

Chapter S-L 12

LEGAL RESERVE AND NET WORTH REQUIREMENTS

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Note: Chapter S-L 12 as it existed on July 31, 1981 was repealed and a new chapter S-L 12 was created effective August 1, 1981.

S-L 12.01 Definitions. The defined terms used in this chapter have the meanings designated in s. 215.01, Stats.

History: Cr. Register, July, 1981, No. 307, eff. 8-1-81.

S-L 12.02 Legal reserve requirement. (1) **LEGAL RESERVE TO BE MAINTAINED.** (a) Except as may be provided in par. (b), each association shall maintain a legal reserve in an amount equal to at least 2% of its total assets at the end of its fiscal year. A stock association may designate any portion of its capital stock or paid in surplus account as legal reserve.

(b) In order to provide a newly chartered mutual association an opportunity to meet its legal reserve requirement over a reasonable period of time, the commissioner may on a case by case basis establish a graduated schedule of net worth levels to be attained by the association.

(2) **TRANSFERS TO LEGAL RESERVE.** At the close of its fiscal year each association shall transfer to its legal reserve an amount equal to the lesser of the following:

(a) 10% of the sum of the association's net income during the period and the earnings distributed by the association during the period; or

(b) An amount sufficient to reach the level required under sub. (1).

(3) **FAILURE TO MAINTAIN REQUIRED LEGAL RESERVE.** If an association's legal reserve falls below the level required of it under sub. (1), the commissioner may after a review of the facts commence proceedings under s. 215.32, Stats.

History: Cr. Register, July, 1981, No. 307, eff. 8-1-81.

S-L 12.03 Net worth requirement. (1) **LEVEL TO BE MAINTAINED.** (a) *General provision.* Except as may be provided in par. (b), an association shall at all times maintain net worth in an amount equal to at least:

1. 3.5% of its total assets, if it is an insured association.

2. 4.5% of its total assets, if it is a noninsured association.

b. *Exceptions.* 1. The commissioner may require an association to maintain net worth higher than that specified in par. (a) if the commissioner determines that the nature of the association's mortgage instruments and the composition of its mortgage portfolio do not afford the association a sufficient opportunity to adjust the interest it receives on its assets to levels that more closely correspond to the changing costs of

maintaining its liabilities, or that the nature of the association's operations otherwise entail a risk requiring greater net worth to assure the association's stability.

2. To afford a newly chartered mutual association an opportunity to meet its net worth requirement over a reasonable time, the commissioner may on a case by case basis establish a graduated schedule of net worth levels to be attained by the association.

(2) **CALCULATION OF NET WORTH.** For purposes of determining compliance with sub. (1) net undistributed income shall be added to the association's net worth accounts. Net undistributed loss shall be deducted from the association's net worth accounts. For purposes of this subsection "net undistributed income" or "net undistributed loss" means the difference between income and expenses at any time prior to the closing of the association's books, calculated according to generally accepted accounting principles or an accounting practice or standard generally used and accepted nationally and required by the commissioner as provided under s. S-L 5.02 (3).

(3) **ACTIONS TO RE-ESTABLISH COMPLIANCE.** (a) *Generally.* If an association's net worth falls below the level required under sub. (1), the commissioner may by order issued under ch. S-L 25, direct the association to adhere to a specific written plan established by the commissioner to correct the association's net worth deficiency. In addition to any other provisions the plan may:

1. Require the association to maintain an increased level of liquidity specified by the commissioner.

2. Require the association to cease or limit specified expenditures.

3. Prevent the association from originating or purchasing loans of one or more types.

4. Prevent the association from making specified investments, including investments under chs. S-L 22 and 24, and investments otherwise permitted under s. 215.13 (26), Stats.

5. Prevent the association from filing applications for branch offices.

6. Prevent the association from opening customer savings accounts of any specified class, category or amount, or at any specified interest rate.

7. Prevent the association from accepting additions to existing savings accounts, except under such conditions as may be specified by the commissioner.

(b) *Additional measures pertaining to stock associations.* 1. No stock association may pay a dividend to stockholders or otherwise distribute any profits when its net worth is, or if upon such payment or distribution would be, below that required under sub. (1).

2. Unless a longer period is authorized by the commissioner for good cause shown, a stock association whose net worth falls below that required under sub. (1) shall increase its net worth to the required level within 6 months after the deficiency first occurs.

History: Cr. Register, July, 1981, No. 307, eff. 8-1-81; am. (2), Register, February, 1983, No. 326, eff. 3-1-83.

Register, February, 1983, No. 326

S-L 12.04 Other powers retained. Nothing in this chapter shall limit the commissioner's authority to take such other remedial measures as he or she may deem necessary to safeguard the interests of the public and the association.

History: Cr. Register, July, 1981, No. 307, eff. 8-1-81.