



STATE OF WISCONSIN

OFFICE OF COMMISSIONER OF SAVINGS AND LOAN

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CERTIFICATION

ORDER NO. 136

I, R. J. McMahon, Commissioner of Savings and Loan and custodian of the official records of the Office of the Commissioner of Savings and Loan and of the Savings and Loan Review Board, do hereby certify that the annexed Order No. 136 relating to self-directed individual retirement accounts and Keogh plans was adopted by this office and approved by the Savings and Loan Review Board.

I further certify that that 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 October, 1986.

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 R. J. McMahon, Commissioner

ORDER OF THE OFFICE OF THE
COMMISSIONER OF SAVINGS AND LOAN
AND THE SAVINGS AND LOAN REVIEW BOARD
ADOPTING A RULE

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Relating to self-directed individual retirement accounts and Keogh plans.

Analysis Prepared by the Office of the Commissioner of Savings and Loan

Under s. 215.02(18), Stats., the commissioner of savings and loan and the savings and loan review board may authorize state chartered savings and loan associations to exercise any power which a federal savings and loan association is permitted under federal law, regulation or interpretation.

Also, under s. 215.135, Stats., created by 1985 Wisconsin Act 325, the Commissioner may authorize a savings and loan association to undertake any activity, exercise any power or offer any financially related product or service in this state that any other provider of financial products or services may undertake, exercise or provide or that the commissioner finds to be financially related.

On March 12, 1986, the Federal Home Loan Bank Board ("FHLBB") adopted an amendment of a regulation (12 CFR s. 545.102 as amended by 51 Federal Register 9177 (March 18, 1986) clarifying the authority of federally chartered savings and loan associations. The regulation clarified and expanded the limited authority of federally chartered savings and loan associations to offer self-directed individual retirement accounts and Keogh plan accounts, to act as trustees of passive trusts, and to invest the funds of these accounts or trusts in assets other than their own accounts, deposits, obligations or securities.

The FHLBB also requires an association acting as trustee or custodian under this federal regulation to include a statement in bold type in the first page of any contract documents to the effect that funds invested in a self-directed retirement account are not automatically insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") merely because the trustee or custodian is insured by FSLIC.

This rule allows state chartered savings and loan associations to offer self-directed individual retirement accounts and Keogh plan accounts. The funds obtained for these accounts may be invested (1) in the association's accounts, deposits, obligations or securities or (2) in other assets as the customer may direct so long as the association exercises no investment discretion and provides no investment advice. The first page of contract documents setting up these accounts must state that such investments are not insured by the Federal Savings and Loan Insurance Corporation.

This rule has no state or local fiscal effect.

This rule will affect each savings and loan association which is a "small business" as defined in s. 227.114(1)(a), Stats., created by 1985 Wisconsin Act 182. These small businesses will be empowered to provide a broader range of services to their customers. The rule, however, should not have a significant economic impact on a substantial number of small businesses pursuant to s. 227.19(3m), Stats., created by 1985 Wisconsin Act 182.

Pursuant to the authority vested in the Commissioner of Savings and Loan and the Savings and Loan Review Board by ss. 215.02(7)(a) and (18) and 215.135, Stats., (created by 1985 Wisconsin Act 325) the Commissioner of Savings and Loan, with the approval of the Savings and Loan Review Board, adopts a rule interpreting ss. 215.02(18) and 215.135, Stats. (created by 1985 Wisconsin Act 325), as set out in the attached certified copy and incorporated herein by reference.

The rule as affected by this order shall take effect on December 1, 1986.

Dated at Madison, Wisconsin, this 9th day of October, 1986.

OFFICE OF COMMISSIONER OF SAVINGS AND LOAN



R. S. McMahon, Commissioner

SECTION 1. S-L 30.21 is created to read:

S-L 30.21 PARITY; INDIVIDUAL RETIREMENT AND KEOGH PLAN ACCOUNTS. (1) An association may, under ss. 215.02(18), and 215.135, Stats., act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension or profit-sharing plan qualifying for specific tax treatment under s. 401(d) of the Internal Revenue Code or trustee or custodian of an individual retirement account, as defined in s. 408(a) of the Internal Revenue Code, with no active fiduciary duties if:

(a) The association invests the funds only in the association's own accounts, deposits, obligations or securities; or

(b) The association invests the funds in such other assets as the customer may direct and the association does not exercise any investment discretion or directly or indirectly provide any investment advice with respect to the trust or account.

(2) An association shall observe principles of sound trust administration, including those relating to recordkeeping and segregation of assets, and may receive reasonable compensation for acting in any trust or custodial capacity authorized by this section.

(3) An association acting as trustee or custodian pursuant to sub. (1) shall include in bold type on the first page of any contract documents the following language:

"Funds invested pursuant to this agreement are not insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") merely because the trustee is an institution the accounts of which are covered by such insurance. Only investments in the accounts of such an institution are insured by the FSLIC, subject to its rules and regulations."

Note: This section parallels 12 CFR s. 545.102 as amended by

51 Federal Register 9177 (March 18, 1986).

SECTION 2. Effective date. Pursuant to s. 227.22(2) (intro.), Stats., created by 1985 Wisconsin Act 182, this rule is effective on the first day of the month following its publication in the Wisconsin administrative register.