ARKANSAS STATE BANK DEPARTMENT
EXAMINATION POLICY

Policy Number	14-06
Effective Date	08/01/14
Supersedes	
Approval	08/21/25

SUBJECT: Guidance Regarding Derivative and Other Securities Transactions

BACKGROUND

Arkansas Code Annotated (A.C.A.) § 23-47-501 establishes the legal lending limit for Arkansas state-chartered banks at twenty percent (20%) of the capital base of the bank. The Arkansas State Bank Department issued a Policy Statement, dated July 20, 2007, and subsequently revised May 26, 2020, providing the method state banks shall use in determining capital, surplus, and undivided profits for the purposes of determining their legal lending limit.

As a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank"), states were required to take into consideration credit exposure to derivative and other securities financing transactions in order for state-chartered institutions to engage in these types of activities. Title 23 of the Code of Arkansas Rules (C.A.R.) § 320.1002 includes these types of transactions within the definition of "total indebtedness". As a result of this Rule, derivative and other securities financing transactions are subject to the twenty percent (20%) legal lending limit for Arkansas state-chartered banks.

Title 23 C.A.R. § 320-1002 reads, "Total indebtedness" shall also include any credit exposure to a person arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between the bank and the person. For the purposes of this paragraph the term derivative transaction shall include any transaction that is a contract, agreement, swap, warrant, note, or option that is based in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets.

GENERAL GUIDANCE

On June 20, 2013, the Office of the Comptroller of the Currency (OCC) released its final rule implementing Dodd- Frank mandates for national banks effective October 1, 2013. In order to achieve parity with national banks, the Arkansas State Bank Department required state chartered banks to comply with the OCC's final rule (codified in 12 CFR 32 – Lending Limits). The following information is relevant to a bank's compliance with the OCC guidance:

- The definition of "loans and extensions of credit" included in 12 CFR 32.2 (q), as amended, will apply to this guidance and is expanded to include any credit exposure arising from a derivative transaction or a securities financing transaction.

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- Loans and extensions of credit, including those that arise from derivative transactions and securities financing transactions, must be consistent with safe and sound banking practices and shall be included in the calculation of a bank's legal lending limit.

- As noted above in 23 C.A.R. § 320-1002, the term derivatives transaction includes any transaction that is a contract, agreement, swap, warrant, note, or option that is based in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets. Consistent with 12 CFR 32 – Lending Limits, banks can generally choose to measure the credit exposure of derivative transactions by means of:

  - the *regulator-approved internal model method*
  - the *Conversion Factor Matrix Method*
  - the *Current Exposure Method*

In regards to valuation for derivatives and other securities transactions, Arkansas state-chartered banks will use one of the measures provided in the following OCC Rule for measuring credit exposure of these transactions.

CONCLUSION

The OCC's final rule minimizes the compliance burden on small and midsize banks of measuring the credit exposure of derivative transactions and securities financing transactions by providing different options for measuring the exposures for each transaction type. The options permit banks to adopt compliance alternatives that fit their size and risk management requirements, consistent with safety and soundness and the goals of the statute. Community banks should note that derivatives transactions include interest rate swaps.

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12 CFR Part 32 – Lending Limits

§32.9 Credit exposure arising from derivative and securities financing transactions.

(a) *Scope.* This section sets forth the rules for calculating the credit exposure arising from a derivative transaction or a securities financing transaction entered into by a national bank or savings association for purposes of determining the bank's or savings association's lending limit pursuant to 12 U.S.C. 84 or 12 U.S.C. 1464(u), as applicable, and this part.

(b) *Derivative transactions.* (1) *Non-credit derivatives.* Subject to paragraphs (b)(2), (b)(3) and (b)(4) of this section, a national bank or savings association shall calculate the credit exposure to a counterparty arising from a derivative transaction by one of the following methods. Subject to paragraph (b)(4) of this section, a national bank or savings association shall use the same method for calculating counterparty credit exposure arising from all of its derivative transactions.

(i) *Model Method.*

(A) *Credit exposure.* The credit exposure of a derivative transaction under the Internal Model Method shall equal the sum of the current credit exposure of the derivative transaction and the potential future credit exposure of the derivative transaction.

(B) *Calculation of current credit exposure.* A bank or savings association shall determine its current credit exposure by the mark-to-market value of the derivative contract. If the mark-to-market value is positive, then the current credit exposure equals that mark-to-market value. If the mark to market value is zero or negative, than the current credit exposure is zero.

(C) *Calculation of potential future credit exposure.*
(*1*) A bank or savings association shall calculate its potential future credit exposure by using either:

(i) An internal model the use of which has been approved in writing for purposes of 12 CFR 3.132 (d) or 324.132 (d), as appropriate, provided that the bank or savings association provides prior written notice to the appropriate Federal banking agency of its use for purposes of this section; or

(ii) Any other appropriate model the use of which has been approved in writing for purposes of this section by the appropriate Federal banking agency.

(*2*) Any substantive revisions to a model made after the bank or savings association has provided notice of the use of the model to the appropriate Federal banking agency pursuant to paragraph (b)(1)(i)(C)(*1*)(*i*) of this section or after the appropriate Federal banking agency has approved the use of the model pursuant to paragraph (b)(1)(i)(C)(*1*)(*ii*) of this section must be approved by the agency before a bank or savings association may use the revised model for purposes of this part.

(D) *Net credit exposure.* A bank or savings association that calculates its credit exposure by using the Internal Model Method pursuant to this paragraph (b)(1)(i) may net credit exposures of derivative transactions arising under the same qualifying master netting agreement.

(ii) *Conversion Factor Matrix Method.* The credit exposure arising from a derivative transaction under the Conversion Factor Matrix Method shall equal and remain fixed at the potential future credit exposure of the derivative transaction which shall equal the product of the notional amount of the derivative transaction and a fixed multiplicative factor determined by reference to Table 1 of this section.

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TABLE 1—CONVERSION FACTOR MATRIX FOR CALCULATING POTENTIAL FUTURE CREDIT EXPOSURE[1]

Original maturity[2]	Interest rate	Foreign exchange rate and gold	Equity	Other[3] (includes commodities and precious metals except gold)
1 year or less	.015	.015	.20	.06
Over 1 to 3 years	.03	.03	.20	.18
Over 3 to 5 years	.06	.06	.20	.30
Over 5 to 10 years	.12	.12	.20	.60
Over ten years	.30	.30	.20	1.0

[1]For an OTC derivative contract with multiple exchanges of principal, the conversion factor is multiplied by the number of remaining payments in the derivative contract.

[2]For an OTC derivative contract that is structured such that on specified dates any outstanding exposure is settled and the terms are reset so that the market value of the contract is zero, the remaining maturity equals the time until the next reset date. For an interest rate derivative contract with a remaining maturity of greater than one year that meets these criteria, the minimum conversion factor is 0.005.

[3]Transactions not explicitly covered by any other column in the Table are to be treated as "Other."

(iii) Current Exposure Method. The credit exposure arising from a derivative transaction (other than a credit derivative transaction) under the Current Exposure Method shall be calculated pursuant to 12 CFR Part 3, Appendix C, Sections 32(c)(5), (6) and (7); 12 CFR Part 167, Appendix C, Sections 32(c)(5), (6), and (7); or 12 CFR Part 390, subpart Z, Appendix A, Sections 32(c)(5), (6) and (7), as appropriate.

(iv) Standardized Approach for Counterparty Credit Risk Method. The credit exposure arising from a derivative transaction (other than a credit derivative transaction) under the Standardized Approach for Counterparty Credit Risk Method shall be calculated pursuant to 12 CFR 3.132 (c)(5) or 324.132(c)(5), as appropriate.

(2) *Credit Derivatives.* (i) *Counterparty exposure.* (A) *In general.* Notwithstanding paragraph (b)(1) of this section and subject to paragraph (b)(2)(i)(B) of this section, a national bank or savings association that uses the Conversion Factor Matrix Method or the Current Exposure Method, or that uses the Model Method without entering an effective margining arrangement as defined in §32.2(l), shall calculate the counterparty credit exposure arising from credit derivatives entered by the bank or savings association by adding the net notional value of all protection purchased from the counterparty on each reference entity.

(B) *Special rule for certain effective margining arrangements.* A bank or savings association must add the EMA threshold amount to the counterparty credit exposure arising from credit derivatives calculated under the Model Method. The *EMA threshold* is the amount under an effective margining arrangement with respect to which the counterparty is not required to post variation margin to fully collateralize the amount of the bank's or savings association's net credit exposure to the counterparty.

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(ii) *Reference entity exposure.* A national bank or savings association shall calculate the credit exposure to a reference entity arising from credit derivatives entered into by the bank or savings association by adding the net notional value of all protection sold on the reference entity. A bank or savings association may reduce its exposure to a reference entity by the amount of any eligible credit derivative purchased on that reference entity from an eligible protection provider.

(3) *Special rule for central counterparties.* (i) In addition to amounts calculated under §32.9(b)(1) and (2), the measure of counterparty exposure to a central counterparty shall also include the sum of the initial margin posted by the bank or savings association, plus any contributions made by it to a guaranty fund at the time such contribution is made.

(ii) Paragraph (b)(3)(i) of this section does not apply to a national bank or saving association that uses an internal model pursuant to paragraph (b)(1)(i) of this section if such model reflects the initial margin and any contributions to a guaranty fund.

(4) *Mandatory or alternative method.* The appropriate Federal banking agency may in its discretion require or permit a national bank or savings association to use a specific method or methods set forth in paragraph (b)(1) of this section to calculate the credit exposure arising from all derivative transactions or any specific, or category of, derivative transactions if it finds, in its discretion, that such method is consistent with the safety and soundness of the bank or savings association.

(c) *Securities financing transactions.*—(i) *Model Method.* (A) A national bank or savings association may calculate the credit exposure of a securities financing transaction by using either:

(1) An internal model the use of which has been approved in writing by the appropriate Federal banking agency for purposes of 12 CFR 3.132(b) or 324.132 (b) as appropriate, provided the bank or savings association provides prior written notice to the appropriate Federal banking agency of its use for purposes of this section; or

(2) Any other appropriate model the use of which has been approved in writing for purposes of this section by the appropriate Federal banking agency.

(B) Any substantive revisions to a model made after the bank or savings association has provided notice of the use of the model to the appropriate Federal banking agency pursuant to paragraph (c)(1)(i)(A)(*1*) of this section or after the appropriate Federal banking agency has approved the use of the model pursuant to paragraph (c)(1)(i)(A)(*2*) of this section must be approved by the agency before a bank or savings association may use the revised model for purposes of part 32.

(ii) *Basic Method.* A national bank or savings association may calculate the credit exposure of a securities financing transaction as follows:

(A) *Repurchase agreement.* The credit exposure arising from a repurchase agreement shall equal and remain fixed at the market value at execution of the transaction of the securities transferred to the other party less cash received.

(B) *Securities lending*— (*1*) *Cash collateral transactions.* The credit exposure arising from a securities lending transaction where the collateral is cash shall equal and remain fixed at the market value at execution of the transaction of securities transferred less cash received.

(*2*) *Non-cash collateral transactions.* The credit exposure arising from a securities lending transaction where the collateral is other securities shall equal and remain fixed as the product of the higher of the two haircuts associated with the two securities, as determined in Table 2 of this section, and the higher of the two par values of the securities. Where more than one security is provided as collateral, the applicable haircut is the higher of the haircut associated with the security lent and the notional-weighted average of the haircuts associated with the securities provided as collateral.

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(C) *Reverse repurchase agreements.* The credit exposure arising from a reverse repurchase agreement shall equal and remain fixed as the product of the haircut associated with the collateral received, as determined in Table 2 of this section, and the amount of cash transferred.

(D) *Securities borrowing.—* (*1*) *Cash collateral transactions.* The credit exposure arising from a securities borrowed transaction where the collateral is cash shall equal and remain fixed as the product of the haircut on the collateral received, as determined in Table 2 of this section, and the amount of cash transferred to the other party.

(*2*) *Non-cash collateral transactions.* The credit exposure arising from a securities borrowed transaction where the collateral is other securities shall equal and remain fixed as the product of the higher of the two haircuts associated with the two securities, as determined in Table 2 of this section, and the higher of the two par values of the securities. Where more than one security is provided as collateral, the applicable haircut is the higher of the haircut associated with the security borrowed and the notional-weighted average of the haircuts associated with the securities provided as collateral.

TABLE 2—COLLATERAL HAIRCUTS

SOVEREIGN ENTITIES		
	Residual maturity	Haircut without currency mismatch[1]
OECD Country Risk Classification[2] 0-1	< = 1 year	0.005.
	>1 year, <= 5 years	0.02.
	>5 years	0.04.
OECD Country Risk Classification 2-3	<= 1 year	0.01.
	>1 year, <= 5 years	0.03.
	> 5 years	0.06.
CORPORATE AND MUNICIPAL BONDS THAT ARE BANK-ELIGIBLE INVESTMENTS		
	Residual maturity for debt securities	Haircut without currency mismatch
All	<=1 year	0.02.
All	>1 year, <=5 years	0.06.
All	>5 years	0.12.
OTHER ELIGIBLE COLLATERAL		
Main index[3] equities (including convertible bonds)		0.15.
Other publicly-traded equities (including convertible bonds)		0.25.
Mutual funds		Highest haircut applicable to any security in which the fund can invest.
Cash collateral held		0.

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[1]In cases where the currency denomination of the collateral differs from the currency denomination of the credit transaction, an additional 8 percent haircut will apply.

[2]OECD Country Risk Classification means the country risk classification as defined in Article 25 of the OECD's February 2011 Arrangement on Officially Supported Export Credits Arrangement.

[3]Main index means the Standard & Poor's 500 Index, the FTSE All-World Index, and any other index for which the covered company can demonstrate to the satisfaction of the Federal Reserve that the equities represented in the index have comparable liquidity, depth of market, and size of bid-ask spreads as equities in the Standard & Poor's 500 Index and FTSE All-World Index.

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