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**Sent:** Thursday, March 4, 2021 8:52 AM

**To:** Shultz, Chris@DFPI [REDACTED]

**Subject:** PRO-09-17

Chris

Several credit unions have reached out to us with considerable concern over proposed limits on investments that NCUA has no such limits. The 10% of equity limit in a single entity does not contemplate a credit union's use of a bank for correspondent services. There is no indication as to why this change is being proposed and would like to get some background as to the reasons behind this. Thank you in advance for assistance

Diana

Here is the section

## **INVESTMENT AUTHORITY**

### **CA PROPOSED REGS**

(Proposed amendments shown by underline.)

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 [emphasis added], 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.

(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:...

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

### **Financial Code 14652, 14653, 14653.5**

- 14652. Every credit union may invest in securities and other assets described in [Chapter 10 \(commencing with Section 800\) of Division 1](#) as legal investments for nonbank licensees.
- 14653. Credit unions may invest in a trust organized solely for the purpose of investing in United States government securities and United States government agency securities, provided the trust is formed by an organization composed of credit unions or an organization of credit union associations.
- **14653.5. *Notwithstanding any other provision of law, a credit union may make any investment authorized by regulation or in writing by the commissioner. [Emphasis added.]***

### **FCU COMPARISON**

Here are a few examples of the FCU limits. Also, the permissible investments and the prohibited investments regulations are linked below.

#### **Permissible Investments: [703.14](#)**

- Municipal securities, 25% of net worth to a singles issuer

- Mortgage note repurchase transactions: 25% of net worth with any one counterparty
- Commercial mortgage related security (CMRS): 25% of net worth

**Prohibited Investments:** [703.16](#)