

## Appendix A

209 CMR 50.00 is hereby amended by striking out at 209 CMR 50.04 the definition of adequately capitalized and inserting in place thereof the following:

Adequately capitalized. A credit union shall be deemed adequately capitalized if the credit union meets the definition of an adequately capitalized institution as defined under the prompt corrective action provisions of the Federal Credit Union Act, 12 U.S.C. §1790d, and the regulations promulgated by the NCUA.

209 CMR 50.04 is further amended by striking the definition of well capitalized and inserting in place thereof the following:

Well capitalized. A credit union shall be deemed to be well capitalized if the credit union meets the definition of a well capitalized institution as defined under the prompt corrective action provisions of the Federal Credit Union Act, 12 U.S.C. § 1790d, and the regulations promulgated by the NCUA.

209 CMR 50.04 is further amended by adding the following definitions:

Automobile. The word automobile shall include a motorcycle and a truck up to \$50,000 and a truck exceeding \$50,000 that is primarily for personal, family, or household purposes.

Manufactured Home. The term manufactured home shall include a mobile home and any other home as defined by 42 U.S.C. 5402(6).

Residential Mortgage Loan. The term residential mortgage loan shall mean a loan secured by a mortgage on a dwelling house with accommodations for four or less separate households occupied, or to be occupied, in whole or in part by the mortgagor or secured by a mortgage on an owner-occupied unit of a condominium.

209 CMR 50.00 is hereby amended by striking out 209 CMR 50.06(1) and inserting in place thereof the following:

50.06: Application Process to Conduct Certain Activities

(1) General.

(a) A credit union that is adequately capitalized, and has not been notified that it is significantly undercapitalized, may engage in any activity listed under 209 CMR 50.06(3) by submitting an application to, and receiving approval from the Commissioner before commencing the activity; provided, however, that such a credit union may also apply and receive approval from the Commissioner on a discretionary basis pursuant to 209 CMR 50.06, to engage in activities listed under 209 CMR 50.08(3), 209 CMR 50.09(3), and 209 CMR 50.11(2)(a).

(b) A credit union that is well capitalized, and has not been notified that it is significantly undercapitalized may apply and receive approval from the Commissioner before commencing the activity; provided, however, that such credit union may also apply and receive an expedited approval from the Commissioner to engage in an activity pursuant to 209 CMR 50.08(1).

209 CMR 50.00 is further amended by striking out 209 CMR 50.06(3)(c) and replacing it with the following:

(c) Investments in Credit Union Service Organizations. A credit union may, individually or with other credit unions or federal credit unions, invest in one or more CUSOs. Investments in or loans to CUSOs are permissible only if the CUSO primarily services credit unions, its membership, or the membership of credit unions contracting with the CUSO and shall otherwise conform to the customer base requirements of 12 CFR §712.3(b) and shall conduct activities and services related to the routine, daily operations of a credit union. Investments in or loans to federally-chartered CUSOs are permissible only if said federally-chartered CUSO limits itself at all times to those activities that can be conducted by

a state-chartered CUSO pursuant to 209 CMR 50.06(3)(c)2. Investment or lending pursuant to 209 CMR 50.06(3)(c) shall be subject to the following conditions and limitations:

1. Maximum Investment.

- a. Equity investments. A credit union may invest in the shares, stocks or obligations of any other organization, providing services which are associated with the routine operations of credit unions, up to 1% of its total paid in and unimpaired capital and surplus, as of its last calendar year-end financial report, with the approval of the Commissioner.
- b. Lending. A credit union's total loans to all CUSOs shall not exceed, in the aggregate, 1% of its total paid in and unimpaired capital and surplus, as of its last calendar year-end financial report. The lending authority under 209 CMR 50.06(3)(c)1.b. is independent from the investment authority authorized under 209 CMR 50.06(3)(c)1.a.
- c. Investment Limitations. The investment authorized by 209 CMR 50.06(3)(c)1. shall not include the power to acquire control, directly or indirectly, of another financial institution or to invest in shares, stocks or obligations of an insurance company, trade association, liquidity facility or any similar organization, corporation, or association, except as otherwise expressly authorized by 12 U.S.C. § 1781 *et seq.* or M.G.L. c. 171.

2. Permissible Activities. A credit union may invest in, or lend to a CUSO that engages in any of the following activities:

- a. Checking and currency services.
  - 1. Check cashing;
  - 2. Coin and currency services; and
  - 3. Money order, savings bonds, travelers checks, and purchase and sale of U.S. Mint commemorative coins services.
  
- b. Clerical, professional and management services.
  - 1. Accounting services;
  - 2. Courier services;
  - 3. Credit analysis;
  - 4. Facsimile transmissions and copying services;
  - 5. Internal audits for credit unions;
  - 6. Locator services;
  - 7. Management and personnel training and support;
  - 8. Marketing services; and
  - 9. Research services.
  
- c. Consumer mortgage loan origination.
  
- d. Electronic transaction services.
  - 1. Automated teller machine (ATM) services;
  - 2. Credit card and debit card services;
  - 3. Data processing;
  - 4. Electronic fund transfer (EFT) services;
  - 5. Electronic income tax filing;
  - 6. Payment item processing;

7. Wire transfer services; and
  8. Cyber financial services.
- e. Financial counseling services.
1. Developing and administering Individual Retirement Accounts (IRA), Keogh, deferred compensation, and other personnel benefit plans;
  2. Estate planning;
  3. Financial planning and counseling;
  4. Income tax preparation;
  5. Investment counseling; and
  6. Retirement counseling.
- f. Leasing.
1. Personal property; and
  2. Real estate leasing of excess CUSO property.
- g. Loan support services.
1. Debt collection services;
  2. Loan processing, servicing, and sales; and
  3. Sale of repossessed collateral.
- h. Record retention, security and disaster recovery services.
1. Alarm-monitoring and other security services;
  2. Disaster recovery services;
  3. Microfilm, microfiche, optical and electronic imaging, CD-ROM data storage and retrieval services;
  4. Provision of forms and supplies; and
  5. Record retention and storage.

- i. Student loan origination.
- j. CUSO investments in non-CUSO service providers. In connection with providing a permissible service, a CUSO may invest in a non-CUSO service provider. The amount of the CUSO's investment is limited to the amount necessary to participate in the service provider, or a greater amount if necessary to receive a reduced price for goods or services.
- k. Activities related to routine daily operations. A CUSO may engage in other activities if said activities are related to the routine daily operations of credit unions as permitted by the NCUA pursuant to 12 CFR §712.5 provided, however, that the Commissioner affirmatively deems such activity permissible by regulation or in writing.

3. Prohibited Activities. Notwithstanding 12 CFR § 712.5, a credit union may not invest in or lend to a CUSO that engages in the following activities or services, unless such activity or service is otherwise expressly authorized under M.G.L. c. 171:

- a. "Fixed asset services" under 12 CFR § 712.5(f)(1)-(2);
- b. "Insurance brokerage or agency" under 12 CFR § 712.5(g)(1)-(3) excluding third party arrangements with independent vendors;
- c. "Securities brokerage services" under 12 CFR § 712.5(k), excluding third party arrangements with independent vendors;
- d. "Travel agency services" under 12 CFR § 712.5(n);
- e. "Trust services" under 12 CFR § 712.5(o); and,
- f. "Real estate brokerage" under 12 CFR § 712.5(p).

4. Corporate Requirements.

a. Corporate Structure. A credit union may invest in or lend to a CUSO structured as a business corporation, limited liability company or limited partnership, provided such entity is established under Massachusetts law or except as otherwise provided in 209 CMR 50.06(3)(c). A credit union may also invest in a federally-chartered CUSO pursuant to 209 CMR 50.06(3)(c) if said federally-chartered CUSO limits itself at all times to those activities that can be conducted by a state-chartered CUSO pursuant to 209 CMR 50.06(3)(c)2.

b. Separate Corporate Identity. A CUSO shall maintain a separate and distinct corporate identity from the investing credit union. A credit union or CUSO that complies with the provisions of 12 CFR § 712.3, 12 CFR § 712.4, and 12 CFR § 712.8 shall be deemed to be in compliance with 209 CMR 50.06(3)(c)4.b..

5. Officials and Senior Management Employees. Officials, senior management employees and their immediate family members of a credit union that has outstanding loans or investments in a CUSO shall not receive any salary, commission, investment income, or other income or compensation from the CUSO either directly or indirectly, or from any person being serviced through the CUSO as set forth under 12 CFR § 712.8.

209 CMR 50.06(3)(e)4. is hereby amended by striking out the first sentence.

209 CMR 50.06(3)(f) is hereby amended by striking out 209 CMR 50.06(3)(f)1. and inserting in place thereof the following:

1. 100% Automobile Financing.

General. Notwithstanding M.G.L. c. 171, §59(3) and 209 CMR 50.06(3)(e), a credit union may make an automobile loan to a member in an amount up to 100% of the value of the collateral for a term not to exceed 12 years or the useful life of the automobile, whichever is less. Indirect lending for automobiles may also be done in conjunction with the provisions of 209 CMR 50.06(3)(l). An application for direct automobile loans to members up 100% of the value of the collateral for a term not to exceed that set forth in M.G.L. c. 171, §59(3) shall be deemed approved by the Commissioner 30 days after the filing is received by the Commissioner, unless the Commissioner notifies the credit union prior to that date that the filing is not eligible for expedited review.

209 CMR 50.06(3)(f)4. is hereby amended by striking out the first sentence.

209 CMR 50.06(3)(i)5 is hereby amended by striking out the last sentence and inserting in place thereof the following:

A credit union shall aggregate all loans made under M.G.L. c. 171, § 60-62 with loans made under 209 CMR 50.06(3)(i)1. through 3. in calculating its maximum outstanding loan limitations under 209 CMR 50.06(3)(i)5.



209 CMR 50.06 is hereby amended by striking out 209 CMR 50.06(3)(j) and inserting in place thereof the following:

(j) Residential Mortgages.

1. First Lien Residential Mortgages. Notwithstanding the requirements of M.G.L. c. 171, § 65, a credit union may make first lien residential mortgage loans to members for a term of up to 40 years on any class or type of real estate loan authorized by M.G.L. c. 171, § 65.

The maximum loan amount per property and the total real estate borrowing limit per member shall be subject to approval by the Commissioner. Such residential real estate loans shall be subject to the conditions and limitations contained in 209 CMR 50.06(3)(j)4.

2. Closed-End Home Equity Mortgages. Notwithstanding the requirements of M.G.L. c. 171, §65, a credit union may make second lien or non-purchase money first lien closed-end home equity residential mortgage loans to members for a term of up to 20 years on any class or type of real estate loan authorized by M.G.L. c. 171, §65 or 209 CMR 50.06(k)1.

The maximum loan amount per property and the total real estate borrowing limit per member shall be subject to approval by the Commissioner. Such residential real estate loans shall be subject to the conditions and limitations contained in 209 CMR 50.06(3)(j)4.

3. Open-End Home Equity Mortgages. Notwithstanding the requirements of M.G.L. c. 171, §65, a credit union may make second lien or non-purchase money first lien open-end home equity residential mortgage loans on any class or type of real estate loan authorized by M.G.L. c. 171, § 65 or 209 CMR 50.06(k)1.

The maximum loan amount per property and the total real estate borrowing limit per member shall be subject to approval by the Commissioner. Such open-end home equity lines of credit shall be subject to the conditions and limitations contained in 209 CMR 50.06(3)(j)4.

4. Conditions and limitations. All residential mortgage loans made under 209 CMR 50.06(3)(j)1., 209 CMR 50.06(3)(j)2., and 209 CMR 50.06(3)(j)3. shall be subject to the following minimum requirements:
  - a. Loan Policies. All such mortgage loans shall be made in accordance with detailed written loan policies, approved and annually reviewed by the credit union's board of directors. A credit union's residential mortgage lending activities shall be consistent with its formal asset liability management strategy.
  - b. Secondary Mortgage Market Standards. All such mortgage loans shall be underwritten to conform with secondary mortgage market standards in accordance with the requirements of Regulatory Bulletin Manual, 4.2-103, entitled *Residential Mortgage Loan Underwriting* (1998 ed.), and any amendments thereto.
  - c. Aggregate Outstanding Loan Balance Limitations. Credit unions making residential mortgage loans under 209 CMR 50.06(3)(j)1., 209 CMR 50.06(3)(j)2., and 209 CMR 50.06(3)(j)3. shall be subject to the aggregate outstanding loan balance limitations of M.G.L. c. 171, §65 governing real estate mortgage loans. A credit union shall aggregate all residential mortgage loans made under M.G.L. c. 171, § 65 with real estate mortgage loans made under 209 CMR 50.06(3)(j)1., 209 CMR

50.06(3)(j)2., and 209 CMR 50.06(3)(j)3. in calculating its maximum outstanding loan limitations under 209 CMR 50.06(3)(j)4.c.

209 CMR 50.06 is further amended by striking out 209 CMR 50.06(3)(k) and inserting in place thereof the following:

(k) Loan to Value Residential Mortgage Loans

1. 95% Loan to Value Residential Mortgage Loans

A credit union may make first lien residential mortgage loans, not exceeding 95% of the value of the real estate, to members subject to the terms and limitations of M.G.L. c. 171, § 65 paragraph 5 or pursuant to 209 CMR 50.06(3)(j). The maximum loan amount per property and the total real estate borrowing limit per member shall be subject to approval by the Commissioner.

2. 97% Loan to Value Residential Mortgage Loans

A credit union may make first lien residential mortgage loans, not exceeding 97% of the value of the real estate to meet the distinct needs of low to moderate income members or as part of a first-time home buyer program or is written in accordance with mortgage loan programs of public instrumentalities created by the commonwealth for the purpose of financing and expanding the supply of residential mortgages or affordable housing. Any such residential mortgage loan which is not fully consistent with the requirements of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or other established secondary market participant shall be calculated against the 10% of total real estate loans

aggregate limit set out in Regulatory Bulletin 4.2-103. The maximum loan amount per property and the total real estate borrowing limit per member shall be subject to approval by the Commissioner.

209 CMR 50.00 is further amended by striking out 209 CMR 50.06(3)(n) in its entirety.

209 CMR 50.00 is further amended by striking out 209 CMR 50.07 and inserting in place thereof the following:

50.07 Incidental Powers

(1) General

The authorities provided in 209 CMR 50.07 are only for those activities listed. A credit union may engage in other activities if said activities are permitted and determined by the NCUA as incidental powers pursuant to 12 CFR § 721 pursuant to regulation, guidelines or written opinions thereof of the General Counsel only if the Commissioner affirmatively determines by regulation or in writing that the activity is reasonably related to an individual power set out in 209 CMR 50.07.

(2) Application Process to Conduct Certain Activities

(a) General. A credit union that is adequately capitalized and has not been notified that it is significantly undercapitalized or a credit union that is well capitalized and has not been notified that it is significantly undercapitalized may engage in any activity listed under 209 CMR 50.07(5)b.2., 209 CMR 50.07(5)e.2., 209 CMR 50.07(5)f.2., and 209 CMR 50.07(5)g.1. by submitting an application to, and receiving approval from the Commissioner before commencing the activity.

(b) Application. The application must include a complete description of the credit union's proposed activity, the credit union's investment in such activity, a detailed

business plan containing financial projections and assumptions, the written policies required by 209 CMR 50.05(2), as well as a representation and undertaking that the activity will be conducted in accordance with Massachusetts and Federal law. The application must also provide any other information the Commissioner may require.

(3) Notice Process to Conduct Certain Activities

(a) General. A credit union that is adequately capitalized and has not been notified that it is significantly undercapitalized or a credit union that is well capitalized and has not been notified that it is significantly undercapitalized may engage in any activity listed under 209 CMR 50.07(5)d.2., 209 CMR 50.07(5)i.1., and 209 CMR 50.07(5)j.1. by providing the Commissioner written notice within ten days after commencing the new activity.

(b) Notice. The written notice must include a complete description of the activity conducted, the credit union's investment in such activity, and a representation and undertaking that the activity will be conducted in accordance with Massachusetts and Federal law. Any credit union filing notice pursuant to 209 CMR 50.07(3)(a) is deemed to have agreed to conduct the activity in a manner consistent with applicable guidelines.

(4) Activities Requiring No Application or Notice

(a) General. A credit union that is adequately capitalized and has not been notified that it is significantly undercapitalized or a credit union that is well capitalized and has not been notified that it is significantly undercapitalized may engage in the activities listed in 209 CMR 50.07(5)a.1., 209 CMR 50.07(5)b.1., 209 CMR 50.07(5)c.1., 209 CMR 50.07(5)d.1., 209 CMR 50.07(5)e.1., 209 CMR 50.07(5)f.1., and 209 CMR 50.07(5)h.1.

without filing an application or providing notice to the Commissioner; provided the activities continue to be deemed legally permissible by the Commissioner, and the activities are conducted in accordance with applicable Massachusetts or Federal law.

(5) Permissible Activities

(a) Certification services.

1. Activities Requiring No Application or Notice. A credit union, pursuant to 209 CMR 50.07(4)(a), may provide the following certification services: notary services, signature guarantees, certification of electronic signatures, and share draft certifications.

(b) Correspondent services.

1. Activities Requiring No Application or Notice. A credit union, pursuant to 209 CMR 50.07(4)(a), may provide the following correspondent services: loan processing, loan servicing, member check cashing services, disbursing share withdrawals and loan proceeds, cashing and selling money orders, and automated teller machine deposit services.
2. Activities Requiring Application. A credit union, with approval from the Commissioner pursuant to 209 CMR 50.07(2)(a), may perform internal audits.

(c) Electronic financial services.

1. Activities Requiring No Application or Notice. A credit union, pursuant to 209 CMR 50.07(4)(a), may provide the following electronic financial services: automated teller machines, electronic

fund transfers, online transaction processing through a web site, web site hosting services, account aggregation services, and Internet access services to perform or deliver products or services to members.

(d) Excess capacity.

1. Activities Requiring No Application or Notice.

a. A credit union, pursuant to 209 CMR 50.07(4)(a), with excess capacity in its personnel may enter into an agreement to permit its employees to work elsewhere subject to the provisions of M.G.L. c. 171, §19.

b. A credit union, pursuant to 209 CMR 50.07(4)(a), may sell or lease the excess capacity in data processing equipment or services.

2. Activities Requiring Notice. A credit union, by providing notice pursuant to 209 CMR 50.07(3)(a), may sell or lease the excess capacity in facilities, equipment or office space.

(e) Financial counseling.

1. Activities Requiring No Application or Notice. A credit union, pursuant to 209 CMR 50.07(4)(a) may provide advice, guidance or services to members to promote thrift or to otherwise assist members on financial matters.

2. Activities Requiring Application. A credit union, with approval from the Commissioner subject to 209 CMR 50.07(2)(a), may provide the following financial counseling services if said services are provided by the credit union for a fee: income tax preparation service; electronic tax filing for members; counseling regarding estate and retirement planning; investment counseling; and debt and budget counseling.

(f) Finder activities.

1. Activities Requiring No Application or Notice. A credit union, pursuant to 209 CMR 50.07(4)(a), may provide the following finder activities by offering products and services to members through outside vendors: through the sale of advertising space on the credit union's web site and account statements and receipts; and selling statistical or consumer financial information to outside vendors to facilitate the sale of their products to the members of the credit union.

2. Activities Requiring Application. A credit union, with approval from the Commissioner pursuant to 209 CMR 50.07(2)(a), may make insurance, mutual fund, and annuities available to its members through outside vendors subject to the requirements of 12 CFR § 721 and Massachusetts law, and may provide additional finder activities.

(g) Loan-related products.

1. Activities Requiring Application. A credit union, with approval from the Commissioner pursuant to 209 CMR 50.07(2)(a), may provide the



following loan-related products: debt cancellation agreements and debt suspension agreements.

(h) Marketing activities.

1. Activities Requiring No Application or Notice. A credit union, pursuant to 209 CMR 50.07(4)(a), may engage in the following marketing activities: advertising and other promotional activities such as raffles, membership referral drives, and the purchase or use of advertising.

(i) Monetary instrument services.

1. Activities requiring notice.

- a. Member monetary instrument services. A credit union, pursuant to 209 CMR 50.07(3)(a), may provide the following monetary instrument services: sale and exchange of foreign currency and U.S. commemorative coins; use of a credit union's accounts in foreign financial institutions to facilitate members' transfer and negotiation of checks denominated in foreign currency; and engaging in monetary transfer services for members, provided, however, that under no circumstances can a credit union engage in foreign exchange activities for speculative purposes for its own account.
- b. Non-member monetary instrument services. As set forth in NCUA Opinion Letter 02-0250, a credit union, in order to provide

monetary instrument services pursuant to 209 CMR 50.07(5)(i) may engage in the following: may establish a simplified membership program, with a non-dividend bearing membership account; with appropriate limitations may provide wire transfer services as a promotional activity pursuant to 209 CMR 50.07(5)(h) and 209 CMR 50.07(5)(i); and in appropriate circumstances may provide wire transfer services as a charitable activity.

(j) Stored value products.

1. Activities Requiring Notice. A credit union, pursuant to 209 CMR 50.07(3)(a), may provide the following stored value products: stored value cards, public transportation tickets, event and attraction tickets, gift certificates, prepaid phone cards, postage stamps, and electronic benefits transfer script, and similar media.

209 CMR 50.00 is further amended by striking 209 CMR 50.08 and inserting in place thereof the following:

50.08: Expedited Review Process To Conduct Certain Activities

- (1) General. A credit union that is well capitalized and has not been notified that it is significantly undercapitalized may engage in the activities listed in 209 CMR 50.08(3) by submitting an application to the Commissioner and receiving approval thereof. Such an application shall be deemed approved by the Commissioner 30 days after the filing is received by the Commissioner, unless the Commissioner notifies the credit union prior to that date that the filing is not eligible for expedited review.
- (2) Application. The application must include a complete description of the credit union's proposed activity, the credit union's investment in such activity, a detailed business plan

containing financial projections and assumptions, the written policies required by 209 CMR 50.05(2), as well as a representation and undertaking that the activity will be conducted in accordance with Massachusetts and Federal law. Any credit union granted an approval to conduct an activity pursuant to 209 CMR 50.08(1) is deemed to have agreed to conduct the activity in a manner consistent with applicable guidelines. The Commissioner may also impose additional conditions in connection with any approval granted under 209 CMR 50.08(1).

(3) Activities eligible for expedited review. A credit union may exercise the following powers pursuant to 209 CMR 50.08(1):

(a) Temporary Branch Offices. A credit union which received, as a result of its most recent examination by the Commissioner a “High Satisfactory” or an “Outstanding” CRA performance rating, may establish and operate a temporary branch office, to be open for less than a year, or on an intermittent basis at a designated site, subject to the investment limitations to purchase, hold and lease real estate suitable for the transaction of business, found at M.G.L. c. 171, §75.

(b) Shared Branch Offices.

1. Authority. A credit union may establish and operate a branch office on a shared basis with one or more credit unions or federal credit unions subject to the approval of the commissioner under M.G.L. c. 171, §8, provided all of the credit unions seeking to establish and operate such shared office received a “High

Satisfactory” or an “Outstanding” CRA performance rating as a result of their most recent examinations by the Commissioner.

2. Credit Union Service Organizations. Shared branch offices may be established through a CUSO or by written agreement among two or more credit unions. Such CUSO shall comply with 209 CMR 50.06(3)(c).
3. Mandatory Safeguards. Any such CUSO or agreement shall establish adequate safeguards relative to credit union liability for employee breaches of member confidentiality; loss against fraud or dishonesty; and any other risks associated with the operation of a shared branch office.
4. Maximum Investment. Shared branch offices shall be subject to the investment limitations to purchase, hold and lease real estate suitable for the transaction of business, found at M.G.L. c. 171, §75. In the event of a conflict between the investment limitations of M.G.L. c. 171, §75 and the maximum investment limitations of 209 CMR 50.06(3)(c) governing CUSOs, the former provision shall control.

209 CMR 50.00 is further amended by striking out 209 CMR 50.09 and inserting in place thereof the following:

50.09: Notice Process to Conduct Certain Activities

- (1) General. A credit union that is well capitalized and has not been notified that it is in troubled condition may engage in any activity listed under 209 CMR 50.09(3), by providing the Commissioner written notice within ten days after commencing the new activity.
  
- (2) Notice. The written notice must include a complete description of the activity conducted, the credit union's investment in such activity, and a representation and undertaking that the activity will be conducted in accordance with Massachusetts and Federal law. Any credit union filing notice pursuant to 209 CMR 50.09(1) is deemed to have agreed to conduct the activity in a manner consistent with applicable guidelines.
  
- (3) Activities subject to notice. A credit union may engage in the following activities pursuant to 209 CMR 50.09(1):

(a) Interest Bearing Corporate Checking Accounts. To the extent permitted by federal law, a credit union may pay dividends on organization member share draft accounts and may permit such organization members to make withdrawals from such accounts by negotiable or transferable instruments or other orders for the purpose of making transfers to third parties; provided, however, that the entire beneficial interest in such account shall be held by an organization member.

(b) Treasury Tax and Loan Depositories. A credit union may establish Treasury Tax and Loan Remittance Accounts subject to the requirements and limitations of 12 U.S.C. § 1767(a) and 12 CFR § 701.37, its implementing regulations. Such authority shall not extend to acting as a fiscal agent or depository for the Commonwealth or its political subdivisions unless expressly authorized by Massachusetts law.

(c) Purchase and Sale of Loan Portfolios.

1. General. A credit union may purchase, sell or pledge any consumer or mortgage loan made under M.G.L. c. 171 or 209 CMR 50.00 *et seq.*, (hereinafter “eligible obligation”) subject to the requirements of 209 CMR 50.09(3)(c).
2. Requirements. All loan purchases, sales or pledges under 209 CMR 50.09(3)(c)1. shall conform to the procedural and substantive requirements of 12 CFR § 701.23(b) governing the purchase of eligible obligations; 12 CFR § 701.23(c) governing the sale of eligible obligations; and 12 CFR § 701.23(d) governing the pledge of eligible obligations.

209 CMR 50.00 is further amended by striking out 209 CMR 50.10 and inserting in place thereof the following:

50.10 Notice Process to Conduct Certain Activities Relative to CUSOs

- (1) General. A credit union that is adequately capitalized and has not been notified that it is significantly undercapitalized or a credit union that is well capitalized and has not been notified that it is significantly undercapitalized may engage in any activity listed under 209 CMR 50.10(3) by providing the Commissioner written notice within ten days after commencing the new activity, provided, however, that the credit union has already received prior approval from the Commissioner to engage in other CUSO activities pursuant to 209 CMR 50.06(3)(c).
- (2) Notice. The notice must include a complete description of the activity conducted, the credit union's investment in such activity, and a representation and undertaking that the activity will be conducted in accordance with Massachusetts and Federal law. Any credit union filing notice pursuant to 209 CMR 50.10(1) is deemed to have agreed to conduct the activity in a manner consistent with applicable guidelines.
- (3) Activities subject to notice: A credit union may invest in, or lend to a CUSO that engages in any of the following activities pursuant to 209 CMR 50.10(1):
  - a. Checking and currency services.
    1. Check cashing;
    2. Coin and currency services; and
    3. Money order, savings bonds, travelers checks, and purchase and sale of U.S. Mint commemorative coins services.
  - b. Clerical, professional and management services.
    1. Accounting services;

2. Courier services;
  3. Credit analysis;
  4. Facsimile transmissions and copying services;
  5. Management and personnel training and support;
  6. Marketing services; and
  7. Research services.
- c. Electronic transaction services.
1. Automated teller machine (ATM) services;
  2. Credit card and debit card services;
  3. Data processing;
  4. Electronic fund transfer (EFT) services;
  5. Electronic income tax filing;
  6. Payment item processing; and
  7. Wire transfer services.
- d. Loan support services.
1. Loan processing, servicing, and sales; and
  2. Sale of repossessed collateral.
- e. Record retention, security and disaster recovery services.
1. Alarm-monitoring and other security services;
  2. Disaster recovery services;
  3. Microfilm, microfiche, optical and electronic imaging, CD-ROM data storage and retrieval services;
  4. Provision of forms and supplies; and



5. Record retention and storage.

- f. Student loan origination.
- g. CUSO investments in non-CUSO service providers. In connection with providing a permissible service, a CUSO may invest in a non-CUSO service provider. The amount of the CUSO's investment is limited to the amount necessary to participate in the service provider, or a greater amount if necessary to receive a reduced price for goods or services.
- h. Activities related to routine daily operations. A CUSO may engage in other activities if said activities are related to the routine daily operations of credit unions as permitted by the NCUA pursuant to 12 CFR §712.5 provided, however, that the Commissioner affirmatively deems such activity permissible by regulation or in writing.

209 CMR 50.00 is further amended by adding at the end thereof the following:

50.11 Pilot Investment Program

- (1) A credit union that is well capitalized and has not been notified that it is significantly undercapitalized may apply to the Commissioner to participate in a pilot investment program established by the Commissioner. Any such pilot program shall conform to the criteria set forth in 12 CFR §703.140 or as amended. In approving a credit union's application for participation in a pilot program, the Commissioner may impose such terms and conditions as he deems necessary.

209 CMR 50.00 is further amended by adding at the end thereof the following:

50.12: Activities Requiring No Application or Notice

(1) A credit union that is well capitalized and has not been notified that it is significantly undercapitalized may engage in the activities listed in 209 CMR 50.12(2) without filing an application or providing notice to the Commissioner; provided the activities continue to be deemed legally permissible by the Commissioner, and the activities are conducted in accordance with applicable Massachusetts or Federal law.

(2) A credit union may engage in the following activities pursuant to 209 CMR 50.12(1):

(a) Deposits in Federally Insured Banks and Credit Unions

1. Types of Deposits.

a. A credit union may invest in the deposits, including certificates of deposit, of federally insured banks located within or without the Commonwealth, provided such institutions are “well capitalized” under applicable federal share or deposit insurance laws and regulations.

b. A credit union may invest in the shares and deposits, including certificates of deposit, of federally insured credit unions located within or without the Commonwealth, provided such institutions are “well capitalized” under applicable federal share or deposit insurance laws and regulations.

c. Certificates of deposit authorized by 209 CMR 50.12(2)(a)1.a. and b. may exceed two years in maturity provided such investment is consistent with a credit union’s formal asset liability management strategy.

2. Investment Policies. The investments authorized by 209 CMR 50.12(2)(a)1.a. through c. shall conform to written investment policies which meet the

requirements of Regulatory Bulletin Manual, 2.2-101, entitled *Investment Policy Minimum Requirements* (1998 ed.), and any amendments thereto.

3. Cash on Hand Requirements. Deposits or certificates of deposit authorized by 209 CMR 50.12(2)(a)1.a. and b. shall not qualify towards the cash on hand requirements of M.G.L. c. 171, §71, unless the deposit or certificate of deposit meets the maturity and eligible depository requirements of M.G.L. c. 171, §71.

(b) Federal Funds

A credit union may participate in federal funds with federally insured banks whose main offices are located within the Commonwealth, provided such institutions are “well capitalized” under applicable federal deposit insurance laws and regulations.

(c) Non-Member Deposits

1. Corporate Credit Unions. A credit union may accept deposits from the Central Credit Union Fund, Inc., or a corporate credit union, as defined by M.G. L. c. 171, §1, for liquidity purposes. Said deposits shall not exceed federal or excess share insurance limits and shall comply with the maximum deposit limitations of M.G. L. c. 171, §30.
2. Credit Unions. A credit union may accept deposits for any purpose from another credit union or a federally chartered credit union having its main office in the Commonwealth. Said deposits shall not exceed federal or excess share insurance limits and shall comply with the maximum deposit limitations of M.G. L. c. 171, §30.

50:13 Unauthorized Activities

- (1) A credit union shall not be permitted under 209 CMR 50.00 *et seq.*, to engage in any insurance sales activities that would require the credit union to be licensed as an insurance agent or broker under M.G. L. c. 175.
- (2) The prohibition against insurance sales activities under 209 CMR 50.13(1) shall not prohibit a credit union from engaging in indirect insurance sales activities through a CUSO pursuant to 209 CMR 50.06(3)(c) or through incidental powers authorized by 209 CMR 50.07(5)(f).
- (3) The prohibition against insurance sales activities under 209 CMR 50.13(1) shall expire automatically upon the granting of insurance sales powers for credit unions under either state or federal law. In such event, the provisions of M.G.L. c. 167F, § 2A and 209 CMR 49.00 *et seq.* and 211 CMR 142.00 *et seq.* shall govern the insurance sales activities of credit unions.