



Commonwealth of Massachusetts

DIVISION OF BANKS

One South Station, 3rd Floor, Boston, MA 02110

April 29, 2010

The Honorable Steven T. James
Clerk of the House of Representatives
State House, Room 145 Boston,
Massachusetts 02133

Dear Mr. James:

Enclosed for filing please find the Division of Banks' (the "Division") summary of its proposed amendments to 209 CMR 50.00 *et seq.*, *Parity with Federal Credit Unions* (the "Parity Regulations"), which are the implementing regulations for Massachusetts General Laws chapter 171, section 6A. This statute authorizes the Commissioner of Banks to propose regulations, subject to Legislative review, to authorize activities that are available to federally chartered credit unions in order to make the state charter more competitive. A copy of the statute is attached to this letter. This summary and a copy of the proposed amendments, found at Appendix A, are required to be filed with your office pursuant to the statute. The Division's required statement that it has complied with the pertinent provisions of Massachusetts General Laws chapter 30A is found at Appendix B.

Summary of Proposed Amendments

The Division has undertaken an internal review of the implementation of the parity regulations, and now proposes new amendments. These amendments reflect both new authorities requested and structural amendments based on a recent law, Chapter 454 of the Acts of 2008, *An Act Relative to Credit Union Mortgages* ("Chapter 454"), as well as the consolidation and reorganization of remaining provisions.

As summarized below, the proposed amendments are divided into two general categories: new authorities and structural amendments.

A. New Authorities

New authorities are divided into two categories, authorities for credit unions and credit union service organizations ("CUSO"), as follows:

1. New Authorities for Credit Unions

- Authority to provide additional types of employee benefit plans and authority to make investments to fund said employee benefit plans that would otherwise be impermissible;
- Authority to provide correspondent services to foreign as well as state- and federally chartered credit unions; and
- Authority to provide payroll services.

2. New Authorities for CUSOs

- Authority for a CUSO to purchase an insurance agency;
- Authority for a CUSO to engage in credit card loan origination, including the authority to purchase credit unions' credit card portfolios and retain them within the credit union affiliated structure;



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- Authority for a CUSO to offer payroll processing;
- Authority for a CUSO to offer employee leasing services;
- Authority for a CUSO to offer stored value products;
- Two amendments to clarify that CUSOs may buy and sell loan participations, such as student, consumer and so-called member business loans that they are currently authorized to originate; and
- Authority for a CUSO to offer check cashing and money transfer services to certain nonmembers within their fields of membership, as follows:
 - Selling negotiation checks, travelers checks, money orders and other similar money transfer instruments;
 - Cashing checks and money orders; and
 - Receiving international and domestic electric fund transfers.

B. Structural Amendments

The Division issued an Industry Letter on February 11, 2010 relative to the impact of Chapter 454. In summary, the lending authorities established by Chapter 454 exceeded many authorities for state-chartered credit unions set out in the parity regulations in the areas of consumer and mortgage lending and loan participations, and the purchase and sale of consumer and mortgage loans. The majority of the proposed amendments now being made by the Division delete these authorities from the parity regulations since they are now superseded by the law.

The proposed amendments include all the technical revisions from the Chapter 454 Industry Letter, which deletes all referenced lending authorities in the letter. This will shrink the length of the regulation by one third. Two sections, 209 CMR 50.14 and 209 CMR 50.15, were deleted in their entirety. In addition, all language relative to CUSOs, which included both approval and notice authorities, has been moved to a new section, 209 CMR 50.07.

SECTION-BY-SECTION Summary

A section-by-section summary of the proposed amendments to 209 CMR 50.00 *et seq.* and additional comments follow. It should be noted that citations below are to the proposed amendments to the Parity Regulations. Former citations appear at the end of the summaries of each section of the regulation.

50.06 Application Process to Conduct Certain Activities

50.06(1)(a) General

Technical correction to update citation.

50.06(3) Activities Subject to Application and Approval

50.06(3)(b) Shared Branch Offices

50.06(3)(b)2. Credit Union Service Organizations



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Technical correction to update citation.

50.06(3)(b)4. Maximum Investment

Technical correction to update citation.

50.06(3)(c) Community Development Investments

The approval authorities relative to Community Development Investments previously set forth at 209 CMR 50.06(3)(d) are now set forth at 209 CMR 50.06(3)(c).

50.06(3)(d) Leasing Authorities

The approval authorities relative to Leasing previously set forth at 209 CMR 50.06(3)(h) are now set forth at 209 CMR 50.06(3)(d).

50.06(3)(e) Additional Non-Member Deposits

The approval authorities relative to Additional Non-Member Deposits previously set forth at 209 CMR 50.06(3)(o) are now set forth at 209 CMR 50.06(3)(e).

50.06(3)(f) Benefits for Employees of Credit Unions

This is a new authority for credit unions to provide additional types of benefits as part of employee benefit plans and also new authority to make investments that would otherwise be impermissible in order to fund said employee benefit plans. All activities under this authority shall conform to the procedural and substantive requirements set forth at 12 CFR § 701.19.

It should be noted that this proposed authority was included subsequent to the hearing based on information presented at the hearing and during the comment period, and following extensive discussion. As presented to the Division, a primary purpose to this request is an effort on the part of credit unions to manage the increasing costs of employee benefits.

50.06(3)(g) Additional Powers

The approval authorities relative to Additional Powers previously set forth at 209 CMR 50.06(3)(p) are now set forth at 209 CMR 50.06(3)(g). It should be noted that prior to amendments to the Parity Regulations that became effective on August 8, 2008, the authorities then in existence were set forth under Incidental Powers at 209 CMR 50.07.

50.60(3)(g)1. Technical correction to update citation.

50.06(3)(g)2.a.2. Authority to provide correspondent services to foreign as well as state- and federally chartered credit unions.

50.06(3)(g)2.f. Authority to provide payroll services under the category of Operational Programs.



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The following CUSO provisions, which previously were set forth at 209 CMR 50.06(3)(c), are now at 209 CMR 50.07(1) and 209 CMR 50.07(2).

50.06(3)(c) Investments in Credit Union Service Organizations

The approval authorities relative to CUSOs previously set forth at 209 CMR 50.06(3)(c) are now at 209 CMR 50.07.

The following provisions were deleted from 209 CMR 50.06 since they are now superseded by Chapter 454:

50.06(3)(e) 15-Year Consumer Loans

50.06(3)(f) Automobile Financing

50.06(3)(g) Lines of Credit and Credit Cards

50.06(3)(i) 20-Year Loans

50.06(3)(j) Residential Mortgages

50.06(3)(k) Loan-to-Value Residential Mortgage Loans

50.06(3)(l) Purchase and Sale of Loan Portfolios

50.06(3)(m) Consumer Loan Participations

50.06(3)(n) Non-Residential Real Estate Loan Participations

50.07 Credit Union Service Organizations

There were both substantive and structural amendments to the Parity Regulations relative to CUSOs.

The substantive amendments add the following new authorities for CUSOs:

- Authority for a CUSO to purchase an insurance agency at 209 CMR 50.07(2)(a)2.n;
- Authority for a CUSO to engage in credit card loan origination, including the authority to purchase credit unions' credit card portfolios and retain them within the credit union affiliated structure at 209 CMR 50.07(2)(a)2.o.;
- Authority for a CUSO to offer payroll processing at 209 CMR 50.07(2)(a)2.p.;
- Authority for a CUSO to offer employee leasing services at 209 CMR 50.07(2)(a)2.b.x.;
- Authority for a CUSO to offer stored value products at 209 CMR 50.07(2)(a)2.a.iv;
- Two amendments to clarify that CUSOs may buy and sell loan participations, such as student, consumer and so-called member business loans that they are currently authorized to originate at 209 CMR 50.07(2)(a)2.c. and 209 CMR 50.07(2)(a)2.i.; and



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- Authority for a CUSO to offer check cashing and money transfer services to certain nonmembers within their fields of membership, by amending 209 CMR 50.07(2)(a) and adding 209 CMR 50.07(2)(a)2.q.:
- Selling negotiation checks, travelers checks, money orders and other similar money transfer instruments;
- Cashing checks and money orders; and
- Receiving international and domestic electric fund transfers.

The structural amendment to the CUSO authorities is the consolidation of the approval authorities previously at 209 CMR 50.06(3)(c) and the notice authorities previously at 209 CMR 50.10 into one section of the Parity Regulations at 209 CMR 50.07.

Following is a list of provisions of 209 CMR 50.07 that were amended with substantive authorities or added as new authorities. The citations to all provisions of 209 CMR 50.07 were updated to reflect their consolidation within this section.

50.07(2)(a)1.a. Maximum Investment

Amended to provide that investments in or loans to CUSOs are also permissible if the CUSO primarily provides such services to persons who are eligible for membership in the credit union or are eligible for membership in credit unions contracting with the CUSO for activities set forth at 209 CMR 50.07(2)(a)2.q relative to check cashing and money transfer services to certain nonmembers who are eligible for specified fields of membership.

50.07(2)(a)2.a.iv. Stored Value Products

Amended to add stored value products at 209 CMR 50.07(2)(a)2.a.iv.

50.07(2)(a)2.b. Clerical, Professional and Management Services

50.07(2)(a)2.b.x. Amended to add employee leasing services at 209 CMR 50.07(2)(a)2.b.x.;

50.07(2)(a)2.c. Consumer Mortgage Loan Origination

Amended to clarify that CUSOs may buy and sell loan consumer participations that they are authorized to originate;

50.07(2)(a)2.i. Student Loan Origination

Amended to clarify that CUSOs may buy and sell loan consumer participations that they are authorized to originate;

50.07(2)(a)2.n. Insurance Sales

Added to authorize a CUSO to purchase an insurance agency.

50.07(2)(a)2.o. Credit Card Loan Origination

Added to authorize a CUSO to engage in credit card loan origination.



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50.07(2)(a)2.p. Payroll Processing Services

Added to authorize a CUSO to engage in payroll processing services.

50.07(2)(a)2.q. Check Cashing and Money Transfer Services to Certain Nonmembers Who Are Eligible for Specified Fields of Membership

Added to authorize the following activities for persons who are eligible for membership in the credit union or are eligible for membership in credit unions contracting with the CUSO:

1. Selling negotiable checks, travelers checks, money orders and other similar money transfer instruments;
2. Cashing checks and money orders; and
3. Receiving international and domestic electronic fund transfers.

50.08(3)(b)2. Expedited Review Process to Conduct Certain Activities - Shared Branch Offices -- CUSOs

Technical correction to update citation to CUSO authority.

50. 08(3)(b)4. Expedited Review Process to Conduct Certain Activities - Shared Branch Offices - Maximum Investment

Technical correction to update citation to CUSO authority.

50.09 Notice Process to Conduct Certain Activities

50.09(3)(c) Purchase and Sale of Loan Portfolios

This provision was deleted from the Parity Regulations since it is now superseded by Chapter 454.

50.09(c) Leasing

Technical correction to update citation.

50.09(d)1.-4. Additional Powers

Technical corrections to update citations.

50.10 Notice Process to Conduct Certain Activities Relative to CUSOs

As noted above, the notice authorities for CUSOs previously set forth at 209 CMR 50.10 are now set forth at 209 CMR 50.07(3) and 209 CMR 50.07(4).

50.10 Pilot Investment Program (formerly 209 CMR 50.11)

Technical correction to update citation.

50.11 Activities Requiring No Application or Notice (formerly 209 CMR 50.12)



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Technical corrections throughout this section to update citations.

50.11(4)(g) Purchase of Loan Portfolios from Any Federally Insured Credit Union

This provision was deleted from the Parity Regulations since it is now superseded by Chapter 454.

50.11(4)(g) Mortgage Loans Written in Accordance with Certain Mortgage Loan Programs of Public Instrumentalities

Technical correction to update citation from 209 CMR 50.12(4)(i).

50.11(4)(h) Purchase and Sale of Loan Portfolios

This provision was deleted from the Parity Regulations since it is now superseded by Chapter 454.

50.11(4)(h) Additional Powers

Technical corrections to update citations from 209 CMR 50.12(4)(j).

50.12 Activities Requiring No Application or Notice

As noted above, remaining provisions of this section are now at 209 CMR 50.11. Technical corrections were made to update citations.

50.13 Regulatory Flexibility Program

The provisions of this section were reorganized into other sections of the regulation as part of the 2008 amendments. Accordingly, this section title, which had been reserved, is no longer needed.

50.14 Activities Requiring No Notice or Application for Credit Unions that Have Previously Received Approval Pursuant to 209 CMR 50.00 et seq.

All provisions of this section have been deleted from the Parity Regulations since they are now superseded by Chapter 454.

50.15 Additional Notice Authorities for Credit Unions that Have Not Previously Received Approval Pursuant to 209 CMR 50.00 et seq.

All provisions of this section have been deleted from the Parity Regulations since they are now superseded by Chapter 454.

Public Hearing

A public hearing on these amendments was held pursuant to Massachusetts General Laws chapter 30A on Monday, April 26, 2010 at 11:00 a.m. and written comments were accepted through 5:00 p.m. on Tuesday, April 27, 2010. Oral and written comments were received from the credit union trade association. Written comments were also received from four state-chartered credit unions, one federally chartered credit union and an investment advisor. The comments were in support of the amendments to the regulations.



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Amendments Considered But Not Adopted

One proposed amendment which was considered but not ultimately adopted by the Division was additional so-called "finders activities" authority to permit a credit union to introduce its members to an outside vendor for specified financial and non-financial products. The other proposed amendments that were not adopted were relative to authority for CUSOs to engage in the following activities: real estate services; purchasing and servicing of nonperforming loans; business counseling and related services; and referral and processing of loan applications of members who were rejected by the credit union as permissible CUSO activities within existing categories. Some amendments were not included due to overlap with existing authorities; others were not included based on substantive considerations.

Background on the Parity Regulations Amendment Process

The Parity with Federal Credit Union regulations had been authorized by the enactment of Chapter 223 of the Acts of 1998, *An Act Relative to State-Chartered Credit Unions* (the "Act"), which authorized the Division to propose regulations that would grant state-chartered credit unions certain expanded powers enjoyed by federally-chartered credit unions. This Act amended Massachusetts General Laws chapter 171, *The Massachusetts Credit Union Act*, by inserting a new section 6A, which permits state-chartered credit unions to exercise certain powers granted to federal credit unions under the Federal Credit Union Act. In addition, this provision specifically charged the Commissioner of Banks with promulgating regulations authorizing state-chartered credit unions to exercise such federal credit union powers not otherwise prohibited by Massachusetts law. The Act required the Division's proposed regulations to be subject to Legislative review.

The Act's purpose was to ensure that state-chartered credit unions remain competitive with their federally-chartered credit union counterparts in terms of permissible powers and activities. Toward that end, the parity regulations, and the amendments proposed, grant state-chartered credit unions certain expanded powers enjoyed by federally-chartered credit unions in order to promote "competitive equality" between state-chartered credit unions and federally-chartered credit unions. In addition, the parity regulations cover all adequately-capitalized and eligible credit unions regardless of size, so all eligible small- and medium-sized credit unions are able to take full advantage of the expanded authorities. The Division's goal in proposing these amendments is to continue to offer new authorities in a manner that will make it easier for eligible credit unions to implement and remain competitive.

The parity regulations were not intended to be a definitive or static listing of federally-chartered credit union powers. The Legislature, the Division and the credit union movement all view the federally-chartered credit union parity process as a continuously evolving one. Consequently, it was intended that additional federally-chartered credit union powers would be adopted on a periodic basis to reflect changes in federal credit union laws, official interpretations, and operating conditions.

Please contact me at (617) 956-1510 or the Division's Legal Unit at (617) 956-1520, if there are any questions regarding these proposed regulations.

Very truly yours,

Steven L. Antonakes
Commissioner of Banks