

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:

- (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 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.

(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

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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) (8) 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 30.21 Parity; individual retirement and keogh plan accounts.** (1) An association may, under ss. 215.02 (18) and 215.135, Stats., act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension or profit-sharing plan qualifying for specific tax treatment under s. 401(d) of the Internal Revenue Code or trustee or custodian of an individual retirement account, as defined in s. 408(a) of the Internal Revenue Code, with no active fiduciary duties if:

(a) The association invests the funds only in the association's own accounts, deposits, obligations or securities; or

(b) The association invests the funds in such other assets as the customer may direct and the association does not exercise any investment discretion or directly or indirectly provide any investment advice with respect to the trust or account.

(2) An association shall observe principles of sound trust administration, including those relating to recordkeeping and segregation of assets, and may receive reasonable compensation for acting in any trust or custodial capacity authorized by this section.

(3) An association acting as trustee or custodian pursuant to sub. (1) shall include in bold type on the first page of any contract documents the following language:

"Funds invested pursuant to this agreement are not insured by the federal savings and loan insurance corporation ('FSLIC') merely because the trustee is an institution the accounts of which are covered by

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such insurance. Only investments in the accounts of such an institution are insured by the FSLIC, subject to its rules and regulations."

Note: This section parallels 12 C.F.R. s. 545.102 as amended by 51 Federal Register 9177 (March 18, 1986).

History: Cr. Register, November, 1986, No. 371, eff. 12-1-86.

**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 with no minimum balance, including an account which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, an individual pursuant to an individual retirement account agreement or Keogh (H.R. 10) Plan established under 26 U.S.C. (I.R.C. 1954) ss. 219, 401, 408 and related provisions.

(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.

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

(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; emerg. am. (1) (a) and (b), eff. 12-3-83; am. (1) (a) and (b), Register, September, 1984, No. 345, eff. 10-1-84; am. (1) (a), r. (1) (b) and (g), Register, November, 1986, No. 371, eff. 12-1-86.

**S-I.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-I.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. 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.

**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.