



Oregon

Theodore R. Kulongoski, Governor

Department of Consumer and Business Services

Division of Finance and Corporate Securities

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May 21, 2003

Lisa M. Smith
Vice President
Bankers Financial Services Corp.
P.O. Box 6240
Johnston, IA 50131

Re: Indexed Certificates of Deposit and Option Contracts

Dear Ms. Smith:

This letter is to respond to the questions asked by you and set forth below. Nothing in this response should in any way be construed as an endorsement of Bankers Financial Services or the Indexed Certificate of Deposit Program. While the program may be a permissible activity under the Oregon Bank Act (ORS 706-716), it may not be appropriate for all institutions.

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

Answer: The Oregon Bank Act does not prohibit or specifically address the issuance of indexed certificates of deposit. ORS 708A.400 provides that “Oregon commercial banks may, consistent with applicable law and safe and sound banking practices, offer deposit accounts upon such terms and conditions as they consider appropriate.”

“Are OTC options contracts, as a non-speculative risk management tool, a permissible investment under the laws and regulations of the Department?”

Answer: The Department has not issued any regulations governing investment in OTC options contracts. ORS 708A.010 authorizes Oregon commercial banks to engage as principal in those activities in which a national bank may engage and acquire and retain those investments that a national bank may acquire and retain subject to conditions and restrictions that apply to national banks. OCC Interpretive Letter #892 September 2000 addresses the permissibility of these investments for national banks. Therefore, they are permissible investments for Oregon commercial banks.

“Does the Department currently have any policy statement and/or requirements regarding and indexed certificate of deposit program for community banks and financial institutions?”

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Answer: *The Department has not issued any policy statements or requirements regarding indexed certificate of deposit programs for Oregon commercial banks. However, we would expect the decision to engage in these programs to be approved by the bank's board of directors after a thorough due diligence review; adoption of policies that identify, monitor, and control the risk exposures to the bank; and comply with the conditions and/or restrictions that apply to national banks.*

Banks should also take steps to insure that customer disclosures for the indexed certificates comply with applicable regulations governing deposit accounts.

Thank you for your inquiry. I hope I have sufficiently addressed your questions. If you have additional questions regarding this subject, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Ed S. Simkins by Charles C. Donald". The signature is written in black ink and is positioned above the typed name and title.

Ed S. Simkins
Manager, Banking Section
503-947-7495