

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 a lease meeting the requirements of S-L 30.11, or an interest in a loan, to a natural person for personal, family or household purposes. A consumer loan may be made as either open-end or closed-end consumer credit.

(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 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:

- (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 or 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 or replacement of 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.

(10) "One borrower" means any person that is, or upon the making of a loan will become, obligor on a loan and:

(a) Nominees of the obligor;

(b) All persons, trusts, partnerships, syndicates and corporations of which the obligor is a nominee or a beneficiary, partner, member, or record or beneficial stockholder owning 10% or more of the capital stock; and

(c) If the obligor is a trust, partnership, syndicate or corporation, all trusts, partnerships, syndicates and corporations of which any beneficiary, partner, member, or record or beneficial stockholder owning 10% or more of the capital stock, is also a beneficiary, partner, member, or record or beneficial stockholder owning 10% or more of the capital stock of the obligor.

(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 accountholder 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.

(14) "Total balances of all outstanding unsecured consumer loans" means the aggregate original principal balances of unsecured consumer loans of an association plus any additional advances and interest due and unpaid, less repayments and participating interests sold.

(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), renun. (5), (6) to (10), cr. (7), (9), (13) and (15), eff. 12-14-82; am. (3), renun. (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.

S-L 30.10 Parity; consumer loans. (1) An association is authorized, under s. 215.02 (18), Stats., to make, originate, purchase, sell, service, or participate in direct or indirect consumer loans if:

(a) The consumer loans conform to the association's written underwriting standards;

(b) Before indirect consumer loans are made through a dealer, the dealer is approved by the associations's board of directors; and

(c) At any time the total investment made under this section, S-L 30.11 and under s. 215.13 (26) (f), Stats., in commercial paper or corporate debt securities investments does not exceed 20% of assets. Investment in commercial paper or corporate debt securities is not authorized under this paragraph.

(2) If a loan may be made under this section and is also authorized under another section of chs. S-L 1 to 50 or s. 215.13, 215.19, 215.20, 215.205 or 215.21, Stats., which may have different percentage of assets and other limitations or requirements, an association has the option of choosing under which applicable section the loan is made.

(3) The total balances of all outstanding unsecured consumer loans to one borrower is limited to .25% of an association's assets or 5% of its net worth, whichever is less, except an association may make up to \$3000 in unsecured consumer loans to any one borrower and, after December 31, 1981, and annually thereafter, that amount is adjusted by the dollar amount that reflects the percentage increase, if any, in the consumer price index during the previous 12 months as shown in the November to November index.

(4) This section does not apply to:

(a) Credit extended in connection with credit cards or overdraft loans; or

(b) Consumer loans secured by liens on real estate or mobile homes, unless the association relies substantially on other factors, such as the general credit standing of the borrower, guarantees or security other than the real estate or mobile home, as the primary security for the consumer loan. Appropriate evidence to demonstrate justification for reli-

ance on factors other than the lien or real estate or a mobile home shall be retained in the association's files.

Note: This section parallels 12 C.F.R. 645.7-10 (consumer loans). It is not intended to affect the Wisconsin Consumer Act. Chs. 421 to 428, Stats., should be consulted to determine whether a credit card, overdraft loan or other consumer loan transaction is subject to restrictions under the Wisconsin Consumer Act.

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.

S-L 30.11 Parity; consumer leasing. (1) **GENERAL POWERS.** Within the limitations of S-L 30.10 and subject to sub. (2) an association may:

(a) Become the legal or beneficial owner and lessor of specific personal property or otherwise acquire such property at the request of the lessee who wishes to lease it from the association; or

(b) Become the owner and lessor of personal property by purchasing the property from another lessor in connection with its purchase of the related lease; and

(c) Incur obligations, incidental to its position as the legal or beneficial owner and lessor of the leased property.

(2) **EXCEPTIONS.** Except as provided in sub. (3) an association may act under sub. (1) only if:

(a) The lease is to a natural person for personal, family or household purposes;

(b) The lease is a net, full-payout lease representing a noncancelable obligation, notwithstanding the possible early termination of the lease, and at the expiration of the lease all interest in the property is liquidated or released on a net basis as soon as practicable; and

(c) The estimated residual value of the property used in determining whether the lease is a full-payout lease does not exceed 25% of the acquisition cost of the property to the lessor unless the estimated residual value is guaranteed by a manufacturer, the lessee, or a third party not an affiliate of the association and the association determines that the guarantor has the resources to meet the guarantee. In all cases, however, both the estimated residual value of the property and that portion of the residual value relied upon by the lessor to satisfy the requirements of a full-payout lease must 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 any guarantor of the residual value, and not on the residual market value of the leased items.

(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, subject to chs. 421 to 427, Stats., 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

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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. 545.7-10a (consumer leasing). Most consumer lease transactions authorized by this rule will be subject to restrictions under the Wisconsin Consumer Act. See for example s. 422.412, Stats.

History: Emerg. cr. eff. 12-14-82; cr. Register, February, 1983, No. 326, eff. 3-1-83.

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

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.

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 in the form of overdraft loans specifically related to negotiable order of withdrawal accounts.

(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 on security property located outside its normal lending area but within the United States or its territories and possessions. 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 au-

thorized 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 satisfy any requirement in connection with that depository service, include pledging collateral and maintaining 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.

Note: This section parallels 12 C.F.R. 545.7-7 (credit cards), 545.4-1 (a) (payments to third parties), 545.4-1 (b) (2) (overdraft loans), 545.6-2 (loans on cooperative housing units), 563.9 (nationwide lending), 545.4-1 (d) (fees), 561.8 (sale on loans with recourse), 545.24-3 (tax and loan depositories), and 545.1 (b) (savings account fees), affects restrictions under ss. 215.13 (39) and 215.21 (28), Stats., and effectuates the statement of policy in 12 C.F.R. 566.5 (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.

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. 562.13 (f) (2).

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

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.
Register, February, 1983, No. 326

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.