

DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION

TITLE 10, CHAPTER 1, SUBCHAPTER 30  
PROPOSED AMENDED REGULATIONS

(Changes proposed during the 45-day notice are shown in single underline for additions and in strikethrough for deletions. Proposed changes for this first 15-day notice are shown in double underline for additions and ~~double strikethrough~~ for deletions.)

~~§ 30.101.5. Prohibited Advertising~~

~~(a) A credit union shall not advertise that it or any of its officers or agents are "bonded to," "supervised by," "regulated by," "licensed by," "audited by," or "examined by" the State of California or any agency thereof.~~

~~(b) An out-of-state credit union organized and operating pursuant to Section 14157 shall identify the state where chartered by appropriate language in connection with the use of its name in California.~~

~~——— Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14157 and 14202, Financial Code.~~

§ 30.102 Definitions

(a) The terms defined in the California Credit Union Law when used in this Subchapter shall have the meanings set forth in that law. In addition, the following definitions shall apply in this Subchapter:

(1) "Management personnel" includes the Chief Executive Officer, the Assistant Chief Executive Officer, the Chief Financial Officer, the Operations Manager, and the Credit Manager, and any individual occupying a similar status or performing similar functions.

(2) “Gross income” does not include non-operating gains or losses, recoveries or donated funds.

(3) “Unimpaired capital and surplus” means the total of shares, undivided earnings, and appropriated undivided earnings, net of any income or loss for the accounting period, and does not include the regular reserve or unrealized gains or losses for changes in market values of available-for-sale investments.

(4) “Risk assets” means all assets except the following:

(A) Cash on hand.

(B) Deposits and/or shares in federally or state-insured banks or savings and loan associations, or federally or privately insured credit unions that have a remaining maturity of 5 years or less.

(C) Assets that have a remaining maturity of 5 years or less and are insured by, fully guaranteed as to principal and interest by, or due from the U.S. Government, its agencies, the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association. Collateralized mortgage obligations that are comprised of government guaranteed mortgage loans shall be included in this asset category.

(D) Loans to other credit unions that have a remaining maturity of 5 years or less.

(E) Student loans insured under the provisions of title IV, Part B of the Higher Education Act of 1965 (20 U.S.C. 1071, et seq.) or similar state insurance programs that have a remaining maturity of 5 years or less.

(F) Loans that have a remaining maturity of 5 years or less and are fully or partially insured or guaranteed by the Federal or a state government or any agency of either. A loan which is partially insured or guaranteed by the Federal or a state government, or agency of either, shall be excepted pursuant to this Subdivision only to the extent that the loan is so insured or guaranteed.

(G) Shares or deposits in a corporate credit union that have a remaining maturity of 5 years or less, other than shares or deposits representing contributions to the membership capital as defined in 12 C.F.R. Part 704. A corporate credit union is a credit union that:

1. Is operated primarily for the purpose of serving other credit unions;
2. Is designated by the National Credit Union Administration as a corporate credit union; and,
3. Limits natural person members to the minimum required by state or federal law to charter and operate the credit union.

(H) Mutual funds or trusts which are authorized by Section 30.300(b)(~~e~~) and are either carried at the lower of cost or market, or are marked to market value monthly.

§ 30.200. ~~Out-of-State~~ Foreign (Other State) Credit Unions.

(a) Application of Foreign (Other State) Credit Union. An application for a credit union organized and duly qualified as a credit union in another state to operate ~~become a credit union organized and operating~~ pursuant to ~~Section 14157 of the Financial Code~~ the Foreign (Other State) Credit Union Law shall be ~~submitted on the form furnished by~~ filed with the Commissioner at any of the

offices of the Department electronically or by mail. The application shall be filed in the office of the Department in Los Angeles. The application shall include a cover letter addressing the factors set forth in Section 16022 of the Financial Code.

(b) Exhibits. ~~Attached to the~~ The application submitted pursuant to Subdivision (a) of this section shall also include the following exhibits:

(1) A certificate issued by the Secretary of State pursuant to Section 2105 of the California Corporations Code showing that the credit union is authorized to do business in this state, including the name of the agent upon whom process directed at the credit union may be served.

~~(2) A schedule of interest rates to be charged on loans to be made to residents of this state, a statement that the applicant understands the provisions of Section 14157(a)(3) of the Credit Union Law and a copy of that portion of the applicable law under which the credit union operates establishing maximum interest rates.~~

(2) ~~(3)~~ Evidence that the credit union members' share accounts are insured by Title II of the Federal Credit Union Act (12 U.S.C. Sec. 1781 et seq.) or other comparable insurance acceptable to the Commissioner.

(3) ~~(4)~~ Evidence that the credit union has obtained surety bond coverage and fidelity bond coverage as prescribed in Section 14409 of the Financial Code.

(4) ~~(5)~~ A letter from the supervisory agency indicating that the credit union is in good standing in the state where the principal office is located. A copy of the

credit union's most recent report of examination issued by the credit union's home-state supervisor and share insurer.

~~(6) If the credit union operates on a fiscal year different from the calendar year, a statement indicating the period covered by the credit union's last fiscal year.~~

(5) ~~(7)~~ A copy of the audited balance sheet and income statement, prepared by an independent accountant or certified public accountant, for the most recently completed calendar or fiscal year.

(6) ~~(8)~~ Statistics indicating the present number of members in the credit union, the total number of persons eligible for membership, the number of persons eligible for membership in California, and the number of members residing in California.

(7) ~~(9)~~ A statement of exact, present field of membership and the locations of any branch offices in California as well as any proposed field of membership if a change is to be made concurrently, with the establishment of an additional branch office.

~~(10) Articles of Incorporation.~~

~~(11) Bylaws.~~

(8) ~~(12)~~ A report of the names of the person(s) managing each branch office in this state and Statement(s) of Identity and Questionnaire completed by all such persons.

~~(13) Completed Customer Authorization of Disclosure of Financial Records giving the Commissioner access to financial records in the custody of persons other than the credit union.~~

~~(14) The language to be used in connection with the credit union's name in California as required by Section 30.101(b) of this Chapter.~~

~~(15) A copy of a resolution of the board of directors agreeing to keep the Commissioner or the Commissioner's duly designated representative advised at all times of the address at which the books, accounts, papers, records, files, safes and vaults are located in California and the office hours of the credit union or, if not located in California, to furnish copies of the credit union's books, accounts, papers, records and files specified in a request therefor to the Commissioner or the Commissioner's duly designated representative at the place designated at such request.~~

(9) ~~(16)~~ A copy of a resolution of the board of directors committing the credit union to furnish to the Commissioner the following:

~~(A) Annual reports to the Commissioner as prescribed in Article 2 of Chapter 3 of the Credit Union Law.~~

(A) ~~(B)~~ Payment for the cost of examination or services performed in accordance with Section ~~14353~~ 16006 of the ~~Credit Union Law~~ Financial Code.

(B) ~~(C)~~ An annual fee in accordance with Section ~~14351~~ 16006 of the ~~Credit Union Law~~ Financial Code.

~~(D) The names of the officers, within fifteen (15) days after the board of directors elects the officers of the credit union. At this time, the credit union shall also notify the Commissioner of the names of the board of directors.~~

~~(E) An annual report of the names of the person(s) managing each branch office in this state and a Statement of Identity and Questionnaire within ten (10) business days after a change in managers is effected.~~

~~(F) Reports of annual audits or examinations, on a continuing basis, performed by the applicable regulatory or supervisory agency and/or the credit union's independent public accountants or certified public accountants within ten (10) business days of receipt by the credit union and copies of any responses to those reports at the time they are sent to the agency and/or accountants.~~

~~(G) All amendments to the Articles of Incorporation, Bylaws and the field of membership within thirty (30) days of adoption.~~

~~(C) (H) Any changes, additions, or deletions of branch office locations in this state within ten (10) business days of such changes, additions, or deletions.~~

~~(c) Fees. Each credit union organized and operating pursuant to this section shall pay an annual fee of \$ 250.00 to the Commissioner on or before December 31st of each year. If payment is not made to the Commissioner by that time, the certificate then in effect stating that the credit union is organized and operating pursuant to Section 14157 of the Financial Code may by order be summarily suspended or revoked by the Commissioner ten (10) days after giving of notice by the Commissioner that such amount is due and unpaid. If, after such an order is made, a request for hearing is filed in writing and a hearing is not held~~

~~within sixty (60) days thereafter, the order is rescinded as of its effective date.~~

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14157, 14200, 14203, 14205, 14250, ~~14351, 14353~~ and 14409, 16004, 16006, and 16022, Financial Code.

### § 30.300. Investments

(a) Investments made by a credit union pursuant to Sections 14652, 14653 and 14653.5 of the Financial Code shall be subject to the following provisions:

(1) The board of directors of a credit union shall adopt and review at least annually, and the credit union shall comply with, a written investment policy which sets out the goals of the credit union's investment portfolio with respect to the yield, maturity, liquidity and diversification, and risk management of its investments.

(2) A credit union shall maintain documentary evidence that its investments are authorized pursuant to Sections 14652, 14653 and 14653.5 of the Financial Code and meet the requirements of this Section.

(b) Pursuant to Section 14653.5 of the Financial Code, a credit union is authorized to ~~make the following investments:~~ invest in the securities issued by any person, as that term is defined in Section 14001.1 of the Financial Code, subject to the limitation that the credit union's total investments in the securities issued by any one person shall not exceed 10 percent of the credit union's equity capital, as that term is defined in Section 14400 of the Financial Code.



Obligations of the United States and those for which the faith and credit of the United States are pledged for the payment of the principal and interest are not subject to this limit. Investments in an "investment company" (commonly known as a "mutual fund") as defined in the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.) or trusts provided all investments and investment practices of the investment company or trust would be permissible if made directly by the credit union or federal credit unions are not subject to this limit.

~~(1) Federal Funds: A credit union may sell funds to authorized financial institutions, provided; that the interest or other consideration received from the authorized financial institution is the market value of federal funds transactions and that the transaction has a maturity of one or more business days or the credit union is able to require repayment at any time.~~

~~(2) Yankee Dollars: A credit union may invest in Yankee Dollar deposits in a United States branch of a foreign bank licensed to do business in the state in which it is located or in a state-chartered, foreign-controlled bank, if the branch of the foreign bank or the foreign-controlled bank are insured by the Federal Deposit Insurance Corporation.~~

~~(3) Eurodollar Deposits: A credit union may invest in Eurodollar deposits in a branch of an authorized financial institution.~~

~~(4) Bankers' Acceptances: A credit union may invest in bankers' acceptances issued by a bank insured by the Federal Deposit Insurance Corporation.~~

~~(5) Deposits: A credit union may invest in deposits of authorized financial institutions.~~

~~(6) Mutual funds or trusts: A credit union may invest in an "investment company" (commonly known as a "mutual fund") as defined in the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.) or trusts provided all investments and investment practices of the investment company or trust would be permissible if made directly by the credit union or federal credit unions.~~

(c) Credit unions may not engage in the following investment activities with respect to investments authorized by Subdivision (b):

(1) A credit union may not buy or sell a standby commitment.

(2) A credit union may not buy or sell a futures contract.

(3) A credit union may not engage in adjusted trading.

(4) A credit union may not engage in a short sale.

(5) A credit union's directors, officials, committee members and employees, and their immediate family members, may not receive pecuniary consideration in connection with the making of an investment or deposit by the credit union.

(d) For purposes of Subdivisions (b) and (c) of this Section, the following definitions shall apply:

(1) "Adjusted trading" means any method or transaction used to defer a loss whereby a credit union sells a security to a vendor at a price above its current market price and simultaneously purchases or commits to purchase from the vendor another security at a price above its current market price.

~~(2) "Authorized financial institution" means a national bank, state bank, trust company, savings association, credit union, or other financial institution which is organized under the laws of the State of California, or which is insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.~~

~~(3) "Bankers' acceptance" means a time draft that is drawn on and accepted by a bank, and that represents an irrevocable obligation of the bank.~~

~~(4) "Eurodollar deposit" means a deposit in a foreign branch of a United States depository institution.~~

~~(5) "Federal funds transaction" means a short-term or open-ended transfer of funds to an authorized financial institution.~~

(2) (6) "Futures contract" means a contract for the future delivery of commodities, including certain government securities, sold on commodities exchanges.

(3) (7) "Immediate family member" means a spouse, or a child, parent, grandchild, grandparent, brother or sister, or the spouse of any such individual.

~~(8) "Market price" means the last established price at which a security is sold.~~

~~(9) "Maturity date" means the date on which a security matures, and shall not mean the call date or the average life of the security.~~

(4) (10) "Security" means any security, obligation, account, deposit, or other item authorized for investment by a credit union.

(5) (11) "Short sale" means the sale of a security not owned by the seller.

(6) ~~(42)~~ "Standby commitment" means a commitment to either buy or sell a security, on or before a future date, at a predetermined price. The seller of the commitment is the party receiving payment for assuming the risk associated with committing either to purchase a security in the future at a predetermined price, or to sell a security in the future at a predetermined price. The seller of the commitment is required to either accept delivery of a security (in the case of a commitment to buy) or make delivery of a security (in the case of a commitment to sell), in either case at the option of the buyer of the commitment.

~~(43) "Yankee Dollar deposit" means a deposit in a United States branch of a foreign bank licensed to do business in the state in which it is located, or a deposit in a state chartered, foreign controlled bank.~~

(e) Notwithstanding subdivision (b), the Commissioner may find that an investment is unsafe pursuant to Financial Code section 14204.

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14204, 14652, 14653 and 14653.5, Financial Code.

### § 30.803. Member Business Loans

The provisions of this Section shall apply to every credit union organized and operating pursuant to the California Credit Union Law (~~"Law"~~), the accounts of which are insured by the National Credit Union Share Insurance Fund.

(a) Notwithstanding any other provisions of the California Credit Union Law or of these rules, a credit union must adhere to the requirements stated in ~~the following regulations of the~~ Part 723 of the National Credit Union

Administration ("NCUA") regulations concerning member business loans (12 C.F.R. 723) (as of ~~February 5, 2019~~ January 1, 2020), NCUA Regulation 701.21 (c)(8) concerning prohibited fees (12 C.F.R. 701.21(c)(8)) (as of January 1, 2020), and NCUA Regulation 701.21(d) (5) concerning non-preferential loans (12 C.F.R. 701.21) (as of January 1, 2020), which are each hereby incorporated by reference, other than the requirements that the credit union notify or request approval from the NCUA Board or NCUA Regional Director: ~~NCUA Regulation 701.21 (h) (12 C.F.R. 701.21 (h)) concerning member business loans, NCUA Regulation 701.21 (c) (8) (12 C.F.R. 701.21 (c) (8)) concerning prohibited fees, and NCUA Regulation 701.21 (d) (5) (12 C.F.R. 701.21 (d) (5)) concerning non-preferential loans.~~

(b) Whenever the federal regulations referred to in Subdivision (a) requires that a federal credit union request approval from or notify the NCUA Board or the NCUA Regional Director, a credit union subject to this rule shall request approval from or notify the Commissioner.

(c) Within forty-five (45) days of receipt of a complete request for approval required by Subdivision (b) of this rule, the Commissioner shall approve or disapprove the request. Within forty-five (45) days of receipt of an incomplete request, the Commissioner shall notify the credit union that the request is incomplete and shall specify the information needed to complete the request.

Note: Authority cited: Section 14201, Financial Code. Reference: Sections 14950, ~~14951~~, 14952, 14953, 14954, 14955, 14957, 14958 and 15100, Financial Code.