

Proposed Amendments to 209 CMR 50.00 – May 2, 2012

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209 CMR 50.00: PARITY WITH FEDERAL CREDIT UNIONS

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50.01: Purpose and Scope

The purpose of 209 CMR 50.00 *et seq.* is to specify authorized powers and activities of credit unions, pursuant to M.G.L. c. 171, §6A, and to establish procedures and requirements, applicable to credit unions seeking to exercise powers granted to or conduct activities authorized for federal credit unions under federal law, to the extent that such powers are not otherwise prohibited.

In determining whether or not to authorize any power or activity, the Commissioner shall also determine whether or not competition among credit unions will be unreasonably affected and whether public convenience and advantage will be promoted.

A credit union may, under M.G.L. c. 171, §6A and 209 CMR 50.00 *et seq.*, exercise only those powers and engage in only those activities expressly authorized by the Commissioner as set forth in 209 CMR 50.00 *et seq.* Powers and activities not so authorized are prohibited.

50.02: Applicability and Relationship to Other State Law

- (1) 209 CMR 50.00 *et seq.* shall apply only to credit unions as defined by 209 CMR 50.04.
- (2) Any power authorized and exercised pursuant to 209 CMR 50.00 *et seq.* shall be independent from, and in addition to, any other powers granted to credit unions under applicable General Laws, or regulations promulgated thereunder. The express powers granted to credit unions under the General Laws are not limited or otherwise restricted by 209 CMR 50.00 *et seq.*
- (3) Any lending power authorized and exercised pursuant to 209 CMR 50.00 *et seq.* shall be subject to the limitations on total obligations to one borrower found in M.G.L. c. 171, § 58, unless otherwise specified herein.

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50.03: Advisory Opinions

The Commissioner may issue from time to time advisory rulings, pursuant to M.G.L. c. 30A, § 8, interpreting any provision of the regulations issued hereunder. Each regulation or officially published interpretation or guideline issued by the NCUA which interprets a provision of Federal law, as defined by 209 CMR 50.04, similar in substance to a provision of 209 CMR 50.00 *et seq.*, shall, until rescinded by the NCUA, be deemed by the Commissioner to be an advisory ruling issued under M.G.L. c. 30A, § 8; provided, however, that the Commissioner, at any time, may reject such a regulation or officially published interpretation or guideline issued by the NCUA.

50.04: Definitions

As used in 209 CMR 50.00 *et seq.*, the following words shall, unless the context otherwise requires, have the following meanings:

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.

Automobile. The word automobile shall include a motorcycle and a truck.

50.04: continued

Credit union. A credit union chartered pursuant to M.G. L. c. 171 and subject to examination and supervision by the Commissioner under M.G. L. c. 167.

Commissioner. The commissioner of banks, including the Division of Banks.

CUSO. A credit union service organization authorized under 209 CMR 50.07.

Federal law. The Federal Credit Union Act, 12 U.S.C. § 1781 *et seq.*, and its implementing regulations; any other federal statute or regulation authorizing a federal credit union to engage in activities; and, any officially published interpretation or guideline issued thereunder, by the NCUA. An "officially published guideline" must be formally published and circulated by the NCUA or a commercial publisher and be generally available to the public. This phrase shall not include a private, unpublished staff attorney letter issued to a federal credit union.

Health savings account. The term health savings account shall include a tax-advantaged savings account a member may use to pay some medical expenses not covered by health insurance in accordance with 26 U.S.C. § 223 and any guidelines issued by the NCUA.

NCUA. The National Credit Union Administration.

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Organization member. Any fraternal organization, voluntary association, partnership, limited partnership, corporation, limited liability company pursuant to relevant state law, or limited liability partnership pursuant to relevant state law, composed principally of individual members or stockholders who are themselves eligible to membership in a credit union or the Central Credit Union Fund, Inc. Said definition shall be effective as used in M.G.L. c. 171 and 209 CMR 50.00 *et seq.*

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. The term residential mortgage loan shall also mean a loan secured by a mortgage on a manufactured home that is permanently affixed to the land, qualifies as real property by being titled as real property under the laws of the state where it is located, and qualifies for a home mortgage interest deduction under the Internal Revenue Code.

~~Significantly undercapitalized.—A credit union shall be deemed to be significantly undercapitalized if it:~~

~~(a) has a net worth ratio of less than 4%; or~~

~~(b) if:~~

~~1. it has a net worth ratio of less than 5%;~~

~~2. it fails to submit an acceptable net worth restoration plan within the time allowed;~~

~~or materially fails to implement a net worth restoration plan; or~~

~~3. it is not otherwise in compliance with 12 U.S.C. § 1790d.~~

Strong or Satisfactory Management. A credit union shall be deemed to have strong or satisfactory management if the credit union's management rating meets the definitions set forth in Division of Banks Regulatory Bulletin 1.1-101, Appendix A; NCUA Letter to Credit Unions No. 161; and NCUA Letter to Credit Unions No. 167.

Trustee or Custodial Services. Trustee or custodial services are services as defined at 12 CFR §721.3(l).

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.

50.05: Credit Union Eligibility to Conduct Activities

(1) Financial and Managerial Requirements. Any credit union engaging in an activity pursuant to 209 CMR 50.00 *et seq.* must possess the necessary financial and managerial

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resources to ensure such activity will not adversely affect the institution's safety and soundness.

(2) Policy and Procedure Requirements. Any credit union engaging in an activity pursuant to 209 CMR 50.00 *et seq.* must have in place adequate policies and procedures governing the performance of such activity by the credit union and its employees, to minimize any credit, market, liquidity, operational, legal and reputational risks to the credit union.

(3) Satisfactory CRA Rating Requirement. Any credit union applying to engage in an activity pursuant to 209 CMR 50.00 *et seq.* must have received at least a satisfactory CRA rating at the most recent examination conducted by the Commissioner pursuant to M. G. L. c.167, § 14.

(4) Review. Any activity undertaken by a credit union pursuant to 209 CMR 50.00 *et seq.* shall remain subject to periodic review by the Commissioner. The Commissioner may modify, curtail, rescind or otherwise limit a credit union's authority to conduct any activity pursuant to 209 CMR 50.00 *et seq.* through a formal or informal remedial action if a credit union ceases to meet any applicable requirements, based upon a report of examination conducted by the Commissioner or the NCUA, or based on other reliable information.

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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 in troubled condition~~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(4).

(b) A credit union that is well capitalized, and has not been notified that it is in troubled condition~~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).

(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. The application must also provide any other information the Commissioner may require.

(3) Activities subject to application and approval. A credit union may engage in the following activities pursuant to 209 CMR 50.06(1):

(a) Temporary Branch Offices. A credit union 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.

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 50.07.

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 50.07(2)(a)1.a. and b. governing CUSOs, the former provision shall control.

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(c) Community Development Investments.

1. Investments in Community Development Credit Unions. A credit union may, individually or with other credit unions or federal credit unions, make deposits in, invest in, or lend to, a state or federally chartered credit union designated as a community development or low-income credit union located in the Commonwealth. A credit union's total deposits, investments and loans to all community development credit unions shall not exceed, in the aggregate, five percent of its total paid in and unimpaired capital and surplus, as of its last calendar year-end financial report.

2. Community Development Loan Pools. A credit union may, with other state or federally-chartered credit unions or banks, invest in, or lend to, a residential mortgage loan pool designed to promote affordable housing for low to moderate income persons residing in the Commonwealth for the purpose of meeting its obligations under the Massachusetts Community Reinvestment Act, M.G.L.c.167, § 14. Such investments and loans shall not exceed, in the aggregate, 5% of the credit union's total paid in and unimpaired capital and surplus, as of its last calendar year-end financial report.

(d) Leasing Activities.

1. Authority. A credit union may engage in automobile and personal property lease financing transactions with its members on a net, full payout basis. Such automobile and personal leasing activities may be conducted on either a direct or indirect basis and on either an open or closed end basis.

(e) Additional Non-Member Deposits. A credit union may accept deposits for any purpose from any ~~financial institution~~ credit union insured by the ~~Federal Deposit Insurance Corporation or the~~ NCUA up to 5% of its existing deposits. After one year, for compelling and valid business reasons established to the satisfaction of the Commissioner, the credit union may apply pursuant to 209 CMR 50.06(3)(e) for authority to increase said deposits from 5% of its deposits up to a percentage not to exceed 20% of its deposits. 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. Any acceptance of deposits made under 209 CMR 50.06(3)(e) shall be made in accordance with a detailed written policy approved and reviewed annually by the credit union's directors.

(f) Benefits for Employees of Credit Unions.

1. General. A credit union may provide employee benefits, including retirement benefits, to its employees and officers, individually or collectively with other credit unions. The kind and amount of these benefits must be reasonable given the credit union's size, financial condition, and the duties of the employees.

2. Investment Authority. A credit union investment to fund an employee benefit plan obligation is not subject to the investment limitations of M.G.L. c. 171 and may purchase an investment that would otherwise be impermissible if the investment is directly related to the credit union's obligation or potential obligation under the employee benefit plan and the credit union holds the investment only for as long as it has an actual or potential obligation under the employee benefit plan. All activities under 209 CMR 50.06(3)(f)

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shall conform to the procedural and substantive requirements of 12 CFR § 701.19.

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(g) 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 50.06(3)(g)2..

2. Requirements. All loan purchases, sales or pledges under 209 CMR 50.06(3)(g)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.

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(h) Consumer Loan Participations. A credit union may, by written agreement, make or invest in consumer loan participations with other credit unions, federal credit unions, federally-insured banks, any state or federal government agency and any subdivision thereof, or any credit union service organization meeting the requirements of 209 CMR 50.07 subject to the terms and conditions applicable to federal credit unions found in 12 CFR § 701.22(b) through 12 CFR § 701.22(d). For the purposes of 209 CMR 50.06(3)(h), a consumer loan shall include any loan made under M.G.L. c. 171, §§ 59-59A and §§ 65-65E, inclusive. A credit union may invest in the aggregate up to 10% of its assets in consumer loan participation interests.

(i) Non-Residential Real Estate Loan Participations. A credit union may, by written agreement, make or invest in non-residential real estate loan participations with other credit unions, federal credit unions, federally-insured banks, any state or federal government agency and any subdivision thereof, or any credit union service organization meeting the requirements of 209 CMR 50.07 subject to the terms and conditions applicable to federal credit unions found in 12 CFR § 701.22(b) through 12 CFR § 701.22(d), that would be used to provide or support one of the following activities: (1) equity or debt financing for small businesses; (2) area revitalization or stabilization or (3) other activities, services or facilities that primarily promote public welfare for the purpose of meeting its obligations under the Massachusetts Community Reinvestment Act, M.G.L. c. 167, §14. For the purposes of 209 CMR 50.06(3)(i), a non-residential real estate loan participation shall include any loan made under M.G.L. c. 171 §§ 65-66, inclusive. A credit union may invest in the aggregate up to 10% of its assets in non-residential real estate loan participation interests.

~~(e)~~ Additional Powers.

1. General. The authorities provided in 209 CMR 50.06(3)~~(e)~~ 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 12 CFR § 721 pursuant to regulations, guidelines or written opinions of the General Counsel of the NCUA 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 50.06(3)~~(e)~~.

2. Permissible Activities.

(a) Certain Correspondent Services.

1. Internal audits. A credit union may perform internal audits.
2. Other services. A credit union may provide the following correspondent services to foreign credit unions: 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.

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- (b) Certain Finders Activities. A credit union 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.
- (c) Loan-related Products. A credit union may provide the following loan-related products: debt cancellation agreements and debt suspension agreements.
- (d) Trustee or Custodial Services through Outside Vendors. A credit union may offer trustee or custodial services as defined at 209 CMR 50.04 through outside vendors.
- (e) Trustee or Custodial Services. A credit union may offer trustee or custodial services as defined at 209 CMR 50.04.
- (f) Operational Programs. A credit union may provide payroll services.

50.07: Credit Union Service Organizations

- (1) Application Process to Conduct Certain Activities Relative to CUSOs
 - (a) General. A credit union that is adequately capitalized, and has not been notified that it is ~~in troubled conditions significantly undercapitalized~~, may engage in any activity listed under 209 CMR 50.07(2) 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.
- (2) Activities subject to application and approval. A credit union may engage in the following activities pursuant to 209 CMR 50.07(1):
 - (a) 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, provided, however, with respect to any approved CUSO service as set out in 209 CMR 50.07(2)(a)2.q., this requirement is met 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. Such investments

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in or loans to CUSOs 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 50.07(1). Investment or lending pursuant to 209 CMR 50.07(1) 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 50.07(2)(a)1.b. is independent from the investment authority authorized under 209 CMR 50.07(2)(a)1.a.

c. Investment Limitations. The investment authorized by 209 CMR 50.07(2)1.a. shall not include the power to acquire control, directly or indirectly, of another financial institution or to invest in shares, stocks or obligations of a 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.

- i. Check cashing;
- ii. Coin and currency services;
- iii. Money order, savings bonds, travelers checks, and purchase and sale of U.S. Mint commemorative coins services; and
- iv. Stored value products.

b. Clerical, Professional and Management Services.

- i. Accounting services;
- ii. Courier services;
- iii. Credit analysis;
- iv. Facsimile transmissions and copying services;
- v. Internal audits for credit unions;
- vi. Locator services;
- vii. Management and personnel training and support;
- viii. Marketing services;
- ix. Research services; and
- x. Excess Capacity.

1. Agreements Relative to Excess Capacity in Personnel. A CUSO 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,

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and applicable state and federal law.

- c. Consumer Mortgage Loan Origination, including the authority to buy and sell participation interest in such loans.
- d. Electronic Transaction Services.
 - i. Automated teller machine (ATM) services;
 - ii. Credit card and debit card services;
 - iii. Data processing;
 - iv. Electronic fund transfer (EFT) services;
 - v. Electronic income tax filing;
 - vi. Payment item processing;
 - vii. Wire transfer services; and
 - viii. Cyber financial services.
- e. Financial Counseling Services.
 - i. Developing and administering Individual Retirement Accounts (IRA), Keogh, deferred compensation, and other personnel benefit plans;
 - ii. Estate planning;
 - iii. Financial planning and counseling;
 - iv. Income tax preparation;
 - v. Investment counseling; and
 - vi. Retirement counseling.
- f. Leasing.
 - i. Personal property; and
 - ii. Real estate leasing of excess CUSO property.
- g. Loan Support Services.
 - i. Debt collection services;
 - ii. Loan processing, servicing, and sales; and
 - iii. Sale of repossessed collateral.
- h. Record Retention, Security and Disaster Recovery Services.
 - i. Alarm-monitoring and other security services;
 - ii. Disaster recovery services;
 - iii. Microfilm, microfiche, optical and electronic imaging, CD-ROM data storage and retrieval services;
 - iv. Provision of forms and supplies; and
 - v. Record retention and storage.
- i. Student Loan Origination, including the authority to buy and sell participation interests in such loans.
- 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.
- l. Trust and Trust-Related Services. Trust and trust-related services as set forth at

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12 CFR 712.5(p): Acting as administrator for prepaid legal service plans; acting as trustee, guardian, conservator, estate administrator, or in any other fiduciary capacity; and trust services.

m. Securities Brokerage Services.

n. Insurance Sales.

1. Agency for sale of insurance.

o. Credit Card Loan Origination;

p. Payroll Processing Services; and

q. Check Cashing and Money Transfer Services to Certain Nonmembers Who Are Eligible for Specified Fields of Membership.

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.

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(g)(1) and (2);

b. "Travel agency services" under 12 CFR § 712.5(o); and

c. "Real estate brokerage" under 12 CFR § 712.5(q).

4. Corporate Requirements.

a. Corporate Structure. A credit union may invest in or lend to a CUSO structured as a business corporation, provided such entity is established and maintained under relevant federal or state law, or limited liability company or limited partnership, provided such entity is established and maintained under relevant state law. A credit union may also invest in a federally-chartered CUSO pursuant to 209 CMR 50.07 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 50.07(2)4.

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 50.07(2)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.

(3) Notice Process to Conduct Certain Activities Relative to CUSOs

(a) General. A credit union that is adequately capitalized and has not been notified that it is ~~in troubled conditionsignificantly underecapitalized~~ or a credit union that is well capitalized and has not been notified that it is ~~in troubled conditionsignificantly underecapitalized~~— may engage in any activity listed under 209 CMR 50.07(4) by

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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 50.07(1).

(b) 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 50.07(3) is deemed to have agreed to conduct the activity in a manner consistent with applicable guidelines.

(4) 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 50.07(3):

(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.

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(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.

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 ~~in troubled condition~~~~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.

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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 50.07.
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 50.07 governing CUSOs, the former provision shall control.

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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) Leasing.

1. Authority. A credit union may engage in automobile and personal property lease financing transactions with its members on a net, full payout basis. Such automobile and personal leasing activities may be conducted on either a direct or indirect basis and on either an open or closed end basis.

2. Conditions and limitations. All credit union leasing activities shall strictly conform to the conditions and limitations set forth in 12 CFR Part 714, Leasing. Those requirements include, but are not limited to, provisions governing maximum residual value; salvage values over leased property; and, contingent liability insurance policy endorsements for leasing. Credit union leasing activities shall remain subject to applicable usury limits under Massachusetts law.

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(d) 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) 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.

(ed) Additional Powers.

1. General. The authorities provided in 209 CMR 50.09(3)(ed) 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 12 CFR § 721 pursuant to regulations, guidelines or written opinions of the General Counsel of the NCUA 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 50.09(3)(ed).

2. Notice Process for Certain Activities. A credit union that is adequately capitalized and has not been notified that it is ~~in troubled conditionsignificantly undercapitalized~~ or a credit union that is well capitalized and has not been notified that it is ~~in troubled conditionsignificantly undercapitalized~~ may engage in the activity listed under 209 CMR 50.09(3)(de)4.a. by providing the Commissioner written notice within ten days after commencing the new activity.

3. General Provisions for Trustee or Custodial Services through Outside Vendors. A credit union that is well capitalized and has not been notified that it is ~~in troubled conditionsignificantly undercapitalized~~ may engage in the activity listed under 209 CMR 50.09(3)(ed)4.b. by providing the Commissioner written notice within ten days after commencing the new activity.

4. Permissible Activities.

a. 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 50.09(3)(de)4.a. 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 50.11(4)(hj)2.g. and 209 CMR 50.09(3)(de)4.a.; and in appropriate circumstances may provide wire transfer services as a charitable activity. A credit union may also offer check cashing and money transfer services to certain nonmembers within the credit union's field-of-membership including the following: the sale of negotiable checks, travelers checks, money orders and other similar money transfer instruments; the cashing of checks and money orders; and the receiving of

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international and domestic electronic fund transfers.

b. Trustee or Custodial Services through Outside Vendors. A well capitalized credit union may offer trustee or custodial services as defined at 209 CMR 50.04 through outside vendors.

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50.10: Pilot Investment Program

A credit union that is well capitalized and has not been notified that it is in troubled conditions~~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.

50.11: Activities Requiring No Application or Notice

(1) A credit union that is well capitalized and has not been notified that it is in troubled conditions~~significantly undercapitalized~~ may engage in the activities listed in 209 CMR 50.11(4)(a), 209 CMR 50.11(4)(b), ~~and~~ 209 CMR 50.11(4)(c) and 209 CMR 50.11(4)(i) 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 that is well capitalized and has not been notified that it is in troubled conditions~~significantly undercapitalized~~ and that has strong or satisfactory management as defined at 209 CMR 50.04 may engage in the activities listed in 209 CMR 50.11(4)(d), 209 CMR 50.11(4)(e), ~~and~~ 209 CMR 50.11(4)(f), and 209 CMR 50.11(4)(h) 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.

(3) A credit union that is well capitalized and has not been notified that it is in troubled conditions~~significantly undercapitalized~~ or a credit union that is adequately capitalized and has not been notified that it is in troubled conditions~~significantly undercapitalized~~ may engage in the activities listed in 209 CMR 50.11(4)(g) and 209 CMR 50.11(4)(~~h~~j) 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.

(4) A credit union may engage in the following activities pursuant to 209 CMR 50.11(1), 209 CMR 50.11(2) or 209 CMR 50.11(3):

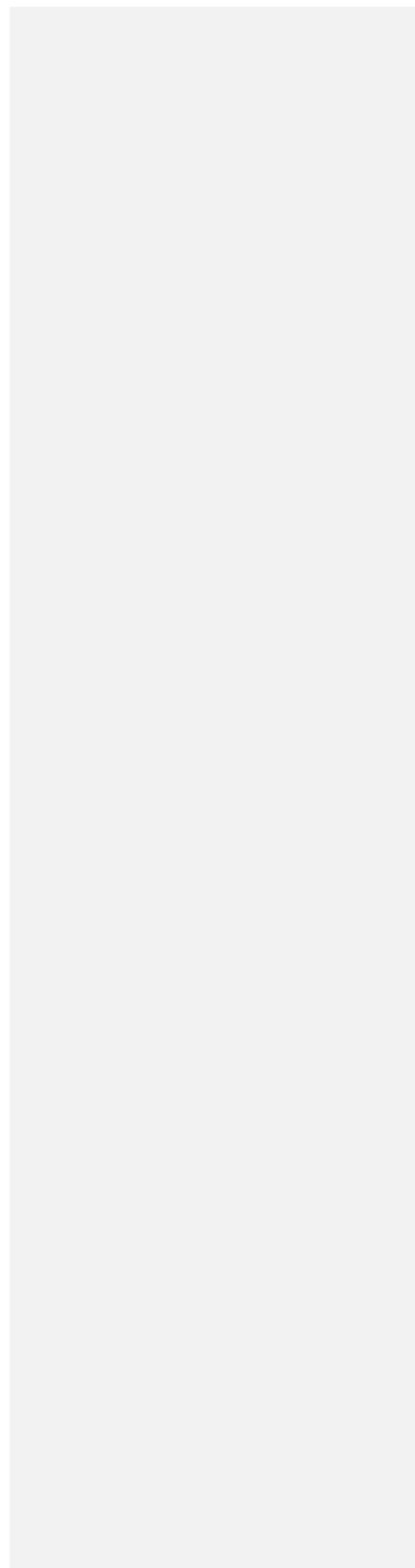
(a) Deposits in Federally Insured Banks and Credit Unions.

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

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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 50.11(4)(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 50.11(4)(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 50.11(4)(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) 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.

(c) Additional Investment Authorities. A credit union may invest or engage in investment repurchase transactions; securities lending transactions; borrowing repurchase transactions, including reverse repurchase transactions; and federal funds from any financial institution insured by the Federal Deposit Insurance Corporation or the NCUA subject to the terms and conditions applicable to federal credit unions found in 12 CFR Part 703. Any investments made under 209 CMR 50.11(4)(c) shall be made in accordance with a detailed written policy approved and reviewed annually by the credit union's directors.

(d) 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.

(e) 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.

(f) Investments in Land, Building, Improvements, and Equipment. A credit union may invest up to \$500,000 in land, building, improvements and equipment not to exceed \$500,000 for one parcel of real estate or purchase of equipment per transaction.

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(g) Mortgage Loans Written in Accordance with Certain Mortgage Loan Programs of Public Instrumentalities. A credit union may make first and subsequent lien residential mortgage loans, other than reverse mortgage loans, to members if said loans are written in accordance with mortgage loan programs of public instrumentalities created by the commonwealth, its municipalities, or the federal government 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, unless such loan is immediately assigned to the public instrumentality or other entity as part of the program. All activities pursuant to 209 CMR 50.11(4)(g) shall be undertaken in a manner consistent with applicable guidelines.

(h) Purchase of Loan Portfolios from Any Federally Insured Credit Union. Notwithstanding the general provisions in M.G.L. c. 171, a credit union meeting the eligibility requirements set forth in 209 CMR 50.11(2) may purchase any auto loan, credit card loan, student loan or mortgage loan from any federally insured credit union as long as the loans are loans that the purchasing credit union is empowered to grant. The credit union is authorized to keep these loans in its portfolio. If a credit union is purchasing the eligible obligations of a liquidating credit union, the loans purchased cannot exceed 5% of the unimpaired capital and surplus of the purchasing credit union.

(i) 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 50.11(4)(i)2.

2. Requirements. All loan purchases, sales or pledges under 209 CMR 50.11(4)(i)2, 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.

(hj) Additional Powers.

1. General. The authorities provided in 209 CMR 50.11(4)(hj)2. 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 12 CFR § 721 pursuant to regulations, guidelines or written opinions of the General Counsel of the NCUA only if the Commissioner affirmatively determines by regulation or in writing that the activity is reasonably related to

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an individual power set out in 209 CMR 50.11(4)(h)2.

A credit union that is adequately capitalized and has not been notified that it is in troubled condition~~significantly undercapitalized~~ or a credit union that is well capitalized and has not been notified that it is in troubled condition~~significantly undercapitalized~~ may engage in the activities listed in 209 CMR 50.11(4)(h)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. Permissible Activities.

a. Certification Services. A credit union may provide the following certification services: notary services, signature guarantees, certification of electronic signatures, and share draft certifications.

b. Correspondent services. A credit union may provide the following correspondent services to other federally-insured credit unions: 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.

c. Electronic Financial Services. A credit union 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. Agreements Relative to Excess Capacity in Personnel. A credit union 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.

2. Sale or Lease of Excess Capacity in Data Processing Equipment or Services. A credit union may sell or lease the excess capacity in data processing equipment or services.

3. Sale or Lease of Excess Capacity in Facilities, Equipment or Office Space. A credit union may sell or lease the excess capacity in facilities, equipment or office space.

e. Financial Counseling. A credit union may provide advice, guidance or services to members to promote thrift or to otherwise assist members on financial matters and 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. A credit union 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

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selling statistical or consumer financial information to outside vendors to facilitate the sale of their products to the members of the credit union.

g. Marketing Activities. A credit union 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.

h. Member Monetary Instrument Services. A credit union 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 purpose for its own account.

i. Stored Value Products. A credit union 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.

j. Health Savings Accounts. A credit union may offer health savings accounts, as defined at 209 CMR 50.04.

REGULATORY AUTHORITY

209 CMR 50.00: M.G.L. c. 171, § 6A.