

Arizona Department of Financial Institutions



SUBSTANTIVE POLICY STATEMENT

Section: Banks

August 01, 2012

Subject: Legal Lending Restrictions

Policy Statement # BA-3

The Department policy relating to the application of legal lending limit restrictions to loan renewals when the outstanding amounts of such loans exceed the bank's legal lending limit is as follows:

A renewal of a loan will not be regarded as a new loan at the time of renewal for lending limit purposes, provided: (1) no new funds are advanced on the loan and (2) a new borrower is not substituted for the original obligor. A loan restructuring, to include extended repayment terms, altered interest rates, or the taking of additional security, will be treated as a loan renewal rather than a new loan and extension of credit, provided that the original obligor on the loan is not released (other obligors may be added).

In addition, the lending limits do not apply to that portion of a loan or extension of credit that represents accrued or discounted interest.

A legally binding fee paid commitment within a bank's lending limit will be treated as a loan made at the time the bank entered into the commitment. Thus, a subsequent decline in lending limits would not result in a violation when the commitment is funded, even if the funding exceeds the lending limit at the time of the funding.

However, non-fee paid commitments or lines of credit will be treated in the same fashion as term loans. Unfunded portions which exceed the lending limit may not be funded. For example, assume that a bank has a \$10,000,000 non-fee paid commitment to a borrower which was within the legal lending limit when made, with \$6,000,000 funded at the date that the commitment expires.

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If the bank's lending limit has declined to \$5,000,000, the bank could nevertheless renew the \$6,000,000 as if the commitment was a term loan, but the remainder of the commitment must remain unfunded.

Questions regarding this policy statement should be directed to our Financial Institutions Division at (602) 771-2800.