



STATE OF WYOMING

DEPARTMENT OF AUDIT

DIVISION OF BANKING

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Dave Freudenthal
Governor

Michael Geesey
Director

Jeffrey C. Vogel
Commissioner

June 20, 2003

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

Dear Ms. Smith:

I am writing in response to your letter dated May 22, 2003 requesting information regarding the permissibility of state chartered banks to offer indexed certificates of deposit and enter into option contracts as a non-speculative hedging activity. You have requested that the Division of Banking respond to the following inquiries.

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

The Wyoming banking statutes do not directly address equity indexed certificates of deposit. However, W.S. 13-2-101 does permit a state chartered bank to engage in any activity that is usual or incidental to the business of banking, and engage in any activity that is permissible for a national bank with the prior approval of the state banking commissioner. After review of the information submitted, our office would likely approve this activity if a request from a state chartered bank were received.

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

Again, non-speculative risk management tools would be considered incidental to the business of banking and as they are permissible for a national bank, the tools would likewise be permissible for a state-chartered bank with prior approval of the banking commissioner. Also, if a specific request were received, approval would likely be granted.

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

The Division of Banking has not issued a policy statement regarding any indexed certificate of deposit program. However, once interest is conveyed from the state banking industry in Wyoming, a policy statement would likely be issued to establish expectations for safety and soundness that will be used during the examination process.

Thank you for providing the information for our consideration. It will be very helpful in discussion regarding the product with our state-chartered financial institutions. The Division of Banking does not declare that a product is suitable for all state-chartered banks and does not endorse specific products.

Ms. Lisa M. Smith

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However, the Division is always receptive to reviewing new products to assist our state-chartered banks in remaining competitive within their respective markets while maintaining sound risk management processes. While the product appears that it would be permissible for a state-chartered bank, further consideration would be required to ensure safety and soundness would not be compromised given a specific financial institutions intentions for use of the product.

If you have any further questions or need additional information, please do not hesitate to contact me directly at (307) 777-6604.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael E. Williams". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael E. Williams
Deputy Commissioner

