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Governor
State of Missouri



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DIVISION OF FINANCE

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Richard J. Weaver
Commissioner of Finance

August 23, 2013

Re: Interpretive Letter 1-2013: Request under Section 362.106(4), RSMo.
Activity requested – Bank Investment in Class A Stock of the Federal
Agricultural Mortgage Corporation (“Farmer Mac”)

In a letter dated July 12, 2013, you requested a determination from this office that would permit Missouri state-chartered banks to invest in Class A stock/shares of the Federal Agricultural Mortgage Corporation to the same extent as a national bank.

Under §362.106(4) RSMo, Missouri’s “Super Wildcard Law,” state-chartered banks may exercise specific powers that are requested in a notice and writing submitted to the director of finance if within the notice period the director determines that the proposed activity is not unsafe or unsound and that the bank meets the prescribed federal standards for national banks. The director may either take no action or issue an interpretive letter that specifically describes the activity permitted and any limitations on the activity.

National Bank Authority

The Office of the Comptroller of the Currency (OCC) addressed this issue in Interpretive Letter No. 427. The OCC determined participation in the secondary loan market is incidental to banking under 12 U.S.C. §24(7). In order to utilize the secondary market for agricultural loans, stock ownership in the Federal Agricultural Mortgage Corporation (Farmer Mac) is required. Therefore, owning Farmer Mac stock is incidental to banking.

In reaching this conclusion, the OCC also relies on the Agricultural Credit Act of 1987 (the Act), 12 U.S.C. §2001 et. seq., which established Farmer Mac. The Act authorizes Farmer Mac to require loan originators desiring to sell their agricultural loans in the secondary market through Farmer Mac to own stock as a condition to selling the loans 12 U.S.C. §2279aa-4. The Act further contemplated wide-spread distribution of the stock so that an individual bank will not be required to hold a significant amount of stock. The OCC concluded “national banks can purchase Farmer Mac stock in nominal amounts necessary to participate in the program, but any such purchase must be consistent with safe and sound banking practices.”

Missouri Authority

Investment powers for a bank to invest for its own account fall within the “powers incidental to the business of banking” found in §362.106(1) RSMo. Limitations on that power are found in §362.170 RSMo. That provision limits investments to a bank’s legal lending limit unless the investment falls within one of the enumerated exceptions. Ownership of Farmer Mac stock is not one of the enumerated exceptions.

Summary and Findings

Section 362.106 permits the director to allow a requested activity, subject to the same limitations as those imposed on national banks, with any additional limitations necessary to find that such request is a safe and sound bank practice. In this case, the director finds that a bank can invest in Farmer Mac stock. While state-chartered banks are limited by §362.170 RSMo in purchasing stock for their own benefit, investment in Farmer Mac stock allows a bank to transfer portfolio risk which is beneficial to the bank beyond the simple stock investment. A bank’s investment in Farmer Mac stock is limited to the amount of stock necessary to participate in Farmer Mac programs.

This letter will be filed today with the Office of the Missouri Secretary of State and posted on the public internet website of the Division of Finance. It will become effective ten (10) days after filing with the Secretary of State. If you have any questions regarding this matter, please contact Christie Kincannon, Chief Counsel for the Division.

Very truly yours,



Richard J. Weaver
Commissioner of Finance

RJW:pn

cc: Corporations Division
Secretary of State