



COMMONWEALTH OF MASSACHUSETTS

Office of Consumer Affairs and Business Regulation

DIVISION OF BANKS

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August 22, 2019

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' (Division) summary of its proposed amendments to 209 CMR 50.00: *Parity with Federal Credit Unions* (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. The summary at Appendix A and a copy of the proposed amendments at Appendix B 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 C.

Public Hearing

A public hearing on these amendments was held pursuant to Massachusetts General Laws chapter 30A on Thursday, September 13, 2018 and written comments were accepted through 5:00 p.m. on Friday, September 21, 2018. The credit union trade association and the banking trade association provided oral and written comments on the proposed amendments. The credit union trade association was in favor and proposed additional amendments. The banking trade association expressed concerns regarding the proposed additional powers.

Summary of Proposed Amendments

The proposed amendments reorganize and amend the Incidental Powers authorities. There are two new authorities proposed under Incidental Powers at 209 CMR 50.09(4)(a) and 209 CMR 50.09(4)(b). The first proposed authority is at 209 CMR 50.09(4)(a), which would authorize a state-chartered credit union to

apply for expedited approval from the Division for certain activities that the federal regulator, the National Credit Union Administration (NCUA), has deemed approved or deemed acceptable in writing to be an Incidental Power, and which is reasonably related to an individual power as set forth in 209 CMR 50.09(2) or 209 CMR 50.09(3). The second proposed authority is at 209 CMR 50.09(4)(b), which would authorize a state-chartered credit union to apply for approval from the Division for activities that the NCUA has deemed approved or deemed acceptable in writing as Incidental Powers but which are not included in 209 CMR 50.09(2) or 209 CMR 50.09(3). In addition, the proposed amendments restructure and streamline certain procedural requirements by allowing state-chartered credit unions to exercise certain authorities without approval or notice which previously required approval or notice.

General 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* (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 Act¹. 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. Under the law, the Division is precluded from filing final regulations until 90 days after they have been submitted to the Legislature.

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 proposed amendments 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. In general, the Division's goal in proposing amendments to the Parity Regulations 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 continuously evolving. 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.

¹ 12 U.S.C. §§1751 *et seq.*

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.

Sincerely,

A handwritten signature in blue ink that reads "Mary L. Gallagher". The signature is written in a cursive style with a large initial "M".

Mary L. Gallagher
Commissioner of Banks