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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 10-009

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]**

#### 2. Form, Style and Placement in Administrative Code

a. The rule preface needs to be expanded. For example, the summary of the rule lists the topics addressed in the document but does not even briefly describe any substantive provisions. Similarly, the statement that Illinois has comparable rules tells the reader nothing. While the rule preface need not be a complete recitation of everything contained in a rule, the reader should be able to derive a basic understanding of the contents of the rule from reading the rule preface.

b. In s. DFI-CU 65.01, the following introduction should be inserted before sub. (1): “In this chapter:”. Also, the definitions in this section should be alphabetized. In s. DFI-CU 65.02 (2) (intro.), the phrase “all of” should be inserted after the word “include.”

c. In s. DFI-CU 65.02 (2) (e), the cross-reference should read “s. DFI-CU 64.04.”

d. In s. DFI-CU 65.03, the introduction should conclude with the phrase “The credit union and the CUSO shall operate so that all of the following apply:”. Each of the subsections that follow should conclude with a period.

e. In s. DFI-CU 65.05 (1), the correct statutory cross-reference is “s. 186.11 (4) (b), Stats.” In subs. (3) and (4), the word “will” should be replaced by the word “shall.”

## **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In the rule preface explanation of agency authority, the notation “(CUSO’s)” should be inserted after the phrase “credit union service organizations.”

b. In the rule preface statement of analysis and supporting documentation used to determine effect on small business, the word “effected” should be replaced by the word “affected.”

c. It appears that the rule would be in a more logical sequence if s. DFI-CU 65.02 followed ss. DFI-CU 65.03 and 65.04 and if s. DFI-CU 65.08 then immediately followed the newly placed section relating to notice.

d. Section DFI-CU 65.02 (2) (a) should be rewritten to read: “A description of the business organization, such as a corporation, limited partnership, limited liability, or other entity, that the CUSO will adopt to perform its operations.”

e. Section DFI-CU 65.02 should indicate whether the Office of Credit Unions must approve a notice and, if so, the time limit within which this action must be taken. [See s. 186.235 (20), Stats.] Also, is the notice required for an investment or loan of any amount or required only for amounts of investments or loans that do not exceed 1.5% of the credit union’s total assets?

f. In s. DFI-CU 65.02 (2) (c), what kind of evidence will be required for bonding or insurance? For example, will a written description be adequate or will a copy of the bond or insurance certificate be required? Also, what is the word “sufficient” in this context mean? Is there a certain ratio of bonding or insurance that is the standard for sufficient coverage, or is it simply an amount that will be adequate in the opinion of the office? Similar questions arise with respect to sub. (2) (d).

g. In the title to s. DFI-CU 65.03, the word “Separateness” should be all in lowercase.

h. Section DFI-CU 65.04 uses the terms “lent” and “loaned.” A consistent term should be used. Also, is it necessary for a CUSO to formally notify a credit union that it plans to change its structure and should the legal opinion required in this section also be provided to the Office of Credit Unions? Finally, in the second-to-last sentence, the word “must” should be replaced by the word “shall.”

i. In s. DFI-CU 65.06, the first occurrence of the word “the” should be replaced by the word “a.” Also, what does the term “conflicts of interest” in this context mean?

j. In s. DFI-CU 65.07 (1), the first occurrence of the word “The” should be replaced by the word “A.” The second sentence should clearly indicate that a copy of the audit report will be provided to the Office of Credit Unions. Also, it appears that sub. (2) would be more clear if it were rewritten to read: “The office shall audit a CUSO wholly-owned by one Wisconsin credit union.... For a CUSO that is owned by or a controlling interest is held by....” Similarly, sub. (3) should be rewritten to read: “For a CUSO that is not controlled by Wisconsin credit unions, a

Wisconsin credit union may not invest in or loan money...a copy of any regular audit reports prepared by a certified public accountant.” When is a CUSO not “controlled by Wisconsin credit unions”?

k. In s. DFI-CU 65.08, the first sentence should be rewritten to read: “If a credit union seeks to invest in or lend more than 1.5 percent of its total assets...” In the second sentence, the phrase “to the office” should be inserted after the word “application.” This section also should indicate the time period within which the Office of Credit Unions will make a decision on the application. [See s. 186.235 (20), Stats.]

l. In s. DFI-CU 65.09, the first occurrences of the words “The” and “the” should be replaced by the words “A” and “a.”, respectively.

m. See s. 1.02 (4), Manual, for the appropriate method of expressing the effective date of a rule.