

ORDER OF THE DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF SAVINGS INSTITUTIONS

The Wisconsin Department of Financial Institutions, Division of Savings Institutions proposes an order to amend ss. DFI-SB 1.03 (11), DFI-SB 15.01 (1) (b) and (d), DFI-SL 1.03 (14) and DFI-SL 15.01 (1) (b) and (d); and create ss. DFI-SB 1.03 (7m), DFI-SB 15.01 (3) (c), DFI-SL 1.03 (8m), DFI-SL 15.01 (3) (c) and DFI-SL 13.03 (3) (d) 6, relating to codifying a policy authorizing savings banks and savings and loan associations to invest in subsidiary limited liability companies.

Analysis Prepared by the Department of Financial Institutions, Division of Savings Institutions:

Analysis: to amend ss. DFI-SB 1.03 (11), DFI-SB 15.01 (1) (b) and (d), DFI-SL 1.03 (14) and DFI-SL 15.01 (1) (b) and (d); and create ss. DFI-SB 1.03 (7m), DFI-SB 15.01 (3) (c), DFI-SL 1.03 (8m), DFI-SL 15.01 (3) (c) and DFI-SL 13.03 (3) (d) 6. Statutory authority: ss. 214.715 (1) (d) and 215.02 (7) (a). Statutes interpreted: ss. 214.04 (8), 214.485 (10) and 215.13 (26) (f). Summary: Under current statutes, savings banks and savings and loan associations (“S&Ls”) may invest in the stock of subsidiary corporations that are formed for specific purposes. Long-standing administrative rules have permitted savings institutions to also invest in subsidiary partnerships and joint ventures. Chapters 214 and 215, Stats., authorize investments in subsidiary “corporations”. However, since 1989 for S&L’s and 1994 for savings banks, administrative rules have allowed investments in subsidiary partnerships and joint ventures. These long-standing administrative rules have considered these two types of legal entities as the functional equivalent of corporations. The more recently created business entity known as the limited liability company (“LLC”) has been allowed under an informal interpretation for the same reason. This rule now codifies that interpretation by expanding the types of subsidiary business entities that savings institutions may form and invest in to include the LLC. Agency person to be contacted for substantive questions and responsible for agency’s internal processing: Michael J. Mach, Administrator, Department of Financial Institutions, Division of Savings Institutions, P.O. Box 8306, Madison, WI 53708-8306. Pursuant to the statutory authority referenced above, the Division of Savings Institutions adopts the following:

SECTION 1. DFI-SB 1.03 (7m) is created to read:

DFI-SB 1.03(7m) “LLC” means a limited liability company organized under ch. 183, Stats.

SECTION 2. DFI-SB 1.03(11) is amended to read:

DFI-SB 1.03 (11) “Subsidiary” means any business in which a savings bank directly or indirectly owns an interest, and includes a service corporation, partnership, joint venture, LLC and a company or business in which a savings bank indirectly owns an interest through another subsidiary or a series of subsidiaries.

SECTION 3. DFI-SB 15.01 (1) (b) and (d) are amended to read:

DFI-SB 15.01 (1) (b) Partnership ~~or~~, joint venture or LLC capital contributions.

(d) Liability for the debt of partnership ~~or~~ joint venture or LLC.

SECTION 4. DFI-SB 15.01 (3) (c) is created to read:

DFI-SB 15.01 (3) (c) LLC. An application for approval of an investment in an LLC shall contain:

1. A copy of the LLC's articles of organization and any amendments.
2. A copy of the LLC's operating agreement and any amendments.
3. A list of the members of the LLC.
4. A list of officers, directors or other persons with managerial authority of the LLC.

SECTION 5. DFI-SL 1.03 (8m) is created to read:

DFI-SL 1.03 (8m) "LLC" means a limited liability company organized under ch. 183, Stats.

SECTION 6. DFI-SL 1.03(14) is amended to read:

DFI-SL 1.03 (14) "Subsidiary" means any business in which an association directly or indirectly owns an interest, and includes a service corporation, partnership, joint venture, LLC and a business in which an association indirectly owns an interest through another subsidiary or a series of subsidiaries.

SECTION 7. DFI-SL 15.01 (1) (b) and (d) are amended to read:

DFI-SL 15.01 (1) (b) Partnership ~~or~~ joint venture or LLC capital contributions.

(d) Liability for the debt of a partnership ~~or~~ joint venture or LLC.

SECTION 8. DFI-SL 15.01 (3) (c) is created to read:

DFI-SL 15.01 (3) (c) LLC. An application for approval of an investment in an LLC shall contain:

1. A copy of the LLC's articles of organization and any amendments.
2. A copy of the LLC's operating agreement and any amendments.
3. A list of members of the LLC.
4. A list of officers, directors or other persons with managerial authority of the LLC.

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2) (intro.), Stats.

Dated: _____

Agency: _____

Michael J. Mach, Administrator
Department of Financial Institutions
Division of Banking