

INTERPRETIVE LETTER 92-15 (SEPTEMBER 17, 1992)

Marketable investment securities must be rated on a per issue basis; rating requirements do not apply to general obligations issued by municipalities and other public agencies.

In your letter of *, you inquired about the ability of state-chartered banks to invest in "municipal investment securities" and the applicability of certain provisions of the Illinois Banking Act ("Act"), Ill. Rev. Stat. ch. 17, par. 301 et seq. (1991), to those investments.

First, you inquired whether a rating of Aaa, Aa, A, or Baa by Moody's Investors Service would meet the requirement in Section 33 of the Act that a marketable investment security be rated "in the top 4 rating categories." Please be advised that the Moody's ratings that you inquired about would satisfy the rating requirement specified in Section 33.

You also inquired whether Section 33's rating requirement applies on a "per issue" basis. Because Section 33 requires that the "marketable investment securities" be rated in the top four rating categories in order to be eligible for investment by state-chartered banks, it is correct to state that each investment instrument must meet the rating requirement. A non-rated investment security or an investment security that is not rated among the top four rating categories would not be eligible for investment unless it qualified under one of the exceptions or exemptions from Section 33's restrictions found elsewhere in the Act.

Your next inquiry involved the authority for a state-chartered bank to invest in general obligations of municipalities of any state in the United States, even if the obligation was not rated. Section 34(3) provides that the investment restrictions of Section 33 do not apply "to the extent of the unimpaired capital and unimpaired surplus of any bank to the purchase of or holding...of the general obligations of each municipality located in the State of Illinois or in any other state of the United States or to the purchase of or holding of the tax anticipation warrants of each such municipality." This provision would allow state-chartered banks to invest in general obligations of any municipality, notwithstanding the fact that the general obligation is unrated. The maximum amount that a bank could invest in any such general obligation of a municipality would be an amount equal to 100% of the unimpaired capital and unimpaired surplus of the bank.

You also inquired whether the term "general obligation" as used in Section 34 would have the same definition as the definition of "general obligation" used by the Comptroller of the Currency. Please be advised that for purposes of the provisions in the Illinois Banking Act, the term "general obligation" is defined in Section 2 of the Act as "a bond, note, debenture, security, or other instrument evidencing an obligation of the issuer that is supported by the full available resources of the issuer, the principal and interest of which is payable in whole or in part by taxation." It is this definition from Section 2 of the Act that would apply to the term "general obligation" as that term appears in Section 34 of the Act.

Finally, Section 33 was recently amended to provide that the rating requirements stated in that Section "shall not apply to securities that are issued by a public agency as defined in Section 1 of the Public Funds Investment Act." "Public Agency" is defined in Section 1 of the Public Funds Investment Act, Ill. Rev. Stat. ch. 85, par. 901 (1991), to mean "the State of Illinois, the various counties, townships, cities, towns, villages, school districts, special road districts, public water supply districts, fire protection districts, drainage districts, levy districts, sewer districts, housing authorities, the Illinois Bank Examiners' Education Foundation, the Chicago Park District, and all other political corporations or subdivisions of the State of Illinois, now or hereafter created, whether herein specifically mentioned or not." A copy of Public Act 87-940 is enclosed for your reference.