

## Clearinghouse Rule CR 23-071

### ORDER OF THE DEPARTMENT OF FINANCIAL INSTITUTIONS, APPROVED BY THE GOVERNOR, APRIL 10, 2024 OFFICE OF CREDIT UNIONS AMENDING AND CREATING RULES

The Wisconsin Department of Financial Institutions, Office of Credit Unions proposes an order to repeal DFI-CU 59 of the Wisconsin Administrative Code; to renumber and amend DFI-CU 54.05 (intro.) and (1) to (7), 62.01 (1) (c), and 71.03 (1) (a) and (b) and (2); to amend DFI-CU 51.01, 54.02 (5) (intro.) and (a) to (d), 54.03 (1) (intro.) and (a) to (c) and (3) (a) to (d), 56.01, 56.06, 56.07, 56.09, 56.10, 62.01 (intro.), (a), and (b), 62.01 (2), 63.02 (4), 63.04 (2) (intro.) and (a), 63.06 (intro.), (2) (intro.), (a), and (b) and (3) (intro.) and (a), 68.06 (2) 69.03, 71.02 (1) (intro.), (a) and (b) and (2) (a) to (d), 71.03 (intro.), 71.04 (intro.) and (1), 74.04 (1) to (3), and 74.09; and to repeal and recreate DFI-CU 72.02 of the Wisconsin Administrative Code, relating to correcting out-of-date cross-references, repealing obsolete provisions, modifying the structure of existing rules to conform to current drafting practices, and revising the definition of “member business loan” to conform to federal law.

The scope statement for this rule was approved by the Governor on October 5, 2023, published in *Administrative Register* No. 814B on October 30, 2023, approved by the Director of the Office of Credit Unions on December 19, 2023, and approved by the Credit Union Review Board on December 13, 2023.

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### ANALYSIS

#### 1. Statutes interpreted:

Chapters 186 and 227 of the Wisconsin Statutes.

#### 2. Statutory authority:

Section 186.235 (8) of the Wisconsin Statutes provides the Office of Credit Unions general rulemaking authority concerning the business of credit unions, while section 186.098 (10) provides specific authority to make rules regarding loans secured by mortgages on real estate. Sections 227.14 (1) and 227.29 impose requirements on agencies to draft proposed administrative rules in accordance with current Legislative Reference Bureau and the Legislative Council staff form and style guidelines, and to address obsolete, unnecessary, unauthorized, inconsistent, or duplicative rules.

#### 3. Explanation of agency authority:

Section 186.235 (8), Stats., provides: “The office of credit unions shall, with the approval of the credit union review board, promulgate rules relating to the business of credit unions.”

Section 186.098 (10), Stats., provides: “Loans to members secured by mortgages on real estate may be made subject to the rules prescribed by the office of credit unions.”

In addition, the changes seek to ensure that rules the Division administers are compliant with Wis. Stat., s. 227.14 (1), which requires that in drafting administrative rules “an agency shall adhere substantially to the form and style used by the legislative reference bureau in the preparation of bill drafts and the form and style specified in the manual prepared by the legislative council staff and the legislative reference bureau under s. 227.15 (7),” and with Wis. Stat., s. 227.29 (1), which directs agencies to address rules that are “unauthorized,” “obsolete or that have been rendered unnecessary,” or “duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction.”

#### **4. Related statutes or rules:**

Section 186.098, Stats., authorizes a credit union to make loans to members.

Under Wisconsin law, state-chartered credit unions must be federally insured by the National Credit Union Administration (NCUA). Wis. Stat. s. 185.34. Title 12, section 1757a of the United States Code establishes limits on the amount of “member business loans” that federally insured credit unions may have outstanding at any one time. In 2018, as part of the Economic Growth, Regulatory Relief, and Consumer Protection Act, Congress modified the definition of “member business loan” to exclude loans secured by liens on 1- to 4-family dwellings. (Previously, that exclusion only applied if the dwellings were owner-occupied.)

#### **5. Plain language analysis:**

The proposed revisions seek to modify certain rules administered by the Department of Financial Institutions’ Office of Credit Unions, in four respects.

First, the proposed revisions will correct several cross-references that have become outdated. For example, section DFI-CU 56.10 of the Wisconsin Administrative Code expressly adopted the pleading standard formerly contained in s. 263.28 of the 1973 version of the Wisconsin Statutes. Section 263.28 no longer exists, however. Following revisions to the Wisconsin Statutes, the substance of former section 263.28 now appears in modified form at section 802.09 (2). The proposed revisions would update this and other cross-references in DFI-CU that have become outdated.

Second, the proposed revisions will repeal certain rules that have become obsolete or unnecessary. Chapter DFI-CU 59, for example, is a 1972 rule authorizing credit unions to invest

in “securities issued by hospitals, churches, sanatoria, seminaries, dioceses, and similar type institutions,” subject to certain regulatory restrictions. But such investments are uncommon for state credit unions today, and the rule is unnecessary in any event because there is already a statutory option for credit unions to seek regulatory approval for investments in specific instruments pursuant to Wis. Stat. s. 186.11 (1) (e).

Third, the proposed revisions modify the structure of existing rules to conform to current Wisconsin drafting practices. While none of these changes have any substantive effect, they will provide greater clarity and consistency with the drafting style of other statutes and rules administered by the agency.

Fourth, the proposed revisions would update s. DFI-CU 72.02 to reflect changes to the definition of “member business loan” set forth in the federal Economic Growth, Regulatory Relief, and Consumer Protection Act, which Congress enacted in 2018, and accompanying rules governing credit unions. DFI-CU 72.02’s definition of “member business loan” tracked the federal definition prior to those 2018 changes, and this amendment will ensure that the rule language continues to conform to federal law. The Office of Credit Unions previously promulgated a rule making those updates to DFI-CU 72.02, which were approved in early 2020 as provided under chapter 227 of the Wisconsin Statutes (see Clearinghouse Rule 17-063), but the rule was not timely published due to delays by the National Credit Union Administration (NCUA) in approving the final language of the updated definition. The Office has now obtained the NCUA’s final approval, but due to the passage of time, s. 227.14 (6) (d) of the Wisconsin Statutes requires the Office to promulgate the rule again.

## **6. Summary of, and comparison with, existing or proposed federal regulation:**

Title 12, section 1757a (c) of the United States Code and accompanying rules (12 C.F.R. part 723) define the term “member business loan” in a manner that is inconsistent with Wis. Admin. Code s. 77.02. In particular, in 2018 Congress amended 12 U.S.C. s. 1757a to exclude loans secured by 1- to 4- family dwellings from the definition of “member business loan.” (Previously, the law only excluded such loans if the dwellings were owner-occupied). Wis. Admin. Code s. 77.02 has not yet been revised to reflect those recent federal changes.

## **7. Summary of comments received during preliminary comment period and at public hearing on the statement of scope.**

At the preliminary public hearing held on November 16, 2023, the Department received three written comments regarding the scope statement. The Wisconsin Credit Union League and Capital Credit Union each submitted comments in support of the proposed rule, particularly the proposal to revise the definition of “member business loan” to mirror federal law. The Wisconsin Bankers Association submitted a comment opposing the scope statement as too narrow, contending that other provisions of DFI-CU 72 should also be revised to maintain consistency with federal law.

**8. Comparison with rules in adjacent states:**

Credit unions chartered under the laws of Illinois, Iowa, Michigan, and Minnesota are federally insured and apply the federal definition of “member business loan” set forth in the Economic Growth, Regulatory Relief, and Consumer Protection Act and accompanying rules. *See* 12 C.F.R. § 723.8(b) (excluding from the definition of “member business loan” any loan that is “fully secured by a lien on a 1- to 4-family dwelling”); 38 Ill. Admin. Code §§ 190.165(b)(2) & 190.165(h)(2) (same).

**9. Summary of factual data and analytical methodologies:**

Proposed changes to ch. DFI—CU 72 are based on staff regulatory experience and multiple discussions with the Credit Union Review Board and industry groups.

The proposed changes are also based on the Office’s knowledge of and desire to fix erroneous cross-references to state or federal rules or statutes and the need to modify the structure of existing rules in nonsubstantive ways to be consistent with modern drafting practices of the legislative reference bureau and the form and style requirements of the bureau and the legislative council staff.

**10. Analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis:**

The proposed revisions are definitional or non-substantive; they do not require credit unions or other businesses to assume any new duties, change existing practices, or incur new costs.

**11. Effect on small business:**

The proposed revisions are definitional or non-substantive and will have little effect on small business. As noted above, they do not require credit unions or other businesses to assume any new duties, change existing practices, or incur new costs.

**12. Agency contact person:**

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**13. Place where comments are to be submitted and deadline for submission:**

Comments may be submitted to the contact person shown below no later than the date on which the public hearing on this proposed rule order is conducted. Information as to the place, date and time of the public hearing will be published in the Wisconsin Administrative Register.

By mail: Marc Shovers, Assistant Chief Legal Counsel, Department of Financial Institutions, PO Box 8861, Madison, WI 53708-8861.

By delivery: Marc Shovers, Assistant Chief Legal Counsel, Department of Financial Institutions, 4822 Madison Yards Way, North Tower, Madison, WI 53705.

By e-mail: [DFIComments@dfi.wisconsin.gov](mailto:DFIComments@dfi.wisconsin.gov)

Via the department's website: <https://dfi.wi.gov/Pages/About/ProposedRules.aspx>

The Comment Period ended on the date of the public hearing, February 2, 2024.

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**Rule Text**

**SECTION 1.** DFI-CU 51.01 is amended to read:

DFI-CU 51.01 (1) A credit union member ~~shall be considered as is~~ is a person whose application has been approved ~~in accordance with the provisions of~~ as provided under the credit union's by-laws. ~~Said~~ The person shall pay the entrance fee only if required to do so by resolution of the board of directors and shall subscribe for at least one share of stock ~~and who shall~~. The person may either pay for this share in full upon credit union approval of the person's application or may make ~~the~~ an initial payment ~~thereon and shall~~ and then pay the outstanding balance within 3 months.

**SECTION 2.** DFI-CU 54.02 (5) (intro.) and (a) to (d) is amended to read:

DFI-CU 54.02 (5) (intro.) "Market value" means the most probable price, which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer ~~under conditions whereby~~ where all of the following apply:

(a) Buyer and seller are typically motivated;

(b) Both parties are well informed or well advised, and acting in what they consider their own best interests;

(c) A reasonable time is allowed for exposure in the open market;

(d) Payment is made in terms of cash in U.S. dollars or in terms of comparable financial arrangements ~~comparable thereto; and.~~

**SECTION 3.** DFI-CU 54.03 (1) (intro.) and (a) to (c) and (3) (a) to (d) is amended to read:

DFI-CU 54.03 **(1)** (intro.) Purchase money loans, excluding amounts financed for accident, health, and credit life insurance premiums, may not exceed 90% of the market value of the subject real estate except if any of the following apply:

(a) The part of the loan that exceeds the 90% limitation is insured or guaranteed by a qualified private mortgage insurer;

(b) The loan or the part of the loan that exceeds the 90% limitation is insured or guaranteed by an agency or instrumentality of a local, state, or federal government;

(c) The loan is to facilitate the sale of real estate owned by the credit union or real estate in foreclosure;~~or.~~

**(3)** (a) The date of closing;

(b) The date of the first contractual principal and interest payment;

(c) The date of any additional advance;

(d) The date of any properly executed loan modification agreement;~~or.~~

**SECTION 4.** DFI-CU 54.05 (intro.) and (1) to (7) is renumbered 54.05 (1) (a) to (g) and (2) and, as renumbered, is amended to read:

DFI-CU 54.05 **(1)** Each real estate loan shall be supported by the following documents and information:

~~(1)~~ **(a)** A note properly executed, together with the related mortgage properly executed and recorded.

~~(2)~~ **(b)** Documentation establishing the quality and validity of the credit union's lien position by one of the following, for each category of loan:

~~(a)~~ **1.** For purchase money loans, one of the following:

~~1. a.~~ A title policy in favor of the credit union covering its interest as mortgagee in the property;~~or.~~

~~2. b.~~ An abstract showing title in the borrower's name and the credit union's mortgage, together with an attorney's opinion indicating the credit union's lien position.

~~(b)~~ 2. For equity loans, one of the following:

~~1. a.~~ An abstract of title and a signed report of title opinion by an attorney;

~~2. b.~~ A title insurance policy; ~~or~~

~~3. c.~~ A final title letter report showing the status of the current lien.

(c) If the credit union has obtained the supporting documentation in accordance with ~~par. (a)~~ ~~or (b)~~ par. (b) 1. or 2., a subsequent extension of credit secured with the same real estate mortgage may be supported by a letter report from the title or abstract company, or a certified abstract showing the credit union's interest in the property as of the most recent extension of credit. No additional title documentation is required in connection with refinancing a loan on which no additional funds are advanced. Accrued interest debits, refinance charges and costs for insurance premiums are not considered additional advances.

~~(3)~~ (d) An appraisal or a valuation if required by NCUA rules and regulations [12 CFR Part 722](#).

~~(4)~~ (e) A copy of insurance policies, with a mortgage clause payable to the credit union, indicating all improvements on the real estate are insured against fire and casualty loss. The required insurance coverage shall be the lesser of the full replacement value of the improvements or the outstanding balance of the loan. Proof of insurance may be maintained through a third party contract.

~~(5)~~ (f) Evidence of the status of the payment of real estate taxes acceptable to the board of directors as defined by policy.

~~(6)~~ (g) Documentation of types of existing closed-end or open-end mortgages and balances or potential balances outstanding from all other lenders holding liens senior to the credit union mortgage.

~~(7)~~ (2) The credit union shall maintain a general ledger accounting system which clearly segregates real estate loans for reporting and statutory calculation purposes.

**SECTION 5.** DFI-CU 56.01 is amended to read:

DFI-CU 56.01 **Rules of procedure.** The following rules of procedure shall govern all types of proceedings ~~had~~ before the credit union review board. In any case where the statute involved provides a procedure inconsistent with these rules, the statute shall govern to the extent of such inconsistency. If in any case the forms set out in these rules ~~be found~~ are not appropriate for a particular situation, parties may devise forms substantially similar to those ~~herein~~ prescribed, in this chapter to meet such situations.

**SECTION 6.** DFI-CU 56.06 is amended to read:

**DFI-CU 56.06 Conduct of hearings; continuances; appearances; examination of witnesses.**

Continuances and adjournments may be granted by the board for cause shown. The appellant may appear in person or by an officer, regular employee, or attorney. Any other interested person may likewise so appear. Proceedings shall be in conformity to s. [220.035 \(1\) \(c\)](#), Stats.

Witnesses competent to take an oath shall be sworn by the chair of the board or the presiding officers and may be examined on behalf of the board by the chair or presiding officer or by a representative of the attorney general acting as counsel for the board, or with the permission of the chair or presiding officer, by any employee of the board or director or by any other interested party or their attorneys. Any interested party or any of his or her agents, officers, or employees may be examined adversely as prescribed by s. ~~885.14, 1973~~ [906.11](#), Stats. In all other respects, proceedings shall be had as prescribed in ch. [227](#), Stats.

**SECTION 7.** DFI-CU 56.07 is amended to read:

DFI-CU 56.07 **Subpoenas.** The board shall have the powers granted by s. [885.01 \(4\)](#), 1973 Stats.

**SECTION 8.** DFI-CU 56.09 is amended to read:

**DFI-CU 56.09 Arguments.** Except as provided in s. [227.49](#), Stats., arguments shall be submitted to the board in writing, unless otherwise ordered. ~~Eight copies~~ An electronic or paper copy of such written arguments shall be filed with the director who shall forthwith send ~~a~~ an electronic or paper copy to each member of the board. The time for filing arguments shall be fixed by the officer presiding at the hearing.

**SECTION 9.** DFI-CU 56.10 is amended to read:

DFI-CU 56.10 The provisions of s. ~~263.28, 1973~~ [802.09 \(2\)](#) Stats., with reference to variances between the allegations and the proof, shall apply to proceedings under these rules.

**SECTION 10.** DFI-CU 59 is repealed.

**SECTION 11.** DFI-CU 62.01 (1) (intro.), (a) and (b) are amended to read:

DFI-CU 62.01 (1) (intro.) The director may issue a supervisory order to cease and desist whenever he or she determines that a credit union is doing any of the following:

(a) Violating the provisions of its articles or by-laws, ~~or~~ the laws of this state, ~~or~~ the laws of the United States, or any lawful rule, order, or regulation promulgated by the director and the credit union review board; ~~or~~ .

(b) Violating any order of the director which may restrict, limit, or prohibit the credit union from engaging in any act or practice specified under s. [186.235 \(11\) \(a\) 1.](#) to [9.](#), Stats., ~~inclusive~~;

**SECTION 12.** DFI-CU 62.01 (1) (c) is renumbered 62.01 (1m) and as renumbered is amended to read:

~~(c) The (1m) CONTENTS OF ORDER. A supervisory order could issued under sub. (1) may include but would not be limited to the declaration and/or payment of dividends on member savings; the~~



~~granting or payout of member loans; the acceptance of payments on member savings; the payout of member requests for member savings; or any other portion of the business of a credit union.~~  
any of the following:

- (a) The declaration of dividends on member savings.
- (b) The payment of dividends on member savings.
- (c) The granting of member loans.
- (d) The payout of member loans.
- (e) The acceptance of payments on member savings.
- (f) The payout of member requests for member savings.
- (g) Any other portion of the business of a credit union.

**SECTION 13.** DFI-CU 62.01 (2) is amended to read:

(2) The director shall deliver or cause to have delivered a formal written signed order to the board of directors of the credit union in which the facts known to the director are set forth ~~and~~. The director shall demand the discontinuance of such the practice(s) or practices giving rise to the order and, whenever applicable, shall order the credit union to comply and/or or institute corrective action or both.

**SECTION 14.** DFI-CU 63.02 (4) is amended to read:

63.02 (4) REMOTE TERMINAL. "Remote terminal" means a remote terminal as defined in s. [186.113 \(15\) \(b\)](#), Stats., a remote service unit as defined in s. [215.13 \(46\) \(a\) 2.](#), Stats., or a customer bank communications terminal as defined in s. [221.0303 \(1\)](#), Stats.

**SECTION 15.** DFI-CU 63.04 (2) (intro.) and (a) are amended to read:

DFI-CU 63.04 (2) EXCEPTIONS. (intro.) The temporary limitation of access to a remote terminal to designated customers of designated financial institutions for reasonable test periods determined by the director will not be deemed in violation of this section if approved by the director in writing. The director may approve such limitations if any of the following apply:

(a) The director considers it necessary or desirable to permit restricted operation during periods of testing or experimentation; ~~or,~~

**SECTION 16.** DFI-CU 63.06 (intro.), (2) (intro.), (a) and (b), and (3) (intro.) and (a) are amended to read:

DFI-CU 63.06 **Confidentiality and security requirements.** (intro.) No credit union may directly or indirectly acquire, place, or operate a remote terminal, and no credit union may participate in the acquisition, placement, or operation of a remote terminal, unless precautions acceptable to the director are provided to do any of the following:

(2) (intro.) Prevent information regarding a transaction conducted through the terminal from being disclosed to any person other than any of the following:

(a) The customer making the transaction; .

(b) Any other person who is a party to the transaction or is necessary to effect the transaction, but only to the extent that the information disclosed is necessary to effect the transaction;~~—or~~ .

(3) (intro.) Ensure that the plastic card or other means providing its customers access to the terminal is issued only for any of the following purposes:

(a) In response to a request or application therefore;~~—or~~ .

**SECTION 17.** DFI-CU 68.06 (2) is amended to read:

DFI-CU 68.06 (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~~ does not exceed the greater of the deposit insurance limit under federal deposit insurance corporation or 1/2 the unimpaired balance of the credit union's ~~regular reserve~~ retained earnings unless the director of credit unions approves investment by the credit union exceeding this amount.

**SECTION 18.** DFI-CU 69.03 is amended to read:

DFI-CU 69.03 **Preferential loan treatment prohibited.** The interest rates, terms and conditions of any loan made to an official or on which loan an official is a co-maker or guarantor, or of a loan made for the substantial benefit of any official, ~~shall~~ may not be more favorable than the rates, terms and conditions prevailing at that time for comparable loan transactions of any other member.

**SECTION 19.** DFI-CU 71.02 (1) (intro.), (a), and (b), and (2) (a) to (d) are amended to read:

DFI-CU 71.02 (1) (intro.) "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 from any of the following:

(a) Rentals; .

(b) Estimated tax benefits if applicable;~~—and~~ .

(2) (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.~~—However, except that~~ improvements and additions to the leased property may be leased to the lessee upon its request in accordance with the full-payout requirements of this chapter; .

(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.~~

**SECTION 20.** DFI-CU 71.03 (intro.) is amended to read:

DFI-CU 71.03 **Authority to lease personal property.** (intro.) Subject to the limitations in this chapter and provided the lease is a net, full-payout lease representing a noncancelable obligation of the lessee, notwithstanding the possible early termination of that lease, a credit union may do any of the following:

**SECTION 21.** DFI-CU 71.03 (1) (a) and (b), and (2) are renumbered 71.03 (1) to (3) and (1) and (2) as renumbered, are amended to read:

DFI-CU 71.03 (1) ~~(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 credit union;~~—or.~~

~~(b)~~ (2) 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.~~

~~(2)~~ (3) Incur obligations incidental to its position as the legal or beneficial owner and lessor of the leased property.

**SECTION 22.** DFI-CU 71.04 (intro.) and (1) are amended to read:

DFI-CU 71.04 (intro.) If, in good faith, a credit union determines that there has been an unanticipated change in conditions which threatens its financial position by significantly increasing its exposure to loss, the credit union may do any of the following:

(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.~~

**SECTION 23.** DFI-CU 72.02 is repealed and recreated to read:

DFI-CU 72.02. **Member business loan.** (1) “Member business loan” means a loan, line of credit, letter of credit including unfunded commitments, and any interest a credit union obtains in such loans made by another lender to individuals, sole proprietorships, partnerships, corporations, or other business enterprises for commercial, industrial, agricultural, or professional purposes.

(2) “Member business loan” does not include any of the following:

- (a) Loans for personal expenditure purposes.
- (b) Loans made by a corporate credit union.
- (c) Loans made by a federally insured credit union to another federally insured credit union.
- (d) Loans made by a credit union to a credit union service organization.
- (e) Loans secured by a one- to four-family residential property.
- (f) Loans fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions.

(g) Loans secured by a vehicle manufactured for household use, except that such loans will be considered member business loans if they will be used for a purpose set forth in sub. (1) and the outstanding aggregate net member business loan balance is \$50,000 or greater.

(h) Business purpose loans that are equal to or less than \$50,000 after calculating the aggregate outstanding balances plus unfunded commitments less any portion secured by shares in the credit union held by the borrower or an associated borrower.

(i) Loans for which a federal or state agency fully insures repayment, fully guarantees repayment, or provides an advance commitment to purchase the loan in full.

(j) Any non-member business purpose loan or non-member participation interest in a business purpose loan made by another lender, provided the credit union acquired the loan or interest in compliance with all relevant laws and regulations and the credit union is not, in conjunction with another credit union, trading member business loans to circumvent the aggregate limit.

**SECTION 24.** DFI-CU 74.04 (1) to (3) are amended to read:

DFI-CU 74.04 (1) ANTI-TYING. A credit union ~~shall~~ may not extend credit or alter the terms or conditions of an extension of credit conditioned upon the customer entering into a debt cancellation contract or debt suspension agreement with the credit union.

(2) MISREPRESENTATIONS GENERALLY. A credit union ~~shall~~ may not engage in any practice or use any advertisement that is false, misleading, or deceptive, or which ~~omits~~ fails to state material information, or otherwise would cause a reasonable person to reach an erroneous belief with respect to information that may be disclosed under this section.

(3) A credit union ~~shall~~ may not offer debt cancellation contracts or debt suspension agreements that contain any of the following:

**SECTION 25.** DFI-CU 74.09 is amended to read:

DFI-CU 74.09 A credit union shall manage the risks associated with debt cancellation contracts and debt suspension agreements in accordance with safety and soundness principles. A credit union shall establish and maintain effective risk management and control processes over its debt cancellation contracts and debt suspension agreements. The processes shall include appropriate recognition and financial reporting of income, expenses, assets and liabilities, and appropriate treatment of all expected and unexpected losses associated with the products. A credit union shall assess the adequacy of its internal control and risk mitigation activities in view of the nature and scope of its debt cancellation contract and debt suspension agreement programs. The director may limit, restrict, or prohibit a credit union from providing debt cancellation contracts and debt suspension agreements if examination results indicate that the credit union is conducting its business in an unauthorized or unsafe manner or is violating any of the provisions of this chapter.

**SECTION 26.** EFFECTIVE DATE. This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

Date: December 19, 2023

By: /s/ Thomas Theune

Thomas Theune  
Director,  
Office of Credit Unions  
Wisconsin Department of Financial Institutions