

Chapter DFI-CU 70

PARTICIPATION LOAN AUTHORITY PARITY WITH FEDERAL CREDIT UNIONS

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Note: Chapter CU 70 was renumbered chapter DFI-CU 70 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1997, No. 502.

DFI-CU 70.01 Purpose and scope. The purpose of this rule is to permit Wisconsin-chartered credit unions to engage in loan participation contracts with one or more credit unions, credit union organizations, and financial organizations in the same manner that such participation contracts are available to federally-chartered credit unions.

History: Cr. Register, February, 1988, No. 386, eff. 3-1-88; am. Register, October, 1997, No. 502, eff. 11-1-97.

DFI-CU 70.02 Interpretation. The interpretation of rules in this chapter shall be coordinated with and parallel to the interpretation of federal laws, regulations, and interpretations from which this chapter is derived.

Note: This rule parallels 12 CFR Part 701.22, Loan Participation, effective January 26, 1996.

History: Cr. Register, February, 1988, No. 386, eff. 3-1-88.

DFI-CU 70.03 Definitions. In this chapter:

(1) "Credit union" means any federal or state-chartered credit union.

(2) "Credit union organization" means any organization as determined by the director established primarily to serve the daily operational needs of its member credit unions. The term does not include trade associations, membership organizations principally composed of credit unions, or corporations or other businesses which principally provide services to credit union members as opposed to corporations or businesses whose business relates to the daily in-house operation of credit unions.

(3) "Director" means the director of credit unions or an authorized representative of the director.

(4) "Eligible organization" means a credit union, credit union organization, or financial organization.

(5) "Financial organization" means any federally-chartered or federally-insured financial institution.

(6) "Originating lender" means the participant with which the member contracts.

(7) "Participation loan" means a loan in which one or more eligible organizations, participate pursuant to a written agreement with the originating lender.

History: Cr. Register, February, 1988, No. 386, eff. 3-1-88; am (2) renum. (3) to (6) to be (4) to (7) and am. (7), cr. (3), Register, October, 1997, No. 502, eff. 11-1-97.

DFI-CU 70.04 General authority. Subject to the provisions of this chapter, any credit union may participate in making loans with eligible organizations within the limitations of the board of directors' written participation loan policies, if all of the following conditions are met:

(1) No credit union shall obtain an interest in a participation loan if the sum of that interest together with other indebtedness

owing to the credit union by the borrower exceeds 10% of the credit union's assets.

(2) A written master participation agreement has been properly executed, acted upon by the credit union's board of directors, or if the board has so delegated in its policy, senior management official and retained in the credit union's office. The master agreement shall include provisions for identifying, either through a document which is incorporated by reference into the master agreement, or directly in the master agreement, the participation loan or loans prior to their sale.

(3) A credit union may sell to or purchase from any participant the servicing of any loan in which it owns a participation interest.

History: Cr. Register, February, 1988, No. 386, eff. 3-1-88; am. (intro.) (1) r. and recr. (2), Register, October, 1997, No. 502, eff. 11-1-97.

DFI-CU 70.05 Originating lender requirements. An originating lender which is a credit union subject to this chapter shall do all of the following:

(1) Originate loans only to its members.

(2) Retain an interest of at least 10% of the face amount of each loan;

(3) Retain the original or copies of all relevant loan documents.

(4) Require the credit committee or loan officer to use the same underwriting standards for participation loans used for loans that are not being sold in a participation agreement unless there is a participation agreement in place prior to the disbursement of the loan. Where a participation agreement is in place prior to disbursement, either the credit union's loan policies or the participation agreement shall address any variance from non-participation loan underwriting standards.

History: Cr. Register, February, 1988, No. 386, eff. 3-1-88; am. (intro.) to (3), cr. (4), Register, October, 1997, No. 502, eff. 11-1-97.

DFI-CU 70.06 Participating lender requirements. A participant credit union that is not the originating lender shall do all of the following:

(1) Participate only in loans it is empowered to grant.

(2) Have a participation policy in place which sets forth the loan underwriting standards prior to entering into a participation agreement.

(3) Participate in participation loans only if made to its own members or members of another participating credit union.

(4) Retain the original or a copy of the written participation loan agreement and a schedule of the loans covered by the agreement.

(5) Obtain the approval of the board of directors or their designee for the disbursement of proceeds to the originating lender.

History: Cr. Register, February, 1988, No. 386, eff. 3-1-88; am. (intro.) and (1) renum. (2) to (4) to be (3) to (5) and am. cr. (2), Register, October, 1997, No. 502, eff. 11-1-97.