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STATE OF WISCONSIN )

OFFICE OF COMMISSIONER OF SAVINGS AND LOAN )

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ORDER NO. 118

I, R. J. McMahon, Commissioner of Savings and Loan and custodian of the official records of the Office of Commissioner of Savings and Loan, do hereby certify that the annexed Order No. 118 relating to investment in service corporations or their subsidiaries by state chartered savings and loan associations and clerical or accounting services for state chartered savings and loan associations was duly approved and adopted by this office on March 9, 1982.

I further certify that the copy of the Order annexed hereto has been compared by me with the original on file in this office and that the same is a true copy thereof, and the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of this office in the City of Madison this 9th day of March, 1982.



*R. J. McMahon*  
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 R. J. McMahon, Commissioner

5-1-82

ORDER OF THE  
OFFICE OF THE COMMISSIONER OF SAVINGS AND LOAN  
REPEALING, RECREATING AND CREATING RULES

ORDER NO. 118

WHEREAS, the rules embodied by this order were submitted to the Legislative Council staff as required under section 227.029 of the Wisconsin Statutes; and

WHEREAS, in accordance with section 227.021 of the Wisconsin Statutes official notice of a hearing on the rules embodied by this order was published in the Wisconsin Administrative Register of October 31, 1981; and

WHEREAS, pursuant to that notice a public hearing was held on November 18, 1981, at which a draft of the attached rule was the topic of discussion; and

WHEREAS, following that hearing a final draft of the rule was approved by the Commissioner of Savings and Loan and the Savings and Loan Review Board; and

WHEREAS, on December 15, 1981, the final draft of the rule was submitted to the presiding officers of the Senate and Assembly and was referred by those officers to the appropriate standing committee on December 16, 1981 and December 17, 1981; and

WHEREAS, neither legislative standing committee has objected to any portion of the proposed rule and the time for so doing has expired;

Now, Therefore, pursuant to the authority vested in the Commissioner of Savings and Loan and the Savings and Loan Review Board by sections 215.02(7)(a) and 227.014(2)(a), Wisconsin Statutes, the Office of the Commissioner of Savings and Loan hereby adopts rules as follows:

ORDER OF THE OFFICE OF THE COMMISSIONER OF  
SAVINGS AND LOAN REPEALING, RECREATING  
AND CREATING RULES

AN ORDER to repeal S-L 24.06, to repeal and recreate Chapter S-L 21 and to create Chapter S-L 28 of the administrative code relating to investment of savings and loan associations in service corporations and their subsidiaries and clerical and accounting services for savings and loan associations.

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Analysis by the Office of the Commissioner of Savings and Loan

The office of the commissioner of savings and loan has authorized state chartered savings and loan associations to invest in service corporations under section 215.13 (26)(f) of the statutes and S-L 21.02 to 21.07 and S-L 24.06 of the Wisconsin Administrative Code. Those sections of the Wisconsin Administrative Code regulate investment in service corporations in general and also specifically regulate data processing service corporations which provide accounting and bookkeeping services for savings and loan associations. This rule deletes specific regulation of data management service corporations and instead subjects such service corporations to the general requirements applicable to all service corporations. The rule also substantially revises the rules governing investment in service corporations. Changes made by this rule include the following:

1. The rule permits savings and loan associations to invest in any corporation. Investment in a corporation in which the savings and loan association does not have a majority controlling interest is permitted only with the prior approval of the commissioner of savings and loan. Under the prior rule savings and loan associations could invest only in corporations organized under chapter 180 of the Wisconsin Statutes which were owned exclusively by one or more Wisconsin savings and loan associations.

2. The rule permits a service corporation to invest in a subsidiary which is a sole proprietorship, partnership, joint venture, limited partnership, or a corporation regardless of how organized. A service corporation may invest in a subsidiary in which it does not have a majority and controlling interest only if the commissioner of savings and loan gives prior written approval. Under the prior rule service corporations could invest in subsidiaries only if they were corporations organized under chapter 180 of the Wisconsin Statutes and the subsidiary was solely owned by one or more Wisconsin savings and loan associations or their subsidiaries.

3. The rule permits a savings and loan association service corporation to invest in a subsidiary without prior approval by the commissioner of savings and loan provided that the activities of the subsidiary are approved activities for the service corporation and the service corporation retains a majority and controlling interest in the subsidiary. Under the prior rule a service corporation could invest in a subsidiary only with the prior written approval of the commissioner.

4. The rule permits the commissioner of savings and loan to establish for each individual savings and loan association an aggregate limit on investments in and mortgage loans to service corporations and their subsidiaries. Under the prior rule no savings and loan association could invest more than 5% of its total assets in service corporations.

5. The rule removes any restriction on service corporations and their subsidiaries with respect to contracting unsecured debt. Under the prior rule service corporations and their subsidiaries were limited to unsecured debt of an amount not greater than the aggregate investment by savings and loan associations in stock of the service corporation.

6. The rule permits savings and loan associations to invest in data processing service corporations on the same basis as for any other service corporation. Under the prior rule savings and loan associations could not invest more than 1% of their total assets in data processing service corporations.

7. The rule removes a requirement that data processing service corporations provide equal access to their services to competitors of their clients unless the competing savings and loan association had access to the same services from another source.

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Pursuant to authority vested in the commissioner of savings and loan and the savings and loan review board by sections 215.02(7)(a) and 227.014(2)(a), Stats., the office of the commissioner of savings and loan repeals, repeals and recreates, and creates rules interpreting sections 215.03(1) and 215.13(26)(f), Stats., as follows:

SECTION 1. Chapter 21 of the administrative code is repealed and recreated to read:

CHAPTER 21

CLERICAL AND ACCOUNTING SERVICES

S-L 21.01 DEFINITIONS. In this chapter unless the context otherwise requires:

(1) "Association" has the meaning provided by s. 215.01(1), Stats.

(2) "Clerical and accounting services" means:

(a) The posting of payments, withdrawals, computation and distribution of earnings on accounts;

(b) The posting of entries on accounts of borrowers, the posting of payments and credits thereon, and the computation of interest and other charges thereon, and the computation of the contractual status of loan accounts;

(c) The preparations and mailing of checks, statements, notices and similar items; or

(d) Any other clerical, bookkeeping, accounting, statistical or similar functions.

(e) "Commissioner" means the commissioner of savings and loan.

S-L 21.02 PERFORMANCE OF CLERICAL AND ACCOUNTING SERVICES. (1) Upon specific authorization of its board of directors, any association may perform for a fee clerical and accounting services for other associations or for other persons.

(2) Upon specific authorization of its board of directors, any association may cause to be performed, by contract or otherwise, any clerical or accounting services for itself, whether on or off its premises, by another association or person for a fee, provided assurances satisfactory to the commissioner are furnished to the commissioner by both the association and the party performing the services, that performance will be subject to regulation and examination by the commissioner to the same extent as if such services were being performed by the association on its own premises.

(3) With the prior approval of the commissioner, an association may:

(a) Perform clerical and accounting services for itself at a location other than at its home office or an approved branch.

(b) Maintain an office at a location other than at its home or a branch office, the sole function of which is to serve as the administrative or managerial headquarters for the association.

(c) No clerical, accounting, administrative or managerial function involving direct contact with the public may be performed at an office authorized in sub. (3) except contacts incidental to the primary functions of the office. An association may not accept deposits at the office, or accept loan applications, or advertise or represent that it is a separate office, as defined in ch. 215, Stats., of the association. The office shall not be construed as a branch office within the meaning of ch. 215, Stats.

SECTION 2. S-L 24.06 of the administrative code is repealed.

SECTION 3. Chapter S-L 28 of the administrative code is created to read:

CHAPTER 28

SERVICE CORPORATION INVESTMENTS

S-L 28.01 DEFINITIONS. In this chapter:

- (1) "Association" has the meaning provided by s. 215.01(1), Stats.
- (2) "Commissioner" means the commissioner of savings and loan.
- (3) "Financial institution" means an association, bank, credit union or mutual savings bank which is federally or state chartered.
- (4) "Investment" means money advanced, directly or indirectly, to a corporation for capital stock, obligations or other securities. "Investment" does not include mortgage loans made under s. 215.21, Stats.
- (5) "Service corporation" means a corporation in which a savings and loan association owns, or intends to acquire, capital stock.
- (6) "Subsidiary" means any business in which a service corporation, directly or indirectly, owns an interest. "Subsidiary" includes a business in which a service corporation indirectly owns an interest through another subsidiary or a series of subsidiaries.

28.02 SERVICE CORPORATION INVESTMENTS AUTHORIZED. (1) An association may make an investment in a service corporation under s. 215.13(26)(f), Stats., if:

- (a) The commissioner gives prior written approval of the investment;
- (b) The association's aggregate investment in an mortgage loans to its service corporations and their subsidiaries does not exceed the aggregate limit set by the commissioner for that association; and
- (c) The service corporation and its subsidiaries:
  1. Restrict their activities to those authorized in writing by the commissioner;
  2. Are audited by a certified public accountant at least once each fiscal year and deliver a copy of the certified public accountant's certified report to the commissioner simultaneously with the delivery of the report to them;

3. File any report the commissioner requests, submit to examination from time to time by the commissioner's office and pay the expense of the examinations and audits;

4. Do not, directly or indirectly, enter into a business venture with an officer, director or employe of a financial institution or of a corporation owned primarily by financial institutions or with an organization other than a service corporation affiliated with such an officer, director or employe, unless the commissioner gives prior written approval.

(2) An application for approval of an initial investment in a service corporation under this section shall contain:

(a) A certified copy of the service corporation articles of incorporation;

(b) A copy of the corporate bylaws;

(c) A copy of the certificate of newly-elected officers;

(d) An agreement by the service corporation and each of its subsidiaries to comply with sub. (1)(c).

(e) Other information required by the commissioner.

(3) An association, service corporation or subsidiary may make an investment in a service corporation or subsidiary in which it has less than a majority and controlling interest only if the commissioner gives prior written approval.

(4) If an association obligates itself in any way for the direct or contingent payment of debt of a service corporation or its subsidiary, the amount of the debt shall be included as an investment for the purpose of sub. (1)(b).

(5) The commissioner may, for good and sufficient reason, limit, restrict or prohibit investment in or mortgage lending to a service corporation or its subsidiary by an association.

(6) Factors the commissioner shall consider when acting under this section include, but are not limited to:

(a) The effect on the safety and solvency of the association;

(b) Compliance by the association with ch. 215, Stats., and chs. S-L 1 to 50;

(c) The anticipated benefit to the association and its depositors and other customers.

(d) The managerial capabilities and expertise of the personnel of the association and its service corporations and subsidiaries.

28.03 ENFORCEMENT. If an association, a service corporation or its subsidiary is found to be in violation of this chapter, ch. 21, Wis. Adm. Code or such other directives or guidelines as the commissioner adopts regarding service corporations and their subsidiaries, the commissioner may issue an order to the parent association directing it to correct any violations on its part or to direct the service corporation or its subsidiary to correct any violation on its part. The service corporation or subsidiary has 15 calendar days unless further extended by the commissioner within which to comply with the commissioner's order. The commissioner may require a divestiture of all or a portion of the investments in the service corporation or subsidiary for failure to comply. Failure to comply with S-L 28.02(1)(c) does not require divestiture or render the investment unauthorized unless the commissioner requires divestiture under this section.

SECTION 4. EFFECTIVE DATE. This order takes effect on the first day of the month following its publication in the Wisconsin administrative register.

Dated: March 9, 1982

  
R. J. McMahon, Commissioner