

**LENDING LIMIT OF INDUSTRIAL LOAN
AND INVESTMENT COMPANIES**

In the early 1970's, Indianapolis Morris Plan adopted an interpretation of sound capital in calculation of their institution's loan limit. They based their interpretation on the fact the Industrial Act does not provide any definition of the term Capital or Surplus. Their interpretation was excepted by the Department in utilization for the base loaning limit authority in Report of Examinations. Discussions were held in 1985/1986 in connection with what would be used as an interpretation to base the institution's loaning limit base. They were permitted to continue using their interpretation of sound capital of previous years.

In 1987, another industrial authority deposits became insured by the Federal Deposit Insurance Corporation. Shortly thereafter, that institution interpretation of I.C. 28-5-1-8(a) and I.C. 28-5-1-3, by Board of Resolution, was the same as used for years by the Indianapolis Morris Plan. The Department was notified by letter, of this action by the Board of the second Institution. The Department failed to reply or take any action upon the information. It should be considered that the interpretation had been acceptable to the Department based upon the long time use of the same interpretation by another industrial authority.

In order to clarify the position of the Department of Financial Institutions regarding the computation of sound capital, the Surplus of an Industrial Loan and Investment Company is considered to be the difference between the aggregate book value of its assets, and sum of all its liabilities plus capital stock.

This interpretation is the result of extensive discussions between the Director of the Department and the Deputy Director of Depository Institutions. As a result of this position, the four (4) Industrial Loan and Investment Companies remaining in Indiana will continue to enjoy a maximum lending limit more similar to that of state chartered banks which have chosen to adopt the National Bank Lending Limit pursuant to I.C. 28-1-13-1.5.

This definition of Sound Capital is the total of the following accounts:

- a. Capital Notes - and/or Debentures approved by the Department
- b. Accrued interest on Capital Notes
- c. Unimpaired Capital
- d. Unimpaired Surplus
- e. Unimpaired Proceeds Surplus (Retained Earnings/Undivided Profit)

Report of Conditions are not the same as used by Commercial Banks. However, report of condition by those institutions who have deposit insurance may very well be required to use the same form for reporting to the FDIC.

Each Report of Examination and/or reviews of the four supervised industrial authorizes by the DFI will reveal the definition embodied in this directive in each report of examination must document the definition in the Confidential section. Also, include the accounts and dollar balance, with the appropriate percentage calculation applied to determine the lending limit of the institution. The lending limit calculations should specify the appropriate section (I.C. 28-5-1-8) and reference to this interpretation included in this directive.