

Chapter DFI-CU 68

INVESTMENT AUTHORITY PARITY WITH FEDERAL CREDIT UNIONS

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Note: Chapter CU 68 was renumbered chapter DFI-CU 68 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 68.01 Purpose and scope. The purpose of this chapter is to permit Wisconsin-chartered credit unions to invest in the securities, deposits and obligations available to federally chartered credit unions, subject to restrictions which are intended to prevent transactions of a speculative nature. This rule does not limit the investment authority of Wisconsin-chartered credit unions contained elsewhere in the Wisconsin statutes or the Wisconsin administrative code.

History: Cr. Register, May, 1985, No. 353, eff. 6-1-85.

DFI-CU 68.02 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 these rules are derived.

Note: This rule parallels 12 CFR Part 703, Investment and Deposit Activities, effective May 21, 1984.

History: Cr. Register, May, 1985, No. 353, eff. 6-1-85.

DFI-CU 68.03 Definitions. In this chapter:

(1) "Adjusted trading" means any method or transaction used to defer a loss whereby a credit union sells a security to a vendor at a price above its current market price and simultaneously purchases or commits to purchase from the vendor another security at a price above its current market price.

(2) "Authorized depository financial institution" means any bank insured by the federal deposit insurance corporation or savings and loan association insured by the federal savings and loan insurance corporation.

(3) "Bailment for hire contract" means a contract whereby a third party, bank or other financial institution, for a fee, agrees to exercise at least ordinary care in protecting the securities held in safekeeping for its customers.

(4) "Bankers' acceptance" means a time draft that is drawn on and accepted by a bank, and that represents an irrevocable obligation of the bank.

(5) "Cash forward agreement" means an agreement to purchase or sell a security with delivery and acceptance being mandatory and at a future date in excess of 30 days from the trade date.

(6) "Eurodollar deposit" means a dollar denominated deposit in a foreign branch of an authorized depository financial institution whose principal office is located in the United States.

(7) "Federal funds transaction" means a short-term or open-ended transfer of funds to an authorized depository financial institution.

(8) "Futures contract" means a contract for the future delivery of commodities, including certain government securities, sold on commodities exchanges.

(9) "Immediate family member" means a spouse, or a child, parent, grandchild, grandparent, brother or sister, or the spouse of any such individual.

(10) "Market price" means the last established price at which a security is sold.

(11) "Maturity date" means the date on which a security matures, and shall not mean the call date or the average life of the security.

(12) "Repurchase transaction" means a transaction in which a credit union agrees to purchase a security from a vendor and to resell the same or any identical security to that vendor at a later date. A repurchase transaction may be of three types:

(a) "Investment-type repurchase transaction" means a repurchase transaction where the credit union purchasing the security takes physical possession of the security, or receives written confirmation of the purchase and a custodial or safekeeping receipt from a third party under a written bailment for hire contract, or is recorded as the owner of the security through the Federal Reserve Book-Entry System;

(b) "Financial institution-type repurchase transaction" means a repurchase transaction with an authorized depository financial institution;

(c) "Loan-type repurchase transaction" means any repurchase transaction that does not qualify as an investment-type or financial institution-type repurchase transaction.

(13) "Reverse repurchase transaction" means a transaction whereby a credit union agrees to sell a security to a purchaser and to repurchase the same or any identical security from that purchaser at a future date and at a specified price.

(14) "Security" means any investment instrument, account, deposit, contract, or other obligation in which a credit union is authorized to invest pursuant to this chapter.

(15) "Settlement date" means the date originally agreed to by a credit union and a vendor for settlement of the purchase or sale of a security.

(16) "Short sale" means the sale of a security not owned by the seller.

(17) "Standby commitment" means a commitment to either buy or sell a security, on or before a future date, at a predetermined price, or to sell a security in the future at a predetermined price. The seller of the commitment is the party receiving payment for assuming the risk associated with committing either to purchase a security in the future at a predetermined price, or to sell a security in the future at a predetermined price. The seller of the commitment is required to either accept delivery of a security (in the case of a commitment to buy) or make delivery of a security (in the case of a commitment to sell), in either case at the option of the buyer of the commitment.

(18) "Trade date" means the date a credit union originally agrees, whether orally or in writing, to enter into the purchase or sale of a security.

(19) "Yankee dollar deposit" means a deposit in a United States branch of a foreign bank licensed to do business in the state in which it is located, or a deposit in a state chartered, foreign controlled bank.

History: Cr. Register, May, 1985, No. 353, eff. 6-1-85.

DFI-CU 68.04 Board responsibilities. The board of directors of each credit union shall maintain a current written policy governing the investment practices of the credit union.

History: Cr. Register, May, 1985, No. 353, eff. 6-1-85.

DFI-CU 68.05 General authority. A credit union may contract for the purchase or sale of a security provided that:

(1) The delivery of the security is to be made within 30 days of the trade date; and

(2) The price of the security at the time of purchase is the market price.

History: Cr. Register, May, 1985, No. 353, eff. 6-1-85.

DFI-CU 68.06 Authorized activities. In addition to the investments and securities authorized elsewhere in the Wisconsin statutes or the Wisconsin administrative code, Wisconsin-chartered credit unions may contract for the purchase and sale of the following securities and enter into the following types of transactions:

(1) **CASH FORWARD AGREEMENTS.** A credit union may enter into a cash forward agreement to purchase or sell a security, provided that:

(a) The period from the trade date to the settlement date does not exceed 120 days;

(b) If the credit union is the purchaser, it has written cash flow projections evidencing its ability to purchase the security;

(c) If the credit union is the seller, it owns the security on the trade date; and

(d) The cash forward agreement is settled on a cash basis at the settlement date.

(2) **AUTHORIZED DEPOSITORY FINANCIAL INSTITUTIONS.** A credit union may invest in deposit accounts of any authorized depository financial institution, provided the aggregate investment per institution shall not exceed the greater of the deposit insurance limit under federal deposit insurance corporation or federal savings and loan insurance corporation or $\frac{1}{2}$ the unimpaired balance of the credit union's regular reserve.

(3) **REPURCHASE TRANSACTIONS.** A credit union may enter into an investment-type repurchase transaction or a financial institution-type repurchase transaction provided the purchase price of

the security obtained in the transaction is at or below the market price. A repurchase transaction not qualifying as either an investment-type or financial institution-type repurchase transaction will be considered a loan-type repurchase transaction subject to applicable Wisconsin law.

(4) **REVERSE REPURCHASE TRANSACTIONS.** A credit union may enter into a reverse repurchase transaction, provided that either any securities purchased with the funds obtained from the transaction or the securities collateralizing the transaction have a maturity date not later than the settlement date for the reverse repurchase transaction. A reverse repurchase transaction is a borrowing transaction subject to applicable Wisconsin law.

(5) **FEDERAL FUNDS.** A credit union may sell federal funds to an authorized depository financial institution, provided that the interest or other consideration received from the financial institution is at the market rate for federal funds transactions and the transaction has a maturity of one or more business days or the credit union is able to require repayment at any time.

(6) **YANKEE DOLLARS.** A credit union may invest in Yankee Dollar deposits in an authorized depository financial institution.

(7) **EURODOLLARS.** A credit union may invest in Eurodollar deposits in a branch of an authorized depository financial institution.

(8) **BANKERS' ACCEPTANCES.** A credit union may invest in bankers' acceptances issued by any bank which qualifies as an authorized depository financial institution.

History: Cr. Register, May, 1985, No. 353, eff. 6-1-85.

DFI-CU 68.07 Prohibited activities. (1) The following types of investment transactions are prohibited for Wisconsin-chartered credit unions:

(a) Adjusted trading.

(b) Futures contracts.

(c) Short sales.

(d) Standby commitments.

(2) A credit union board member, officer, committee member, and immediate family members of such individuals may not receive pecuniary consideration in connection with any investment transaction made by a credit union.

History: Cr. Register, May, 1985, No. 353, eff. 6-1-85.