



STATE OF WISCONSIN)
)
 OFFICE OF COMMISSIONER OF SAVINGS AND LOAN)

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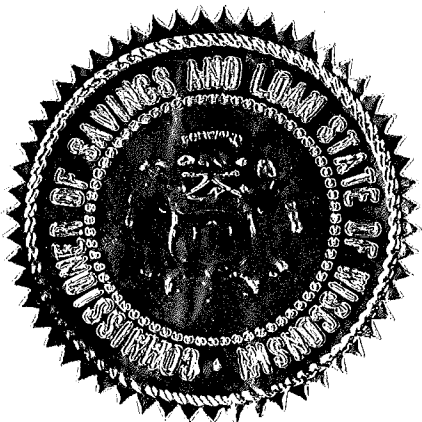
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 Revisor of Statutes
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ORDER NO. 117

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. 117 relating to granting state chartered savings and loan associations parity with federally chartered savings and loan associations with respect to certain powers, was duly approved and adopted by this office on March 1, 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

 R. J. McMahon, Commissioner

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ORDER OF THE
OFFICE OF THE COMMISSIONER OF SAVINGS AND LOAN
REPEALING AND RECREATING A RULE

ORDER NO. 117

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 November 30, 1981; and

WHEREAS, pursuant to that notice a public hearing was held on December 17, 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 January 8, 1982, 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 January 13, 1982 and January 11, 1982, respectively, all in accordance with section 227.018 of the Wisconsin Statutes; 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), 215.02(18) and 227.014(2)(a), Stats., as amended by chapter 45, laws of 1981, the Office of Commissioner of Savings and Loan hereby adopts a rule as follows:

ORDER OF THE OFFICE OF THE
COMMISSIONER OF SAVINGS AND LOAN REPEALING AND RECREATING A RULE

AN ORDER repealing and recreating chapter S-L 30 of the administrative code relating to granting state chartered savings and loan associations parity with federally chartered savings and loan associations with respect to certain powers.

Analysis of the Office of the Commissioner of Savings and Loan

Under section 215.02(18) of the statutes as enacted by chapter 45, laws of 1981, effective November 1, 1981 the Commissioner of Savings and Loan with the approval of the Savings and Loan Review Board may authorize state chartered savings and loan associations to exercise any right, power or privilege federal savings and loan associations are permitted under federal law, regulation or interpretation. This rule grants state chartered associations, under section 215.02(18) of the statutes, authority:

1. To make, purchase, sell, service, or participate in direct or indirect loans to natural persons for personal, family or household purposes. An association's total investment in consumer loans and in commercial paper and corporate debt securities may not exceed 20% of its assets. The rule also limits the total balance of all outstanding unsecured consumer loans to one borrower to .25% of an association's assets or 5% of its net worth, whichever is less.
2. To issue credit cards, extend credit in connection with credit cards and otherwise engage in or participate in credit card operations.
3. To pay third parties from a savings account based on a nontransferable order or authorization.
4. To provide overdraft credit for NOW accounts.
5. To make loans on the security of a borrower's interest in a cooperative housing unit.
6. To make, or invest its funds in, mortgage loans without regard to restrictions as to the person who originates or services the loan or the aggregate amount invested which apply solely because the mortgage loans are outside of the normal lending area (the area within a one-hundred mile radius of the association's office).
7. Which makes clear that an association may charge a fee for making any payment or transfer from an account or for maintaining a NOW account or an account subject to withdrawal by nontransferable order or authorization or for providing a service in connection with such an account.
8. Subject to the application procedures and other restrictions under chapter 215 of the statutes, to establish and maintain a branch or extended office outside the association's home office normal lending area but within this state.

(4) "Debit card" means a card that enables an accountholder to obtain access to a savings account for the purpose of making withdrawals or of transferring funds to a third party by non-transferable order or authorization.

(5) "Negotiable order of withdrawal account" means a deposit or account the owner of which is permitted to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

(6) "Normal lending area" means the area within a radius of 100 miles of an association's office.

(7) "One borrower" means any person that is, or upon the making of a loan will become, obligor on a loan and:

(a) Nominees of the obligor;

(b) All persons, trusts, partnerships, syndicates and corporations of which the obligor is a nominee or a beneficiary, partner, member, or record or beneficial stockholder owning 10% or more of the capital stock; and

(c) If the obligor is a trust, partnership, syndicate or corporation, all trusts, partnerships, syndicates and corporations of which any beneficiary, partner, member, or record or beneficial stockholder owning 10% or more of the capital stock, is also a beneficiary, partner, member, or record or beneficial stockholder owning 10% or more of the capital stock of the obligor.

(8) "Overdraft loan" means a loan made under an open-end credit plan in which loans are made if a customer overdraws a debit account.

(9) "Personal security identifier" means any word, number, or other security identifier essential for an accountholder to gain access to an account.

(10) "Total balances of all outstanding unsecured consumer loans" means the aggregate original principal balances of unsecured consumer loans of an association plus any additional advances and interest due and unpaid, less repayments and participating interests sold.

30.10 PARITY; CONSUMER LOANS. (1) An association is authorized, under s. 215.02(18), Stats., to make, originate, purchase, sell, service, or participate in direct or indirect consumer loans if:

(a) The consumer loans conform to the association's written underwriting standards;

(b) Before indirect consumer loans are made through a dealer, the dealer is approved by the association's board of directors; and

(c) At any time the total investment made under this section and, under s. 215.13(26)(f), Stats., in commercial paper or corporate debt securities investments does not exceed 20% of assets. Investment in commercial paper or corporate debt securities is not authorized under this paragraph.

(2) If a loan may be made under this section and is also authorized under another section of chs. S-L 1 to 50, or s. 215.13, 215.19, 215.20, 215.205 or 215.21, Stats., which may have different percentage of assets and other limitations or requirements, an association has the option of choosing under which applicable section the loan is made.

(3) The total balances of all outstanding unsecured consumer loans to one borrower is limited to .25% of an association's assets or 5% of its net worth, whichever is less, except an association may make up to \$3000 in unsecured consumer loans to any one borrower and, after December 31, 1981, and annually thereafter, that amount is adjusted by the dollar amount that reflects the percentage increase, if any, in the consumer price index during the previous 12 months as shown in the November to November index.

(4) This section does not apply to:

(a) Credit extended in connection with credit cards or overdraft loans; or

(b) Consumer loans secured by liens on real estate or mobile homes, unless the association relies substantially on other factors, such as the general credit standing of the borrower, guarantees or security other than the real estate or mobile home, as the primary security for the consumer loan. Appropriate evidence to demonstrate justification for reliance on factors other than the lien or real estate or a mobile home shall be retained in the association's files.

NOTE: This section parallels 12 C.F.R. 545.7-10 (consumer loans). It is not intended to affect the Wisconsin Consumer Act. Chs. 421 to 428, Stats., should be consulted to determine whether a credit card, overdraft loan or other consumer loan transaction is subject to restrictions under the Wisconsin Consumer Act.

30.11 WISCONSIN CONSUMER ACT. An association shall comply with chs. 421 to 428, Stats., if applicable, when making a consumer loan.

30.20 PARITY; MISCELLANEOUS An association is authorized, under s. 215.02(18), Stats., to:

(1) Issue credit cards, extend credit in connection with credit cards and otherwise engage in or participate in credit card operations.

(2) Pay third parties from a savings account, periodically or otherwise, if the accountholder authorizes the payment by a nontransferable order or authorization. The association may, at the request of the third party, treat an order or authorization under this subsection as a transfer to a savings account of the third party. Transfers under this subsection may be made through the use of a debit card. If a personal security identifier is used in conjunction with a debit card the identifier may not be disclosed to a third party. This subsection is in addition to authority to pay third parties otherwise available under ch. 215, Stats., or any other law.

(3) Extend secured or unsecured credit in the form of overdraft loans specifically related to negotiable order of withdrawal accounts.

(4) Make loans on the security of individual cooperative units by obtaining:

(a) A security interest in the stock, membership certificate or other evidence of ownership issued to a stockholder or member by a cooperative housing organization; and

(b) An assignment of the borrower's interest in the proprietary lease or occupancy agreement issued by such a cooperative housing organization.

(5) Invest in, sell, purchase, participate or otherwise deal in loans or interests on security property located outside its normal lending area but within the United States or its territories and possessions. There are no restrictions on the aggregate amount an association may invest in loans on security property located outside its normal lending area, or on the qualification of persons by or through whom the loans are originated or serviced other than those also applicable to loans made on security property located within the normal lending area.

(6) Charge an accountholder a fee for making any payment or transfer under sub. (2) or a negotiable order of withdrawal account or for maintaining a negotiable order of withdrawal account or an account authorized under sub. (2) or providing any service in connection with such an account. This subsection is in addition to authority to charge a fee otherwise available under ch. 215, Stats., and is subject to restrictions which may be applicable under chs. 421 to 428, Stats.

(7) Establish and maintain a branch or extended office within this state regardless of whether the office is located within the normal lending area of the association's home office but subject to approval of the commissioner and all other requirements and restrictions imposed by state statute or rule. This subsection is in addition to authority to establish and maintain branch and extended offices otherwise provided under ch. 215, Stats.

NOTE: This section parallels 12 C.F.R. 545.7-7 (credit cards) 545.4-1(a) (payments to third parties), 545.4-1(b)(2) (overdraft loans), 545.6-2 (loans on cooperative housing units), 563.9 (nationwide lending) and 545.4-1(d) (fees), affects restrictions under ss. 215.13(39) and 215.21(28), Stats., and effectuates the statement of policy in 12 C.F.R. 556.5 (branching).

30.49 UNINSURED ASSOCIATIONS. An association which is not insured by the federal savings and loan insurance corporation may exercise authority granted under s. 215.02(18) Stats., only to the extent and subject to the restrictions applicable to an insured association exercising those powers.

NOTE: All state chartered associations must, under the "parity" principle, operate subject to the restrictions applicable to federal savings and loan associations under federal savings and loan insurance corporation regulations. This applies equally to state chartered associations which are not insured by the FSLIC.

30.50 RESTRICTION BY ORDER. The commissioner may, for good cause, limit or prohibit an association from exercising authority granted under s. 215.02(18), Stats.

SECTION 2. EFFECTIVE DATE. This order takes effect on the first day of the month following its publication in the Wisconsin administrative register, as provided by s. 227.026 (intro.)

Dated: March 9, 1982


R. J. McMahon, Commissioner