

Chapter S-L 30

PARITY WITH FEDERAL SAVINGS AND LOAN ASSOCIATIONS

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Note: Chapter S-L 30 was created by emergency rule effective 12-24-81.

S-L 30.01 Purpose. (1) **FINDINGS.** The purpose of this chapter and ch. S-L 31 is to enable state chartered associations to exercise the rights, powers and privileges available to federal savings and loan associations and not otherwise available under state law. This will permit state chartered associations to more effectively compete with federal savings and loan associations and other financial depository institutions and financial intermediaries. The public and consumers will benefit as additional financial services and sources for those services are made available to communities at competitive rates.

(2) **INTERPRETATION.** The interpretation of rules in this chapter and ch. S-L 31 should be coordinated with and parallel to the interpretation of the federal laws, regulations and interpretations from which the rules are derived.

History: Cr. Register, November, 1982, No. 323, eff. 12-1-82; emerg. am. eff. 12-14-82; am. Register, February, 1983, No. 326, eff. 3-1-83.

S-L 30.02 Definitions. In this chapter:

(1) "Association" means an association as defined by s. 215.01 (1) or foreign association as defined by s. 215.01 (9), Stats.

(2) "Commissioner" means the commissioner of savings and loan.

(3) "Consumer loan" means a secured or unsecured loan, or an interest in a loan, to a natural person for personal, family or household purpose or a loan reasonably incident to lending for a personal, family or household purpose. A consumer loan may be made as either open-end or closed-end consumer credit but does not include credit extended in connection with credit cards or overdraft loans made in good faith.

(4) "Debit card" means a card that enables an accountholder to obtain access to a savings account for the purpose of making withdrawals or of transferring funds to a third party by non-transferable order or authorization.

(5) "Full-payout lease" means a lease with not more than a 40 year term from which the lessor can reasonably expect to realize a return of its full investment in the leased property plus the estimated cost of financing the property over the term of the lease derived from:

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- (a) Rentals;
 - (b) Estimated tax benefits; and
 - (c) The estimated residual value of the property at the expiration of the initial term of the lease.
- (6) "Negotiable order of withdrawal account" means a deposit or account the owner of which is permitted to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.
- (7) "Net lease" means a lease under which the association does not directly or indirectly, provide for and is not obligated to provide for:
- (a) The servicing, repair or maintenance of the leased property during the lease term;
 - (b) The purchasing of parts and accessories for the leased property (except that improvements and additions to the leased property may be leased to the lessee upon its request if the lease remains a full-payout lease);
 - (c) The loan of replacement or substitute property while the leased property is being serviced;
 - (d) The purchasing of insurance for the lessee, except where the lessee has failed in its contractual obligation to purchase or maintain the required insurance; or
 - (e) The renewal of any license or registration for the property unless action by the association is necessary to protect its interest as an owner or financier of the property.
- (8) "Normal lending area" means the area within a radius of 100 miles of an association's office.
- (9) "Note account" means a note, subject to the right of immediate call, evidencing funds held by depositories electing the note option under applicable U.S. treasury department regulations.
- (11) "Overdraft loan" means a loan made under an open-end credit plan in which loans are made if a customer overdraws a debit account.
- (12) "Personal security identifier" means any word, number, or other security identifier essential for an account holder to gain access to an account.
- (13) "Tax and loan account" means an account, the balance of which is subject to the right of immediate withdrawal, established for receipt of payments of federal taxes and certain United States obligations.
- (15) "With recourse" means, in connection with the sale of a loan or a participation interest in a loan, an agreement or arrangement under which the purchaser is entitled to receive from the seller a sum of money or thing of value, whether tangible or intangible (including any substitution), upon default in payment of any loan involved or any part of the

loan or to withhold or to have withheld from the seller a sum of money or anything of value by way of security against default.

History: Cr. Register, November, 1982, No. 323, eff. 12-1-82; emerg. am. (3), renum. (5), (6) to (10), cr. (7), (9), (13) and (15), eff. 12-14-82; am. (3), renum. (5), (6) to (10) to be (6), (8), (10) to (12) and (14), cr. (5), (7), (9), (13) and (15), Register, February, 1983, No. 326, eff. 3-1-83; am. (3), (5) (intro.), (7) (intro.) and (c), r. (10) and (14), Register, August, 1983, No. 332, eff. 9-1-83.

S-L 30.05 Election of loan or investment classification. (1) If an association may make an investment, loan or lease under more than one section of the statutes or this chapter the association, except as provided by sub. (2), may designate under which section the investment or loan or any portion of an investment or loan is made. An association may change its designation at any time.

(2) For the purpose of determining compliance with percentage of assets limits under this chapter:

(a) Loans in process, letters of credit, loan commitments or any other commitments to extend credit are investments and are included in total assets of an association only to the extent funds have been advanced and not repaid.

(b) A loan sold to a third party shall be included in calculating compliance with a percentage of assets limitations only to the extent it is sold with recourse.

(c) Overdraft loans on demand accounts and loans for a commercial, corporate, business or an agricultural purpose made by a service corporation which are not secured by real estate are included as an investment of the association under s. S-L 30.13 for the purpose of s. S-L 30.13 (2). If a service corporation has multiple stockholders the amount of a loan attributable to a stockholder shall be calculated pro rata according to the percentage of stock owned by the association.

Note: This section parallels 12 C.F.R. 545.31 (Election Regarding Classification of Loans or Investments).

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83.

S-L 30.10 Parity; consumer loans. (1) An association is authorized, under s. 215.02 (18), Stats., to make consumer loans; loans to dealers in consumer goods to finance inventory; and floor planning loans to dealers in consumer goods.

(2) An association's investment in loans under this section may not exceed 30% of the assets of the association. A lease of tangible personal property to a natural person for a personal, family or household purpose under S-L 30.11 is a consumer loan for the purpose of this subsection.

Note: This section parallels 12 C.F.R. 545.50 (Consumer Loans).

History: Cr. Register, November, 1982, No. 323, eff. 12-1-82; emerg. am. (1) (c), eff. 12-14-82; am. (1) (c), Register, February, 1983, No. 326, eff. 3-1-83; r. and recr. Register, August, 1983, No. 332, eff. 9-1-83.

S-L 30.11 Parity; finance leasing. (1) **GENERAL.** An association is authorized under ss. 215.02 (18) and 215.21, Stats., to become the legal or beneficial owner of tangible personal property or real property for the purpose of leasing the property or to obtain an assignment of a lessor's interest in a lease of tangible personal property or real property. An association may incur obligations incidental to its position as the legal or

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beneficial owner and lessor of property leased under this section. An association may become a lessor of property under this section only if:

(a) The lease is a net, full-payout lease representing a noncancelable obligation, notwithstanding the possible early termination of the lease; and

(b) At the expiration of the lease all interest in the property is liquidated or released on a net basis as soon as practicable.

(2) **RESIDUAL VALUE.** An association may own and lease property under this section only if not more than 20% of the return to be realized used in determining whether the lease is a full-payout lease is from the estimated residual value of the property at the expiration of the initial term of the lease. The estimated residual value of the property and that portion of the residual value relied upon by the lessor to satisfy the requirement of a full-payout lease shall be reasonable in light of the nature of the leased property and all relevant circumstances so that realization of the lessor's full investment plus the cost of financing the property primarily depends on the credit worthiness of the lessee and not on the residual market value of the leased item property.

(3) **SALVAGE POWERS.** (a) If an association in good faith believes that there has been an unanticipated change in conditions which threatens its financial position by significantly increasing its exposure to loss, the association may:

1. As the owner and lessor under a net, full-payout lease, take reasonable and appropriate action to salvage or protect the value of the property or its interests arising under the lease; or

2. As the assignee of a lessor's interest in a lease, become the owner and lessor of the leased property pursuant to its contractual right, or take any reasonable and appropriate action to salvage or protect the value of the property or its interest arising under the lease.

(b) An association may include any provisions in a lease, or make any additional agreements, to protect its financial position or investment in the circumstances set forth in par. (a).

Note: This rule parallels 12 C.F.R. 545.53 (Finance Leasing).

History: Emerg. cr. eff. 12-14-82; cr. Register, February, 1983, No. 326, eff. 3-1-83; r. and recr. (1) and (2), am. (3) (a) (Intro.), Register, August, 1983, No. 332, eff. 9-1-83.

S-L 30.13 Commercial loans. (1) An association is authorized under s. 215.02 (18), Stats., to invest in, sell, purchase, participate in, make, or otherwise deal in secured or unsecured loans for commercial, corporate, business or agricultural purposes.

(2) An association's total investment under this section and under s. S-L 30.11 in leases for commercial, corporate, business or agricultural purposes may not exceed 5% of the association's assets prior to January 1, 1984 or 10% of assets after December 31, 1983.

Note: This section parallels 12 C.F.R. 545.46 (Commercial Loans).

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83.

S-L 30.14 Collateral loans. An association is authorized under s. 215.02 (18), Stats., to make a loan secured by assignment of loans to the extent Register, August, 1983, No. 332

it could, under applicable law and rules, make or purchase the assigned loans.

Note: This section parallels 12 C.F.R. 545.31 (d).

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83.

S-L 30.15 Wisconsin consumer act. An association shall comply with chs. 421 to 428, Stats., if applicable, when making a consumer loan or lease.

History: Cr. Register, November, 1982, No. 323, eff. 12-1-82; emerg. renum. eff. 12-14-82; renum. from S-L 30.11, Register, February, 1983, No. 326, eff. 3-1-83; am. Register, August, 1983, No. 332, eff. 9-1-83.

S-L 30.16 Operating leases. (1) An association is authorized, under s. 215.02 (18), Stats., to invest in tangible personal property, including, but not limited to, vehicles, manufactured homes, machinery, equipment, or furniture, for the purpose of leasing the property. The estimated residual value of the property after the expiration of the initial term of the lease may not exceed 70% of the association's acquisition cost.

(2) An association may invest not more than 10% of its assets in property acquired and leased under this section.

Note: This section parallels 12 C.F.R. 545.78 (Leasing).

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83.

S-L 30.17 Demand accounts. (1) An association is authorized under s. 215.02 (18), Stats., to accept and maintain noninterest bearing demand accounts:

(a) From persons that have a business, corporate, commercial or agricultural loan relationship with the association; or

(b) From a commercial, corporate, business or agricultural entity for the sole purpose of effectuating payment to the entity by a nonbusiness customer.

(2) Owners of demand accounts of mutual associations are members of the association.

(3) For the purpose of this section:

(a) A business, corporate, commercial or agricultural loan includes any loan other than a home loan on property occupied or to be occupied by the borrower, a loan to a natural person for personal, family, or household purpose or a participation interest in such loans.

(b) A loan relationship is established where there is a line of credit, any outstanding loan or a lease under s. S-L 30.11, or a previous loan or lease and a reasonable expectation of the renewal of a lending or leasing relationship based on the usual and customary activities and needs of the borrower.

Note: This section parallels 12 U.S.C. 1464 (b) (1) A (b) and B and 12 C.F.R. 545.12 (Demand Deposit Accounts).

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83.

S-L 30.18 Letters of credit. (1) An association is authorized under s. 215.02 (18), Stats., to issue commercial and standby letters of credit under the Uniform Commercial Code or the Uniform Customs and Prac-

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tion for Documentary Credits and may pledge collateral to secure its obligations under letters of credit. A letter of credit under this section shall:

- (a) Conspicuously state that it is a letter of credit;
- (b) Contain a specified expiration date or be for a definite term, and be limited in amount;
- (c) Provide that the association's obligation to pay is solely dependent upon the presentation of confirming documents as specified in the letter of credit, and not upon the factual performance or nonperformance by the parties to the underlying transaction; and
- (d) Provide that the account party has an unqualified obligation to reimburse the association for payments made under the letter of credit.

(2) If funds are advanced under a letter of credit without compensation from the account party, the amount shall be treated as an extension of credit subject to applicable percentage-of-assets limits and other requirements under ch. 215, Stats., and chs. S-L 1 to 50.

Note: This section parallels 12 C.F.R. 545.48 (Letter of Credit).

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83.

S-L 30.20 Parity; miscellaneous. An association is authorized, under s. 215.02 (18), Stats., to:

(1) Issue credit cards, extend credit in connection with credit cards and otherwise engage in or participate in credit card operations.

(2) Pay third parties from a savings account, periodically or otherwise, if the accountholder authorizes the payment by a nontransferable order or authorization. The association may, at the request of the third party, treat an order or authorization under this subsection as a transfer to a savings account of the third party. Transfers under this subsection may be made through the use of a debit card. If a personal security identifier is used in conjunction with a debit card the identifier may not be disclosed to a third party. This subsection is in addition to authority to pay third parties otherwise available under ch. 215, Stats., or any other law.

(3) Extend secured or unsecured credit to cover payment of drafts or other funds transfer orders in excess of the available balance of an account on which they are drawn. This subsection does not authorize extension of credit through the use of drafts or other funds transfer orders which result in a debit balance existing for more than 30 days after notice or which are for a purpose other than the good faith payment of overdrafts.

(4) Make loans on the security of individual cooperative units by obtaining:

(a) A security interest in the stock, membership certificate or other evidence of ownership issued to a stockholder or member of a cooperative housing organization; and

(b) An assignment of the borrower's interest in the proprietary lease or occupancy agreement issued by such a cooperative housing organization.

(5) Invest in, sell, purchase, participate or otherwise deal in loans or interests in loans outside its normal lending area without geographic re-

striction. There are no restrictions on the aggregate amount an association may invest in loans on security property located outside its normal lending area, or on the qualifications of persons by or through whom the loans are originated or serviced other than those also applicable to loans made on security property located within the normal lending area.

(6) Charge an accountholder a fee for making any payment or transfer under sub. (2) or a negotiable order of withdrawal account or for maintaining a negotiable order of withdrawal account or an account authorized under sub. (2) or providing any service in connection with such an account. This subsection is in addition to authority to charge a fee otherwise available under ch. 215, Stats., and is subject to restrictions which may be applicable under chs. 421 to 428, Stats.

(7) Establish and maintain a branch or extended office within this state regardless of whether the office is located within the normal lending area of the association's home office but subject to approval of the commissioner and all other requirements and restrictions imposed by state statute or rule. This subsection is in addition to authority to establish and maintain branch and extended offices otherwise provided under ch. 215, Stats.

(8) Sell loans or participation interests in loans with recourse.

(9) Serve as depository for federal taxes or as treasury tax and loan depository subject to regulation of the U.S. treasury department, and as a depository of public money and fiscal agent of the government or, when designated by an instrumentality and approved by the commissioner, of any other instrumentality of the government. An association may satisfy any requirement in connection with that depository service, including, but not limited to, pledging collateral and maintaining a U.S. treasury general or time deposit open account or note or tax and loan accounts which are not savings accounts or savings deposits.

(10) Charge fees in connection with the administration of savings accounts except a fee or a fee increase may be imposed only if a written, clear and conspicuous disclosure of the fee or fee increase and the method of computing it is delivered to the saver before the saver opens the account or mailed to the saver not less than 30 days prior to the date the fee or fee increase takes effect, whichever is later.

(11) Offer negotiable order of withdrawal accounts for the deposit of public funds by an officer, employe, or agent of the United States, any territory, possession or subdivision of the United States, any state, county, municipality, town, a political subdivision of a state, county or municipality, the District of Columbia or the Commonwealth of Puerto Rico.

(12) Make loans for the payment of educational expenses, except an association's total investment in loans under this subsection may not exceed 5% of assets. This subsection is in addition to the authority to make a loan under s. 215.13 (38), Stats.

(13) Invest in time deposits, savings accounts, certificates or other accounts of any institution the accounts of which are secured by the Federal Savings and Loan Insurance Corporation or a bank the deposits of which are insured by the Federal Depository Insurance Corporation.

(14) Invest in obligations of or issued by any state, territory or possession of the United States or political subdivision of any state, territory or possession (including any agency, corporation or instrumentality). An association may invest in an obligation under this subsection only if:

(a) The obligation continues to hold one of the four highest national investment grade ratings or is issued by a public housing agency and backed by the full faith and credit of the United States, except an association may invest not more than 1% of its assets in obligations of a state, territory, possession or political subdivision where an office of the association is located regardless of rating; and

(b) The total amount invested in obligations of one issuer exclusive of general obligations, does not exceed 10% of the net worth of the association.

Note: This section parallels 12 C.F.R. 545.51 (Credit Cards), 545.17 (Funds Transfer Service), 545.47 (Overdraft Loans), 545.33 (g) (Loans on Cooperative Housing Units), 563.9 (Geographic Lending Restrictions), 545.11 (Fees), 561.8 (Sale of Loans With Recourse), 545.16 (c) (Tax and Loan Depositories), 545.11 (Savings Account Fees), 12 U.S.C. 1832 (a) (2) (Governmental NOW Accounts), 12 U.S.C. 1464 (c) (3) A (Education Loans), 12 U.S.C. 1464 (c) (2) G (Deposits in Savings and Loan Associations) and 12 C.F.R. 545.72 (Governmental Obligations) affects restrictions under ss. 215.13 (39) and 215.21 (28), Stats., and effectuates the statement of policy in 12 C.F.R. 556.5 (Branching).

History: Cr. Register, November, 1982, No. 323, eff. 12-1-82; emerg. cr. (8) to (12), eff. 12-14-82; cr. (8) to (12), Register, February, 1983, No. 326, eff. 3-1-83; r. and recr. (3), am. (5) and (9), cr. (11) to (14), Register, August, 1983, No. 332, eff. 9-1-83.

S-L 30.25 Money market account. (1) An association is authorized under s. 215.02 (18), Stats., to offer a money market account to any person, including, but not limited to, corporations and partnerships, as follows:

(a) An association may open a money market account only if the initial balance is at least \$2,500.

(b) The maximum interest rate on the account shall not exceed the ceiling rate for negotiable order of withdrawal accounts for the entire computation period if the balance is less than \$2,500. An association may determine the balance for the purpose of this paragraph by averaging the daily balance over a period not to exceed one month. For the purposes of this paragraph "month" means a calendar month or a statement cycle of at least 4 weeks but no longer than 35 days.

(c) Associations shall reserve the right to require at least 7 days notice prior to withdrawal. This notice period shall be applied equally to all depositors.

(d) Associations may guarantee the interest rate to be paid or computation method but for no more than a one month period. An association may establish maturity for the account no longer than one month. An association may not condition the interest rate or computation method on the period of time the funds remain on deposit, if that period is longer than one month.

(e) Associations may permit not more than 6 preauthorized transfers per month, including withdrawals by negotiable order to third persons and telephone transfers to third parties or another account, and not more than 3 withdrawals by negotiable order drawn to third parties.

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(f) Associations may accept additional deposits into the account, including automatic transfers from other accounts of the depositor, without limitation.

(g) Associations may not make loans to enable a depositor to meet balance requirements under paragraph (a) or (b).

(h) 1. Associations shall either:

a. Prevent transfers of funds in the money market account which are in excess of the number of transfers permitted under par. (e); or

b. Adopt procedures to monitor those transfers after they have occurred and contact customers who exceed the limits established by par. (e) on more than an occasional basis. For customers who continue to violate those limits after being contacted by the association, the association shall either close the account or take away the account's transfer and draft capacities.

2. Associations may use on a consistent basis either the date on a check or draft or the date it is paid in applying the limit on checks and drafts established by par. (e).

3. The rate of interest or other charges imposed on an overdraft credit arrangement on an account to which withdrawals from the money market account can be paid shall be not less than those imposed on overdrafts for customers who do not maintain the money market account.

(2) Except as explicitly provided this section is in addition to, and does not limit, authority otherwise available to associations under federal and state law.

(3) An association may offer the money market account as provided under 12 C.F.R. 1204.122.

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83.

S-L 30.30 Parity; absorptions. A stock association is authorized under s. 215.02 (18), Stats., subject to the approval of the commissioner, to convert the shares of a stock association absorbed under s. 215.73, Stats., into stock, savings accounts, or other securities of the surviving association or cash, property, rights, or securities of any other entity in connection with the absorption.

Note: This section parallels 12 C.F.R. 552.13 (f) (2).

History: Cr. Register, February, 1983, No. 326, eff. 3-1-83.

S-L 30.35 Conversion to stock association. (1) A mutual association is authorized, under ss. 215.02 (18) and 215.58, Stats., to:

(a) Convert to a stock association as part of a transaction in which a holding company is organized to acquire upon issuance all the capital stock of the converted association. In such a transaction savers of the converting association shall receive, without payment, nontransferable rights to purchase all of the capital stock of the newly formed holding company. All of the shares of capital stock of the holding company not purchased in the subscription offering shall be offered and sold in a public offering or a direct community offering. Prior to offering stock to savers or the public the association shall obtain a valuation of the association by an independent expert using commonly accepted valuation methods.

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The valuation shall be included in the plan submitted under s. 215.58, Stats. The total price at which the capital stock shall be sold shall be established by the independent valuation.

(b) Convert to a stock association as part of a transaction in which an existing holding company acquires upon issuance all the capital stock of the converted association. In such a transaction the savers of the converting association shall receive, without payment, nontransferable rights from the holding company to purchase its equity securities. Equity securities of the holding company issued in the transaction which are not purchased in the subscription offering shall be offered and sold in a public offering or a direct community offering. Prior to offering stock to savers or the public the association shall obtain a valuation of the association by an independent expert using commonly accepted valuation methods. The valuation shall be included in the plan submitted under s. 215.58, Stats. The total price at which the securities of the holding company shall be sold shall be established by the independent valuation.

(c) Convert to a stock association through absorption by an existing insured stock association which is a wholly owned subsidiary of a holding company. In such a transaction the savers of the converting association shall receive, without payment, nontransferable rights from the holding company to purchase its equity securities. Equity securities of the holding company issued in the conversion transaction which are not purchased in the subscription offering shall be offered and sold in a public offering or a direct community offering. Prior to offering stock to savers or the public the association shall obtain a valuation of the association by an independent expert using commonly accepted valuation methods. The valuation shall be included in the plan submitted under s. 215.58, Stats. The total price at which the equity securities of the holding company shall be sold shall be established by the independent valuation.

(d) Convert to a stock association through absorption by an existing insured stock association as part of a transaction in which the equity securities of the existing stock association are issued. In such a transaction the savers of the converting association shall receive, without payment, nontransferable rights from the existing stock association to purchase its equity securities. Equity securities of the existing stock association issued in the conversion transaction which are not purchased in the subscription offering shall be offered and sold in a public offering or a direct community offering. Prior to offering stock to savers or the public the association shall obtain a valuation of the association by an independent expert using commonly accepted valuation methods. The valuation shall be included in the plan submitted under s. 215.58, Stats. The total price at which the equity securities of the existing insured stock association shall be sold shall be established by independent valuation.

(2) The commissioner will accept applications under this section on a test-case basis. No application may be filed under this section without the prior written approval of the commissioner.

(3) Except as otherwise explicitly provided by this section, ch. 215, Stats., applies to a conversion or absorption under this section.

Note: This rule parallels 12 C.F.R. 563b.9 and 563b.10.

History: Cr. Register, May, 1983, No. 329, eff. 6-1-83.
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S-L 30.48 Other authority not restricted. The authority provided associations under this chapter and ch. S-L 31 is in addition to and does not limit authority otherwise available under ch. 215, Stats., and under other law.

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83.

S-L 30.49 Uninsured associations. An association which is not insured by the federal savings and loan insurance corporation may exercise authority granted under s. 215.02 (18), Stats., only to the extent and subject to the restrictions applicable to an insured association exercising those powers.

Note: All state chartered associations may exercise "parity" authority only subject to the restrictions on that authority applicable to federal savings and loan associations under federal savings and loan insurance corporation regulations. This applies equally to state chartered associations which are not insured by the FSLIC.

History: Cr. Register, November, 1982, No. 323, eff. 12-1-82.

S-L 30.50 Restriction by order. The commissioner may, for good cause, limit or prohibit an association from exercising authority granted under s. 215.02 (18), Stats.

History: Cr. Register, November, 1982, No. 323, eff. 12-1-82.