

January 12, 2006

TO: CHIEF EXECUTIVE OFFICER  
ALL STATE CHARTERED BANKS

FROM: ROGER NOVOTNY  
DIRECTOR OF BANKING

RE: PERMISSIBLE BANK INVESTMENTS

The Division has been asked to review whether South Dakota statutes and rules allow a state-chartered bank to invest in stock issued by the Federal Home Loan Mortgage Corporation (“FHLMC” or “Freddie Mac”).

No specific authorization for a state bank to hold FHLMC stock is currently in state statute or rule. However, state statutes and rules specifically authorize state-chartered banks to invest in stock issued by the following:

Federal Agricultural Mortgage Corporation	SDCL 51A-4-26
Federal National Mortgage Association	SDCL 51A-4-29
Federal Home Loan Bank	ARSD 20:07:03:24

The Division finds that a national bank is authorized by 12 U.S.C. 24 (7) to hold “mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or section 306 of the Federal Home Loan Mortgage Corporation Act...” OCC Interpretive Letter #931 footnote 1 states “Indeed, the OCC previously relied on this same language in section 24 (Seventh) in concluding that national bank may purchase and hold preferred stock of Freddie Mac. Interpretive Letter No. 577, *reprinted in* [1991-1992 Transfer Binder] Fed. Banking Law. Rep. (CCH)...”

Under 51A-2-14.1 “...a state bank shall have the powers and authorities conferred as of January 1, 1999, upon federally chartered banks doing business in this state.” The Division finds that a national bank as of the date set in statute was authorized to hold FHLMC stock, and we conclude that a state bank may invest in stock issued by the Federal Home Loan Mortgage Corporation without limit, subject to safety and soundness considerations.

cc: SD Division of Banking Examiners  
Federal Deposit Insurance Corporation  
Federal Reserve Bank of Minneapolis