<u>INTERPRETIVE LETTER 2019-01 (May 28, 2019)</u>

WHAT IS THE DEFINITION OF READILY MARKETABLE COLLATERAL?

You requested that the Illinois Department of Financial and Professional Regulation, Division of Banking (Division), determine the definition of "readily marketable collateral" as used in the lending limit provisions found in Section 32 of the Illinois Banking Act (IBA), 205 ILCS 5/32.

As you note, there is no explicit definition provided for readily marketable collateral in the IBA. However, some insight can be gained by looking to the context in which it is used. Section 32 states that the, "liabilities to any state bank of a person may exceed 25% of the unimpaired capital and unimpaired surplus of the bank, provided that…the excess amount from time to time outstanding is fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available [price] quotations." 205 ILCS 5/32.

Further, in an analogous provision, Section 6013(g) of the Illinois Savings Bank Act (ISBA) expressly defines readily marketable collateral:

> "Financial instruments or bullion that are salable under ordinary circumstances with reasonable promptness at a fair market value on an auction or a similarly available daily bid-and-ask price market." 205 ILCS 205/6013(g).

The ISBA's definition of readily marketable collateral tracks the definitions in the Office of the Comptroller of the Currency (OCC) lending limit rules and in the Federal Deposit Insurance Corporation (FDIC) Real Estate Lending Standards.

> **<u>OCC</u>**: "Financial instruments and bullion that are salable under ordinary market conditions with reasonable promptness at a fair market value determined by quotations based upon actual transactions on an auction or similarly available daily bid and ask price market." 12 Code of Federal Regulations (C.F.R) 32.2(v).
> "'Financial Instruments' include stocks, notes, bonds, and debentures traded on a national securities exchange, OTC margin stocks as defined in Regulation U, 12 CFR part 221, commercial paper, negotiable certificates of deposit, bankers' acceptances, and shares in money market and mutual funds of the type which issue shares in which banks may perfect a security interest." 12 CFR 32.2(p).
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> **<u>FDIC</u>**: "Insured deposits, financial instruments, and bullion in which the lender has a perfected interest. Financial instruments and bullion must be salable under ordinary circumstances with reasonable promptness at a fair market value determined by quotations based on actual transactions, on an auction or similarly available daily bid and ask price market." Appendix A to Subpart A of Part 365 – Interagency Guidelines for Real Estate.[1]

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[1] https://www.fdic.gov/regulations/laws/rules/2000-8700.html

Other factors that the Division's examiners would consider for securities to be readily marketable include the securities' trading ease, reliable price quotations on a daily basis, and the trading through a regulated market.

As the IBA does not define readily marketable collateral, the ISBA, OCC and FDIC definitions may be used for guidance. Fundamentally, readily marketable collateral is a financial instrument or bullion traded at market value on a daily bid-and-ask price market.

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