

## § 1.8

## 12 CFR Ch. I (1-1-08 Edition)

paragraph (a) of this section for speculative purposes.

### § 1.8 Nonconforming investments.

(a) A national bank's investment in securities that no longer conform to this part but conformed when made will not be deemed in violation but instead will be treated as nonconforming if the reason why the investment no longer conforms to this part is because:

- (1) The bank's capital declines;
- (2) Issuers, obligors, or credit-enhancers merge;
- (3) Issuers become related directly or indirectly through common control;
- (4) The investment securities rules change;
- (5) The security no longer qualifies as an investment security; or
- (6) Other events identified by the OCC occur.

(b) A bank shall exercise reasonable efforts to bring an investment that is nonconforming as a result of events described in paragraph (a) of this section into conformity with this part unless to do so would be inconsistent with safe and sound banking practices.

### INTERPRETATIONS

#### § 1.100 Indirect general obligations.

(a) *Obligation issued by an obligor not possessing general powers of taxation.* Pursuant to § 1.2(b), an obligation issued by an obligor not possessing general powers of taxation qualifies as a general obligation of a State or political subdivision for the purposes of 12 U.S.C. 24 (Seventh), if a party possessing general powers of taxation unconditionally promises to make sufficient funds available for all required payments in connection with the obligation.

(b) *Indirect commitment of full faith and credit.* The indirect commitment of the full faith and credit of a State or political subdivision (that possesses general powers of taxation) in support of an obligation may be demonstrated by any of the following methods, alone or in combination, when the State or political subdivision pledges its full faith and credit in support of the obligation.

(1) *Lease/rental agreement.* The lease agreement must be valid and binding

on the State or the political subdivision, and the State or political subdivision must unconditionally promise to pay rentals that, together with any other available funds, are sufficient for the timely payment of interest on, and principal of, the obligation. These lease/rental agreement may, for instance, provide support for obligations financing the acquisition or operation of public projects in the areas of education, medical care, transportation, recreation, public buildings, and facilities.

(2) *Service/purchase agreement.* The agreement must be valid and binding on the State or the political subdivision, and the State or political subdivision must unconditionally promise in the agreement to make payments for services or resources provided through or by the issuer of the obligation. These payments, together with any other available funds, must be sufficient for the timely payment of interest on, and principal of, the obligation. An agreement to purchase municipal sewer, water, waste disposal, or electric services may, for instance, provide support for obligations financing the construction or acquisition of facilities supplying those services.

(3) *Refillable debt service reserve fund.* The reserve fund must at least equal the amount necessary to meet the annual payment of interest on, and principal of, the obligation as required by applicable law. The maintenance of a refillable reserve fund may be provided, for instance, by statutory direction for an appropriation, or by statutory automatic apportionment and payment from the State funds of amounts necessary to restore the fund to the required level.

(4) *Other grants or support.* A statutory provision or agreement must unconditionally commit the State or the political subdivision to provide funds which, together with other available funds, are sufficient for the timely payment of interest on, and principal of, the obligation. Those funds may, for instance, be supplied in the form of annual grants or may be advanced whenever the other available revenues are not sufficient for the payment of principal and interest.