

524.103 Definitions.

As used in this chapter, unless the context otherwise requires, the term:

1. *"Account"* means any account with a state bank and includes a demand, time or savings deposit account or any account for the payment of money to a state bank.
2. *"Administrator"* means the person designated in section 537.6103.
3. *"Aggregate capital"* means the sum of capital, surplus, undivided profits, and reserves as of the most recent calculation date.
4. *"Agreement for the payment of money"* means a monetary obligation, other than an obligation in the form of an evidence of indebtedness or an investment security; including, but not limited to, amounts payable on open book accounts receivable and executory contracts and rentals payable under leases of personal property.
5. *"Agricultural credit corporation"* means as defined in section 535.12, subsection 4.
6. *"Articles of incorporation"* means the original or restated articles of incorporation and all amendments thereto and includes articles of merger. *"Articles of incorporation"* also means the original or restated articles of organization and all amendments including articles of merger if a state bank is organized as a limited liability company under this chapter.
7. *"Assets"* means all the property and rights of every kind of a state bank.
8. *"Bank"* means a corporation or limited liability company organized under this chapter or 12 U.S.C. § 21.
9. *"Bankers' bank"* means a bank which is organized under the laws of any state or under federal law, and whose shares are owned exclusively by other banks or by a bank holding company whose shares are owned exclusively by other banks, except for directors' qualifying shares when required by law, and which engages exclusively in providing services for depository institutions and officers, directors and employees of those depository institutions.
10. *"Board of directors"* means the board of directors of a state bank as provided in section 524.601. For a state bank organized as a limited liability company under this chapter, *"board of directors"* means a board of directors or board of managers as designated by the limited liability company in its articles of organization or operating agreement.
11. *"Borrower"* means a person named as a borrower or debtor in a loan or extension of credit, or any other person, including a drawer, endorser, or guarantor, deemed to be a borrower under section 524.904, subsection 3.
12. *"Business of banking"* means the business generally done by banks.
13. *"Calculation date"* means the most recent of the following:
 - a. The date the bank's statement of condition is required to be filed pursuant to section 524.220, subsection 2.
 - b. The date an event occurs that reduces or increases the bank's aggregate capital by ten percent or more.
 - c. As the superintendent may direct.
14. *"Capital"* means the sum of the par value of the preferred and common shares of a state bank issued and

outstanding.

15. "*Capital structure*" means the capital, surplus, and undivided profits of a state bank and shall include an amount equal to the sum of any capital notes and debentures issued and outstanding pursuant to section 524.404.

16. "*Chief executive officer*" means the person designated by the board of directors to be responsible for the implementation of and adherence to board policies and resolutions by all officers and employees of the bank.

17. "*Contractual commitment to advance funds*" means a bank's obligation to do either of the following:

a. Advance funds under a standby letter of credit or other similar arrangement.

b. Make payment, directly or indirectly, to a third person contingent upon default by a customer of the bank in performing an obligation and to make such payment in keeping with the agreed upon terms of the customer's contract with a third person, or to make payments upon some other stated condition.

The term does not include commercial letters of credit and similar instruments where the issuing bank expects the beneficiary to draw on the issuer, that do not guarantee payment, and that do not provide for payment in the event of a default by a third person.

18. "*Control*" means when a person, directly or indirectly or acting through or together with one or more persons, satisfies any of the following:

a. Owns, controls, or has the power to vote fifty percent or more of any class of voting securities or membership interests of another person.

b. Controls, in any manner, the election of a majority of the directors, managers, trustees, or other persons exercising similar functions of another person.

c. Has the power to exercise a controlling influence over the management or policies of another person.

19. "*Customer*" means a person with an account or other contractual arrangement with a state bank.

20. "*Director*" means a member of the board of directors and includes a manager of a state bank organized as a limited liability company under this chapter.

21. "*Evidence of indebtedness*" means a note, draft or similar negotiable or nonnegotiable instrument.

22. "*Executive officer*" means a person who participates or has authority to participate, other than in the capacity of a director or manager, in major policymaking functions of a state bank, whether or not the officer has an official title, whether or not such a title designates the officer as an assistant, or whether or not the officer is serving without salary or other compensation. The chief executive officer, chairperson of the board, the president, every vice president, and the cashier of a state bank are deemed to be executive officers, unless such an officer is excluded, by resolution of the board of directors of a state bank or by the bylaws of the state bank, from participation, other than in the capacity of a director, in major policymaking functions of the state bank, and the officer does not actually participate in the major policymaking functions. All officers who serve on a board of directors are deemed to be executive officers, except as provided for in section 524.701, subsection 3.

23. "*Fiduciary*" means an executor, administrator, guardian, conservator, receiver, trustee or one acting in a similar capacity.

24. "*Insolvent*" means the inability of a state bank to pay its debts and obligations as they become due in the ordinary course of its business. A state bank is also considered to be insolvent if the ratio of its capital, surplus, and undivided profits to assets is at or close to zero or if its assets are of such poor quality that its continued existence is uncertain.

25. "*Insured bank*" means a state bank the deposits of which are insured in accordance with the provisions of the Federal Deposit Insurance Act.

26. "*Manager*" means a person designated by the members to manage a state bank organized as a limited liability company under this chapter as provided in the articles of organization or an operating agreement and may include a member of the board of directors.

27. "*Member*" means a person with a membership interest in a state bank organized as a limited liability company under this chapter.

28. "*Membership interest*" means a member's share of the profits and losses, the right to receive distributions of assets, and any right to vote or participate in management of a state bank organized as a limited liability company under this chapter.

29. "*Municipal corporation*" means an incorporated city.

30. "*Officer*" means chief executive officer, executive officer, or any other administrative official of a bank elected by the bank's board of directors to carry out any of the bank's operating rules and policies.

31. "*Operations subsidiary*" means a wholly owned corporation incorporated and controlled by a bank that performs functions which the bank is authorized to perform.

32. "*Person*" means as defined in section 4.1.

33. "*Reserves*" means the amount of the allowance for loan and lease losses of a state bank.

34. "*Sale of federal funds*" means any transaction between depository institutions involving the transfer of immediately available funds resulting from credits to deposit balances at federal reserve banks, or from credits to new or existing deposit balances due from a correspondent depository institution.

35. "*Shareholder*" means one who is a holder of record of shares in a state bank. If a state bank is organized as a limited liability company under this chapter, "*shareholder*" means any member of the limited liability company.

36. "*Shares*" means the units into which the proprietary interests in a state bank are divided, including any membership interests of a state bank organized as a limited liability company under this chapter.

37. "*Standby letter of credit*" means a letter of credit, or similar arrangement, that represents an obligation to the beneficiary on the part of the issuer to do any of the following:

- a. Repay money borrowed by or advanced to or for the account of the account holder.
- b. Make payment on account of any indebtedness undertaken by the account holder.
- c. Make payment on account of any default by the account holder in the performance of an obligation.

38. "*State bank*" means any bank incorporated pursuant to the provisions of this chapter after January 1, 1970, and any "state bank" or "savings bank" incorporated pursuant to the laws of this state and doing

business as such on January 1, 1970, or organized as a limited liability company under this chapter.

39. "*Superintendent*" means the superintendent of banking of this state.

40. "*Supervised financial organization*" as defined and used in the Iowa consumer credit code, chapter 537, includes a person organized pursuant to this chapter.

41. "*Surplus*" means the aggregate of the amount originally paid in as required by section 524.401, subsection 3, any amounts transferred to surplus pursuant to section 524.405 and any amounts subsequently designated as such by action of the board of directors of the state bank.

42. "*Trust company*" means a business organization which is authorized to engage in trust business pursuant to section 524.1005. A bank lawfully exercising trust powers under the laws of this state or of the United States is not a trust company by reason of having authority to engage in trust business in addition to its general business.

43. "*Undivided profits*" means the accumulated undistributed net profits of a state bank, including any residue from the fund established pursuant to section 524.401, subsection 4, after:

a. Payment or provision for payment of taxes and expenses of operations.

b. Transfers to reserves allocated to a particular asset or class of assets.

c. Losses estimated or sustained on a particular asset or class of assets in excess of the amount of reserves allocated therefor.

d. Transfers to surplus and capital.

e. Amounts declared as dividends to shareholders.

44. "*Unincorporated area*" means a village within which a state bank or national bank has its principal place of business.

[C71, 73, 75, 77, 79, 81, § 524.103]

85 Acts, ch 252, §32; 89 Acts, ch 257, §2, 3; 90 Acts, ch 1228, § 1; 95 Acts, ch 148, §13; 96 Acts, ch 1056, § 1; 2003 Acts, ch 44, §114; 2004 Acts, ch 1141, §47, 48; 2005 Acts, ch 3, §86