which has a member who is not considered independent shall exclude such accountant from any personal involvement in the audit.~~

~~001.04 001.05 The foregoing points are not be to construed as all-inclusive criteria in judging the independence of a certified public accountant, or a public accountant, but rather as setting forth the most common conditions which contribute to a lack of independence. The certified public accountant or public accountant must adhere to the American Institute of Certified Public Accountants' rules for independence, unless further restricted by the rules or interpretations of the Department of Banking and Finance. It is the responsibility of the individual or the accounting firm to disclose to the State Department of Banking and Finance any unusual relationships or affiliations which he or she or any member may have with the bank, any affiliate of the bank, or any persons closely connected with the bank, and to have resolved any question as to his or her or the firm's independence before proceeding with the engagement.~~

~~001.05 001.06 The individual or the accounting firm must state specifically in the report of audit or directors' examination that he or she or the accounting firm has met the tests of independence specified above and that he or she or the accounting firm is in fact independent.~~

~~001.06 001.07 STANDARDS FOR ACCEPTABILITY AND SCOPE OF EXAMINATION FOR DIRECTORS' EXAMINATIONS The Directors' Examination must be conducted in accordance with "Nebraska Department of Banking and Finance - Standards for Acceptability and Scope for Directors' Examination." See 45 NAC 25. An opinion audit of a bank holding company is acceptable as a Directors' Examination of a subsidiary bank if the same audit procedures are applied to the subsidiary bank as if the opinion audit was being conducted on the subsidiary bank, and such is stated in the opinion audit of the bank holding company.~~

~~001.07 001.08 DIRECTORS' EXAMINATION PERFORMED BY OTHER THAN CERTIFIED PUBLIC ACCOUNTANTS OR PUBLIC ACCOUNTANTS In the event the board of directors does not elect to provide for an annual audit by an accountant or an accounting firm, it must of itself make a thorough examination of the books, records, fund and securities held by the bank. This examination must be conducted in accordance with 45 NAC 25 of the Rules and Regulations of the Department of Banking and Finance. However, it may assign the performance of such a Directors' Examination to one or more persons who may not necessarily be a member of such board, if the report compiled thereof is made in accordance with 45 NAC 25 of the Rules and Regulations of the Department of Banking and Finance and is verified as to its correctness and signed by a majority of the board so attesting. The report is to be made a part of the record of the bank.~~

~~001.08 001.09 PERIODIC DIRECTORS' EXAMINATION A Directors' Examination which is conducted over the course of a calendar year is acceptable. Such an examination must meet all the requirements of 45 NAC 24 and 45 NAC 25. Submission of the examination to the Department shall be within 90 days of the calendar year end, or within 90 days of the completion of the examination if such completion date is earlier.~~