

Clearinghouse Rule 97-052

STATE OF WISCONSIN)
) SS
OFFICE OF CREDIT UNIONS)

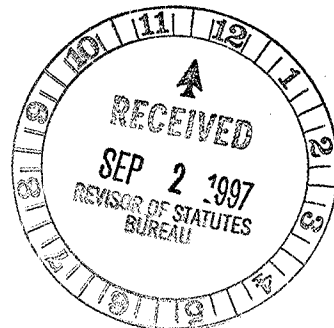
I, Ginger Larson, Director of Credit Unions and custodian of the official records, certify that the annexed rules, relating to participation loan authority in credit unions, were duly approved and adopted by this office.

I further certify that this copy has been compared by me with the original on file in this office and that it is a true copy of the original, and of the whole original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Office of Credit Unions at 101 E. Wilson St. in the city of Madison, this 2nd day of September, 1997.



Ginger Larson
Ginger Larson
Director of Credit Unions



97-52
11-1-97

**ORDER OF THE
DEPARTMENT OF FINANCIAL INSTITUTIONS - OFFICE OF CREDIT UNIONS**

An order to amend, repeal, create, and renumber Chapter CU 70 (DFI-CU 70) relating to participation loan authority in credit unions.

Analysis Prepared by the Office of Credit Unions:

Statutory authority: ss. 186.235 (2) & (8)

Statutes interpreted: s. 186.098 (9m)

Chapter DFI-CU 70 provides participation loan authority parity with federal credit unions. The interpretation of rules in this chapter shall be coordinated with and parallel to the interpretation of federal laws, regulations, and interpretations from which these rules are derived.

The federal rule on participation loans, 12 CFR Part 701.22, was revised effective January 26, 1996. The requirement that the participation agreement be executed prior to the final disbursement of the loan was eliminated. The proposed changed to Chapter DFI-CU 70 will provide state-chartered credit unions parity with federal credit unions.

Chapter DFI-CU 70

**PARTICIPATION LOAN AUTHORITY
PARITY WITH FEDERAL CREDIT UNIONS**

| | | | |
|--------------|-------------------|--------------|-----------------------------------|
| DFI-CU 70.01 | Purpose and scope | DFI-CU 70.04 | General authority |
| DFI-CU 70.02 | Interpretation | DFI-CU 70.05 | Originating lender requirements |
| DFI-CU 70.03 | Definitions | DFI-CU 70.06 | Participating lender requirements |

DFI-CU 70.01 PURPOSE AND SCOPE. The purpose of this rule is to permit Wisconsin-chartered credit unions to engage in loan participation contracts with one or more credit unions, credit union organizations, and financial organizations in the same manner that such participation contracts are available to federally-chartered credit unions.

DFI-CU 70.02 INTERPRETATION. The interpretation of rules in this chapter shall be coordinated with and parallel to the interpretation of federal laws, regulations, and interpretations from which ~~these rules are~~this chapter is derived.

Note: This rule parallels 12 CFR Part 701.22, Loan Participation, effective ~~February 1985~~January 26, 1996.

DFI-CU 70.03 DEFINITIONS. In this chapter:

(1) "Credit union" means any federal or state-chartered credit union.

(2) "Credit union organization" means any organization as determined by the ~~commissioner~~director established primarily to serve the daily operational needs of its member credit unions. The term does not include trade associations, membership organizations principally composed of credit unions, or corporations or other businesses which principally provide services to credit union members as opposed to corporations or businesses whose business relates to the daily in-house operation of credit unions.

(3) "Director" means the director of credit unions or an authorized representative of the director.

~~(3)~~(4) "Eligible organization" means a credit union, credit union organization, or financial organization.

~~(4)~~(5) "Financial organization" means any federally-chartered or federally-insured financial institution.

~~(5)~~(6) "Originating lender" means the participant with which the member contracts.

~~(6)~~(7) "Participation loan" means a loan made in participation within which one or more eligible organizations, ~~where the written commitment to participate in the loan precedes final disbursement~~ participate pursuant to a written agreement with the originating lender.

DFI-CU 70.04 GENERAL AUTHORITY. Subject to the provisions of this chapter, any credit union may participate in ~~loan contracts~~making loans with eligible organizations within the limitations of the board of directors' written participation loan policies, if all of the following conditions are met:

(1) No credit union shall obtain an interest in a participation loan if the sum of that interest together with other indebtedness owing to the credit union by the borrower exceeds 10% of the credit union's assets.

~~(2) Prior to final disbursement, a written participation agreement shall be properly executed, acted upon by the credit union's board of directors, or the investment committee and retained in the credit union's office. The agreement shall include provisions which identify the participation loan or loans.~~

(2) A written master participation agreement has been properly executed, acted upon by the credit union's board of directors, or if the board has so delegated in its policy, senior management official and retained in the credit union's office. The master agreement shall include provisions for identifying, either through a document which is incorporated by reference into the master agreement, or directly in the master agreement, the participation loan or loans prior to their sale.

(3) A credit union may sell to or purchase from any participant the servicing of any loan in which it owns a participation interest.

DFI-CU 70.05 ORIGINATING LENDER REQUIREMENTS. An originating lender which is a credit union subject to this chapter shall: do all of the following:

- (1) Originate loans only to its members;
- (2) Retain an interest of at least 10% of the balanceface amount of each loan;
- (3) Retain the original or copies of all relevant loan documents; and
- ~~(4) Obtain approval of the loan from the credit committee or loan officers.~~

(4) Require the credit committee or loan officer to use the same underwriting standards for participation loans used for loans that are not being sold in a participation agreement unless there is a participation agreement in place prior to the disbursement of the loan. Where a participation agreement is in place prior to disbursement, either the credit union's loan policies or the participation agreement shall address any variance from non-participation loan underwriting standards.

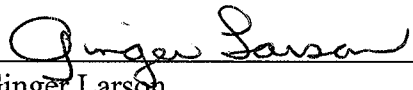
DFI-CU 70.06 PARTICIPATING LENDER REQUIREMENTS. A participant credit union that is not the originating lender shall: do all of the following:

- (1) Participate only in loans it is empowered to grant;
- (2) Have a participation policy in place which sets forth the loan underwriting standards prior to entering into a participation agreement.
- ~~(2)~~(3) Participate in participation loans only if made to its own members or members of another participating credit union;
- ~~(3)~~(4) Retain the original or a copy of the written participation loan agreement and a schedule of the loans covered by the agreement; ~~and.~~
- ~~(4)~~(5) Obtain the approval of the board of directors or their designee for the disbursement of proceeds to the originating lender.

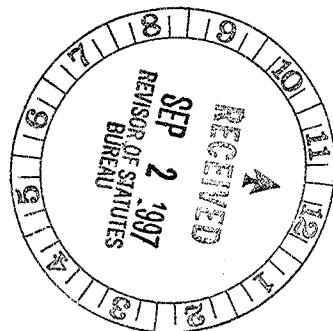
This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

Dated: September 2, 1997

OFFICE OF CREDIT UNIONS



Ginger Larson
Director



LRB or Bill No /Adm. Rule No.
97-052

Amendment No. if Applicable

FISCAL ESTIMATE

DOA-2048 N(R10/96)

- ORIGINAL
- UPDATED
- CORRECTED
- SUPPLEMENTAL

Subject

Revision of Chapter DFI-CU 70, Wisconsin Administrative Code.

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

Decrease Costs

Local: No local government costs

- 1. Increase Costs
 - Permissive
 - Mandatory
- 2. Decrease Costs
 - Permissive
 - Mandatory

- 3. Increase Revenues
 - Permissive
 - Mandatory
- 4. Decrease Revenues
 - Permissive
 - Mandatory

5. Types of Local Governmental Units Affected:
- Towns
 - Villages
 - Cities
 - Counties
 - Others _____
 - School Districts
 - WTCS Districts

Fund Sources Affected

- GPR
- FED
- PRO
- PRS
- SEG
- SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

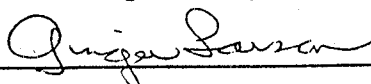
The proposed revision of DFI-CU 70 is an update of the existing rule. It does not require any additional regulatory activity by our office. This rule has no fiscal effect on government expenditures at any level.

Long-Range Fiscal Implications

None

Agency/Prepared by: (Name & Phone No.)
Ginger Larson 266-8893
Director of Credit Unions

Authorized Signature/Telephone No.



Date

5/15/97



State of Wisconsin
Department of Financial Institutions

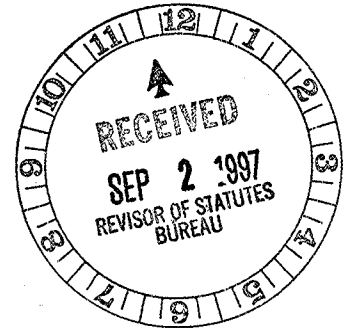
Tommy G. Thompson, Governor

Richard L. Dean, Secretary

September 2, 1997

Bruce Munson
Revisor of Statutes
131 W. Wilson St., 8th Floor
Madison, WI 53702

Douglas J. LaFollette
Secretary of State
30 W. Mifflin St., 10th Floor
Madison, WI 53702



Gentlemen:

Pursuant to s. 227.20(1), Stats., enclosed are certified copies of administrative rules adopted by the Office of Credit Union. The rules are:

- Clearinghouse Rule 97-049 - relating to real estate mortgage loans in credit unions.
- Clearinghouse Rule 97-050 - relating to credit union check cashing, money orders and travelers checks.
- Clearinghouse Rule 97-051 - relating to retention of credit union books and records.
- Clearinghouse Rule 97-052 - relating to participation loan authority in credit unions.

At this same time, we would also request the remaining administrative rules pertaining to the Office of Credit Unions be renumbered to reflect the creation of the Department of Financial Institutions effective July 1, 1996. This will involve the addition of DFI to the rules currently in effect for the Office of Credit Unions.

Sincerely,

Ginger Larson
Director
OFFICE OF CREDIT UNIONS

GL:ls

Enclosures