

STATE OF COLORADO

Department of Regulatory Agencies

Richard F. O'Donnell
Executive Director

DIVISION OF BANKING

Richard Fulkerson
State Bank Commissioner



Bill Owens
Governor

June 11, 2003

Lisa M. Smith, Vice President
Bankers Financial Services, Corp.
8800 N.W. 62ND Avenue
P.O. Box 6240
Johnston, IA 50131-6240

RE: Indexed Certificate of Deposit Program

Dear Ms. Smith:

I have reviewed your letter of May 21, 2003, and the supporting documentation concerning the Indexed Certificate of Deposit (ICD) program developed by Bankers Financial Services Corp. It is the Division's position that Colorado state chartered banks, industrial banks, and depository trust companies have the authority to participate in the index-linked CD program as described in the material provided to this office. The Division's responses to your specific questions are as follows:

Are state chartered financial institutions allowed to sell equity-linked certificates of deposit in the State of Colorado?

Yes. However, the Division will look to each financial institution's board and management to analyze the risks, and establish appropriate controls prior to participating in the CDI Program. Such analysis should address at a minimum:

- Compliance with Truth in Savings regulations and disclosure requirements
- Suitability of the product for individual depositors
- Tax implications of the product for the institution and the depositor
- Liquidity and funds management
- Counterparty and implementation risk with respect to the OTC options contracts
- Accounting and reporting requirements (specifically accounting for derivatives instruments and hedging activities)

Are OTC options contracts, as a non-speculative risk management tool, a permissible investment under the laws and regulations of the Department of Regulatory Agencies, Division of Banking?

Yes. Banking Board rule CB101.59 Investment Powers, provides in pertinent part that "A state bank may make such investments, subject to such limitations, as a national bank can make pursuant to paragraph Seventh of 12 USC 24 and Part 1 of 12 CFR, Sections 1.3, 1.4, 1.5, 1.7, 1.8, 1.9, 1.10, and 1.11."

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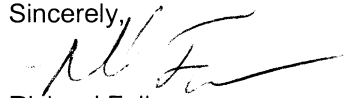
Does the Department of Regulatory Agencies, Division of Banking currently have any policy statement and/or requirements regarding an indexed certificate of deposit program for community banks and financial institutions?

No. The Division has not issued a policy statement with respect to indexed certificate of deposit programs; however, the Division previously reviewed a similar equity linked certificate of deposit program developed and supported by Risk Analytics, Inc., and concluded that Colorado state chartered banks, industrial banks, and depository trust companies have the authority to offer this type of product.

This letter should not be construed as an endorsement of the CDI Program, nor does it constitute an opinion with respect to compliance with federal regulatory requirements, tax matters, or FDIC deposit insurance coverage.

I trust the foregoing is responsive to your request. If you have additional questions, please do not hesitate to contact me at 303-894-7575.

Sincerely,



Richard Fulkerson
State Bank Commissioner

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