

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF PROPOSED
2.59.127, 2.59.128, and 2.59.129)	AMENDMENT
pertaining to derivatives and securities)	
financing transactions as they relate to)	NO PUBLIC HEARING
lending limits and credit exposures)	CONTEMPLATED

TO: All Concerned Persons

1. On June 8, 2015, the Department of Administration proposes to amend the above-stated rules.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on May 26, 2015, to provide information about the nature of the accommodation that you need. Please contact Wayne Johnston, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2918; TDD (406) 444-1421; facsimile (406) 841-2930; or e-mail to banking@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

2.59.127 LENDING LIMITS APPLICABLE TO DERIVATIVES AND SECURITIES FINANCING TRANSACTIONS (1) remains the same.

(2) The calculation of credit exposure arising from derivative transactions and securities financing transactions for lending limit purposes under 32-1-432, MCA, must be determined pursuant to Appendix A to ARM 2.59.129 dated April 20, 2015.

(3) remains the same.

AUTH: 32-1-432, MCA

IMP: 32-1-432, MCA

STATEMENT OF REASONABLE NECESSITY: It is necessary to amend the reference in (2) to the department's publication called "Appendix A to ARM 2.59.129." The appendix, in its initial form, was incorporated by reference in ARM 2.59.129 when that rule was newly adopted effective April 11, 2014. Appendix A to ARM 2.59.129 is currently being revised in conjunction with this notice. Wherever a reference to the appendix appears in ARM 2.59.127, 2.59.128, and 2.59.129, it is being amended to "Appendix A to ARM 2.59.129," as appropriate, and an edition date of April 20, 2015, is being added. The edition date will ensure that future revisions to the appendix are adopted consistent with 2-4-307, MCA. The other revisions being made to the appendix in conjunction with this notice are explained

and justified in the Statement of Reasonable Necessity for ARM 2.59.129, which incorporates the appendix by reference.

2.59.128 NONCONFORMING LOANS AND EXTENSIONS OF CREDIT RELATED TO DERIVATIVES AND SECURITIES FINANCING TRANSACTIONS

(1) through (1)(b) remain the same.

(c) in the case of a credit exposure arising from a derivative transaction or a securities financing transaction and measured by either the Current Exposure Method or the Basel Collateral Haircut Method specified in ARM 2.59.129 and Appendix A to ARM 2.59.129 dated April 20, 2015, the credit exposure subject to the lending limits of 32-1-432, MCA, or this rule increases after execution of the transaction.

(2) and (3) remain the same.

AUTH: 32-1-432, MCA

IMP: 32-1-432, MCA

STATEMENT OF REASONABLE NECESSITY: It is necessary to change the term "Appendix A" in (1)(c) to "Appendix A to ARM 2.59.129 dated April 20, 2015," to reflect the true name of the publication and to add an edition date. The true name of the publication must be consistently used to distinguish it from another Appendix A adopted by the department in a rule that is altogether unrelated to derivatives and securities financing transactions. The edition date for Appendix A to ARM 2.59.129 is being added because the appendix is being revised in conjunction with this notice. The nature of other revisions to Appendix A to ARM 2.59.129 and the reasons for them are set out in the Statement of Reasonable Necessity for the amendments to ARM 2.59.129.

2.59.129 CREDIT EXPOSURE ARISING FROM DERIVATIVES AND SECURITIES FINANCING TRANSACTIONS

(1) For purposes of determining a bank's lending limit under 32-1-432, MCA, the bank's credit exposure arising from a derivatives transaction or a securities financing transaction entered by a bank must be calculated in accordance with the methods and models contained in Appendix A to ARM 2.59.129 dated April 20, 2015, which is adopted and incorporated by reference. Appendix A to ARM 2.59.129 dated April 20, 2015, may be found on the department's web site at <http://banking.mt.gov/Home/Forms.aspx#164912240-banks-and-trust-companies> <http://banking.mt.gov/Home/Forms> under Banks and Trust Companies.

AUTH: 32-1-432, 32-1-433, MCA

IMP: 32-1-432, 32-1-433, MCA

STATEMENT OF REASONABLE NECESSITY: It is necessary to amend the references in this rule to Appendix A. The appendix, in its initial form, was incorporated by reference in ARM 2.59.129 at the time the new rule became effective on April 11, 2014. The appendix is currently being revised in conjunction with this notice to add an edition date to it and for other reasons explained below.

The edition date will assure that future revisions to the appendix are adopted consistent with 2-4-307, MCA, and that the controlling and effective edition of the publication is readily discernable and accessible to the public. The amendments will also distinguish the appendix publication from another Appendix A adopted by reference in a different department rule that is wholly unrelated to derivatives and securities financing transactions.

Other revisions to Appendix A to ARM 2.59.129 being made in conjunction with this notice are that unnecessary citations to federal regulations are being deleted for clarification purposes from the "Current Exposure Method" and "Basel Collateral Haircut Method" sections of the appendix. The citation being retained in those sections of the department's Appendix A to ARM 2.59.129 dated April 20, 2015, is the Office of the Comptroller of the Currency's (OCC's) 12 CFR part 3 Appendix C, Section 32 guidance dated January 1, 2012. The January 1, 2012, date of the OCC's guidance is being added to ensure that adoption by the department of any future amendments to the OCC guidance is done consistent with 2-4-307, MCA. The department and banking regulators in other states have patterned their derivatives rules and securities financing rules (if any) after the OCC's regulations. There is no need to include in Appendix A to ARM 2.59.129 dated April 20, 2015, under the Current Exposure Method and the Basel Collateral Haircut Method sections, regulations similar to the OCC's that were promulgated by other federal banking regulators.

Supplemental information concerning calculation of credit exposures under the Current Exposure Method and the Basel Collateral Haircut Method is being added to the appendix for the convenience of banks that engage in derivatives and/or securities financing transactions. The supplemental information being added to the appendix is condensed and simpler than the OCC's longer, more difficult to navigate guidance contained in 12 CFR part 3, Appendix C, Section 32, dated January 1, 2012. Paragraph (3) in Appendix A to ARM 2.59.129 is being amended for clarification purposes.

A copy of the proposed changes to Appendix A to ARM 2.59.129 dated April 20, 2015, is available on the department's web site at <http://banking.mt.gov/Home/Forms> under Banks and Trust Companies.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action to Lorraine A. Schneider, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to banking@mt.gov; and must be received no later than 5:00 p.m., June 1, 2015.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the person listed in 4 above no later than 5:00 p.m., June 1, 2015.

6. If the Division of Banking and Financial Institutions receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate

administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be five persons based on the 53 existing state-chartered banks.

7. An electronic copy of this proposal notice is available through the department's web site at <http://doa.mt.gov/administrativerules>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that if a discrepancy exists between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The Division of Banking and Financial Institutions maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list shall make a written request that includes the name and mailing address and e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Notices will be sent by e-mail unless a mailing preference is noted in the request. The written requests may be mailed or delivered to Wayne Johnston, Division of Banking and Financial Institutions, 301 S. Park, Ste. 316, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; e-mailed to banking@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. The department has determined that under 2-4-111, MCA, the proposed rule amendment will not significantly and directly affect small businesses.

By: /s/ Sheila Hogan
Sheila Hogan, Director
Department of Administration

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State April 20, 2015.