

## **GUIDELINES FOR ISSUING SUBORDINATED DEBT SECURITIES**

**PURPOSE:** IC 28-1-1-3(10) requires prior approval, in writing, from the Department of Financial Institutions for the proceeds of notes and debentures to be included in Sound Capital. The following guidelines and procedures should be followed in order for the issuance of subordinated debt securities to qualify as Sound Capital.

- 1.) The holders of a majority of the outstanding capital stock of the bank must have approved the proposed subordinated debt security issuance.
- 2.) The bank shall submit to the Department of Financial Institutions a letter requesting the approval of the subordinated debt to be included in Sound Capital and a brief summary for the purpose of the debt.
- 3.) The bank shall also submit the proposed offering circular. The offering circular must comply with the statement of policy adopted by the Federal Deposit Insurance Corporation concerning the use of offering circulars. In addition, the offering circular should also state in bold print something similar to the following:

**THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE INDIANA DEPARTMENT OF FINANCIAL INSTITUTIONS NOR HAS THE INDIANA DEPARTMENT OF FINANCIAL INSTITUTIONS PASSED ON THE ADEQUACY OR ACCURACY OF THIS OFFERING CIRCULAR.**

- 4.) The securities must qualify as Tier 2 capital as defined in Part 325 of the FDIC Rules and Regulations.
- 5.) Subordinated debt securities, if approved by the Director may be designated as capital debt and represent sound capital for the purpose of computing limitations on the sum invested in real estate and buildings used for the convenient transaction of its business. The principal amount of capital debt that may be included as Sound Capital shall not exceed an amount equal to 50% of Capital Stock and Surplus. Surplus, for the purpose of this policy, shall include the net amount formally transferred to the surplus account, including capital contributions, adjustments arising from treasury stock transactions and any amount received for capital stock in excess of its par or stated value.
- 6.) An opinion of counsel for issuer as to the legality of the obligation must be provided to the Department.
- 7.) The provisions of these guidelines may be waived by the Members of the Department in any circumstance requiring immediate capitalization for the protection of the depositors