

This rule corrects a rule filed, pursuant to s. 186.118(3)(b), Stats., with the LRB on March 29, 2018 and effective May 1, 2018. The correction includes the analysis required pursuant to s. 227.14(2)(a)1. - 5., and 6m. – 8, Stats.

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## ANALYSIS

### 1. Statutes interpreted:

Section 186.118, Stats.

### 2. Statutory Authority:

Sections 186.118, Stats.

### 3. Explanation of agency authority:

Section 186.118(3)(b), reads:

1. The office of credit unions shall promulgate a rule adding an activity or power to the list of activities and powers established under sub. (2) (a) if the office of credit unions determines under par. (a) that the activity or power authorized for federally chartered credit unions should also be authorized for credit unions organized under s. 186.02.

2. The office of credit unions shall submit the proposed rule under subd. 1. to the legislative reference bureau in an electronic format approved by the legislative reference bureau, and the legislative reference bureau shall publish the proposed rule in the notice section of the Wisconsin administrative register under s. 35.93.

3. Sections 227.114 (4) and (6), 227.115, 227.135, 227.137, 227.14 (2) (a) 6., (2g), (4), and (4m), 227.15, 227.16, 227.17, 227.18, 227.185, 227.19, and 227.30 do not apply to the office of credit unions in promulgating a rule under subd. 1. or to any rule promulgated by the office of credit unions under subd. 1. Guidelines prescribed by executive order of the governor do not apply to the office of credit unions in promulgating a rule under subd. 1.

### 4. Related statutes or rules:

12 C.F.R. Part 701.34, s. 186.118, Stats., and ch. DFI-CU 75, Admin. Code.

### 5. Plain language analysis:

This rule adds acceptance of secondary capital accounts by low-income designated credit unions as an incidental powers activity preapproved for Wisconsin-chartered credit unions. This incidental powers activity is currently authorized for federally chartered credit unions pursuant to 12 C.F.R. s. 701.34.

**6. Summary of, and comparison with, existing or proposed federal regulation:**

Existing federal regulations are contained in 12 C.F.R. Part 701.34. The National Credit Union Administration (“NCUA”) allows low-income designated credit unions to accept secondary capital as long as certain conditions therein are met. A “low-income” designated credit union is a credit union whose majority of members meets the NCUA’s low-income threshold as defined in Part 701.34.

**7. Comparison with rules in adjacent states:**

Minnesota, Illinois and Iowa have not adopted a rule but rather have comparable statutes to s. 186.118 authorizing incidental powers. Michigan by order added acceptance of secondary capital accounts by low-income designated credit unions as an incidental powers activity preapproved for its credit unions. There are currently 13 state-chartered credit unions accepting secondary capital, including one in Minnesota and one in Illinois. There are currently 68 federally-chartered credit unions with secondary capital, including one in Wisconsin, three in Illinois, two in Michigan and one in Minnesota.

**8. Summary of factual data and analytical methodologies:**

The Office of Credit Unions (OCU) reviewed the provisions of 12 C.F.R. Part 701.34. Proposed changes to ch. DFI—CU 75 are based on these provisions as well as staff regulatory experience. The OCU has determined that 1) it would be useful for a low-income designated state-chartered credit union to accept secondary capital, 2) accepting secondary capital is a logical outgrowth of activities or powers that are part of the business of a low-income designated credit union, 3) the risk to accept secondary capital is similar to the risk already assumed as part of the business of the credit union, and 4) it is not likely to be detrimental to the overall safety and soundness of a low-income designated credit union. The OCU will continue to monitor the activity in its routine examinations of any low-income designated state-chartered credit union that engage in this activity.

**9. Place where comments are to be submitted and deadline for submitting:**

Kim Santos, Director, Office of Credit Unions, PO Box 14137, Madison, WI 53708-0137. Tel. (608) 267-2608; e-mail Kim.Santos@wisconsin.gov. There is no deadline for submitting comments.

**10. Agency contact person:**

Kim Santos, Director, Office of Credit Unions, PO Box 14137, Madison, WI 53708-0137. Tel. (608) 267-2608; e-mail Kim.Santos@wisconsin.gov.

**Chapter DFI—CU 75**

**AUTHORIZED INCIDENTAL POWERS ACTIVITIES**

**DFI-CU 75.01 Purpose.** The purpose of this chapter is to set forth a list of incidental powers activities that are authorized for federally chartered credit unions and in which Wisconsin-chartered credit unions may engage, pursuant to s. 186.118, Stats.

**DFI-CU 75.02 Interpretation.** The interpretation of rules in this chapter shall be coordinated with and parallel to the interpretation of federal laws and regulations from which these rules are derived, except as otherwise provided for by Wisconsin law.

**DFI-CU 75.03 Definitions.** In this chapter:

- (1) "Acceptance of secondary capital accounts by low-income designated credit unions" has the meaning set forth in 12 C.F.R. s. 701.34.
- (2) "Certification services" has the meaning set forth in 12 C.F.R. s. 721.3(a).
- (3) "Charitable contributions and donations" has the meaning set forth in 12 C.F.R. s. 721.3(b)(1).
- (4) "Charitable donation accounts" has the meaning set forth in 12 C.F.R. s. 721.3(b)(2).
- (5) "Correspondent services" has the meaning set forth in 12 C.F.R. s. 721.3(c).
- (6) "Electronic financial services" has the meaning set forth in 12 C.F.R. s. 721.3(d).
- (7) "Excess capacity" has the meaning set forth in 12 C.F.R. s. 721.3(e).
- (8) "Financial counseling services" has the meaning set forth in 12 C.F.R. s. 721.3(f).
- (9) "Finder activities" has the meaning set forth in 12 C.F.R. s. 721.3(g).
- (10) "Loan-related products" has the meaning set forth in 12 C.F.R. s. 721.3(h).
- (11) "Marketing activities" has the meaning set forth in 12 C.F.R. s. 721.3(i).
- (12) "Monetary instrument services" has the meaning set forth in 12 C.F.R. s. 721.3(j).
- (13) "Operational programs" has the meaning set forth in 12 C.F.R. s. 721.3(k).
- (14) "Stored value products" has the meaning set forth in 12 C.F.R. s. 721.3(l).
- (15) "Trustee or custodial services" has the meaning set forth in 12 C.F.R. s. 721.3(m).

**DFI-CU 75.04 Incidental powers activities.** The following incidental powers activities are preapproved for Wisconsin-chartered credit unions:

- (1) Acceptance of secondary capital accounts by low-income designated credit unions.
- (2) Certification services.
- (3) Charitable contributions and donations.
- (4) Charitable donation accounts.
- (5) Correspondent services.
- (6) Electronic financial services.
- (7) Excess capacity.
- (8) Financial counseling services.
- (9) Finder activities.
- (10) Loan-related products.
- (11) Marketing activities.
- (12) Monetary instrument services.
- (13) Operational programs.
- (14) Stored value products.
- (15) Trustee or custodial services.

