

CR 87-9

STATE OF WISCONSIN)
)
OFFICE OF COMMISSIONER OF BANKING)

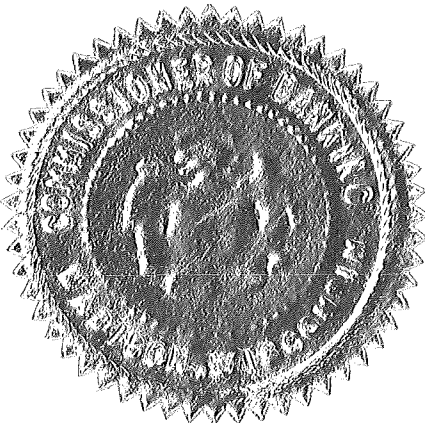
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TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Jennifer McKenzie, Deputy Commissioner of Banking and custodian of the official records of said office, do hereby certify that the annexed rule relating to loans and investments was duly approved and adopted by this office on the 10th day of April, 1987.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at the Office of the Commissioner of Banking in the City of Madison this 10th day of April, A.D. 1987.



Jennifer McKenzie

Jennifer McKenzie
Deputy Commissioner of Banking

6-1-87

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ORDER OF THE OFFICE OF COMMISSIONER OF BANKING

ADOPTING RULES

Relating to Rules Concerning Loans and Investments

Pursuant to the authority vested in the commissioner of banking by ss. 220.02(2), 221.295(4) and 227.11(2)(a), Stats., the commissioner of banking hereby creates rules interpreting s. 221.295, Stats., as follows:

CHAPTER BKG. 18

LOANS AND INVESTMENTS

SECTION 1. Chapter Bkg 18 is created to read:

Bkg 18.01 DEFINITIONS: In this chapter: (1) "Investment" means moneys advanced, directly or indirectly by a bank or its subsidiary in listed or unlisted stocks, capital notes and debentures, bonds, real estate, small business investment companies and other obligations or securities as are permitted by law or administrative rule.

(2) "Security" means the interest pledged to a bank or its subsidiary for a loan. Permissible forms of security include real estate, business assets, listed and unlisted securities, cash surrender value of life insurance, limited partnerships but not as a general partner and other forms as permitted by law or administrative rule. Loans under s. 221.295(1), Stats., need not be secured.

(3) "Subsidiary" means any business in which a parent bank owns an interest of at least 80% of the voting stock pursuant to s. Bkg 3.04.

NOTE: Bkg 18.01 creates definitions for the terms "investment", "security" and "subsidiary". It establishes permissible forms of investment or security and references the necessity of any subsidiary following the requirements set forth at s. Bkg 3.04.

SECTION 2. Bkg 18.02 is created to read:

Bkg 18.02 LOANS OR INVESTMENT LIMITED. (1) A bank or its subsidiary is limited for its aggregate loan or investment portfolio to the respective percentage established by the commissioner pursuant to s. 221.295(3), Stats.

(2) The statutory limitations with respect to officers', directors' and employees' of a bank, as set forth at s. 221.31, Stats., are applicable to and included in calculating the appropriate amounts of such officers', directors' or employees' involvement, relationship, ownership or other participation through a subsidiary.

NOTE: Bkg 18.02 clarifies the limitations

on security or investment including those limitations specifically set forth with respect to officers, directors and employees of banks so that those limitations are considered in determination of applicable percentage limits.

SECTION 3. Bkg 18.03 is created to read:

Bkg 18.03 PROCEDURE FOR DETERMINATION OF APPLICABLE PERCENTAGE. Prior to lending or investing by a bank or its subsidiary pursuant to s. 221.295, Stats., the bank or subsidiary shall request the commissioner of banking to make a determination establishing applicable percentage limitations. The commissioner's determination may include consideration of the bank's assets, management and liquidity ratio and its capital ratio. The commissioner shall report the determination to the requestor within 60 days from the date of the receipt of the request.

NOTE: Bkg 18.03 creates the procedure to be used in application for a percentage pursuant to s. 221.295 and sets forth a time frame within which the commissioner shall take action upon the request. It creates an affirmative duty for the bank or its subsidiary to make application rather than having the commissioner make blanket percentage determinations for all banks. It allows the commissioner to have accurate knowledge as to which banks are involved in this process for review and examination purposes.

SECTION 4. Bkg 18.04 is created to read:

Bkg 18.04 REVIEW OF PERCENTAGE DETERMINATION AND COMPLIANCE WITH OTHER LAWS. (1) The commissioner may review the determination made and establish, withdraw or suspend the percentage in effect after consideration of factors such as the bank's capital, capital ratio, asset quality, management, earnings, liquidity ratio, contingent liabilities and off balance sheet risk. After any loss is reported the commissioner shall have 60 days to review and establish, withdraw or suspend a percentage pursuant to s. 221.295, Stats.

(2) OTHER LAWS AND REGULATIONS. Nothing in this chapter shall be construed to imply that the bank or its subsidiary can enter into such transactions without compliance with Wisconsin Statutes and other applicable laws or administrative rules.

NOTE: Bkg 18.04 clarifies the ability of the

commissioner to review the assigned percentages based upon the bank's CAMEL rating, and other factors pursuant to s. 221.295, Stats., so as to assess its investment and loan performance in relation to the bank's total performance. It also requires compliance with other laws and administrative rules not administered by the Office of Commissioner of Banking.

SECTION 5. Bkg 18.05 is created to read:

Bkg 18.05 NOTIFICATION. The bank or its subsidiary shall prior to disposition of, or withdrawal from, the loan or investment inform the commissioner by letter of the terms of the transaction. The bank or its operating subsidiary shall provide a financial statement to the commissioner within 90 days after the close of its fiscal year. It shall further provide the commissioner a copy of the board of directors resolution or resolutions approving any investments or loans or taking any action with regard thereto pursuant to s. 221.295, Stats.

NOTE: Bkg 18.05 creates a notification process to provide the office of commissioner of banking necessary information to make its determinations as to proper percentage allocations pursuant to s. 221.295, Stats.

SECTION 6. Bkg 18.06 is created to read:

Bkg 18.06 ACCOUNTING. The bank or its subsidiary shall follow the instructions approved for use by the office of commissioner of banking for the preparation of reports in the reports of condition and income to account for investments made pursuant to s. 221.295, Stats.

NOTE: Bkg 18.06 is created to standardize the accounting procedures to be used by banks and their subsidiaries to accurately portray the status of loans and investments pursuant to generally accepted accounting principles.

SECTION 7. Bkg 18.07 is created to read:

Bkg 18.07 LOSSES. The bank or its subsidiary shall within 30 days report any losses incurred on loans or investments made pursuant to s. 221.295, Stats.

NOTE: The purpose of Bkg 18.07 is to clarify the procedures available to the commissioner pursuant to s. 221.295 to review losses so that the commissioner may make an accurate assessment of the proper percentage to be assigned a bank for equity loan and investment purposes.

FISCAL ESTIMATE
AD-MBA-23 (Rev. 11/84)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
Amendment No. If Applicable

Subject
LOANS AND INVESTMENTS

Fiscal Effect
State: No State Fiscal Effect
Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.
 Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation
 Increase Costs - May Be Possible to Absorb Within Agency's Budget Yes No
 Decrease Costs

Local: No local government costs
1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory
3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory
5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____

Fund Sources Affected Affected Ch. 20 Appropriations
 GPR FED PRO PRS SEG SEG-S

Assumptions Used in Arriving at Fiscal Estimate

This rule has no fiscal effect on local units of government.
These rules have no anticipated state fiscal effect during the current biennium or any long range fiscal implications.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.) Authorized Signature/Telephone No. Date
Jennifer McKenzie (608) 266-0442 *Jennifer McKenzie* 1/16/87

State of Wisconsin
Office of Commissioner of Banking

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April 10, 1987

Tommy G. Thompson
Governor

Richard E. Galecki
Commissioner

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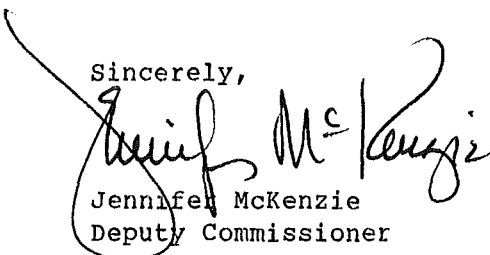
Mr. Gary Poulson
Assistant Revisor of Statutes
9th. Floor
30 W. Mifflin
Madison WI 53703

Re: Clearing House Rule 87-9

Dear Mr. Poulson:

Attached please find a certified copy and one additional copy of this rule for publication in the Administrative Code. The rule was submitted to the Senate and Assembly in final draft form on February 20, 1987. Neither the Senate Committee on Aging, Banking, Commercial Credit and Taxation nor the Assembly Committee on Financial Institutions and Insurance took any action with respect to the Rule within 30 days of referral.

Sincerely,


Jennifer McKenzie
Deputy Commissioner

JMK:nap