

STATE OF RHODE ISLAND
DEPARTMENT OF BUSINESS REGULATION
DIVISION OF BANKING
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BANKING REGULATION 98-5
CREDIT UNIONS

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98-5-1. AUTHORITY.

This regulation is promulgated pursuant to the authority granted in Chapter 5 of Title 19 of the General Laws of Rhode Island.

98-5-2. PURPOSE.

The purpose of this regulation is to provide for: credit union by-law content and amendment procedures pursuant to R.I.Gen. Laws § 19-5-4; a definition for qualified individuals for credit union supervisory committee membership pursuant to R.I.Gen. Laws § 19-5-9; requirements of loans to credit union officers and directors pursuant to R.I.Gen. Laws § 19-5-17; and, destruction of records programs for credit unions pursuant to R.I.Gen. Laws § 19-5-21. The actions and information required by this regulation are hereby declared to be necessary and appropriate in the public interest.

98-5-3. SEVERABILITY.

If any provision of this regulation or the application thereof to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or applications of this regulation which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this regulation are severable.

98-5-4. DEFINITIONS.

Unless otherwise provided by this regulation or unless the context clearly requires otherwise, terms used in this regulation shall have the same meaning as the terms as defined in Title 19.

For purposes of this regulation, immediate family member shall mean spouse, father, mother, brother, sister, father-in-law, mother-in-law or a person who lives in the same household as the member.

98-5-5. PROVISIONS.

(a) BY-LAWS

Credit union by-laws and any amendment to a credit union by-laws require the approval of the Director. Model by-law provisions permitted pursuant the Federal Credit Union Act are generally allowed and will be approved unless inconsistent with Rhode Island law. This regulation establishes the procedures and policies of the Division of Banking relating to credit union by-law content and form.

Each credit union proposing to amend or change its by laws, should review any proposed amendment with the Division of Banking prior to submitting such an amendment to its membership or board of directors for approval. Each proposed amendment submitted to the Director shall be submitted to the membership or the board of directors at a meeting at which the proposed amendment is duly before the membership or the board of directors for consideration. The submission to the Director for approval of amendment(s) to credit union by-laws must include at least:

- (1) One (1) set of existing by-laws before the proposed amendment(s);
- (2) One (1) set of the amended section(s), with the proposed amendment(s) clearly identified;
- (3) A statement of purpose for each proposed amendment along with a summary explanation for each amendment being required;
- (4) A copy of the dated notice, signed by the Secretary or comparable officer of the credit union, of either:
 - A. The meeting of the members, if applicable, which clearly states that an amendment to the by-laws will be considered; or
 - B. The meeting of the board of directors, if applicable, which clearly states that an amendment to the by-laws will be considered;
- (5) A copy of the newspaper publication, if required by the by-laws, including the dates of publication;

(6) Evidence of compliance with any applicable notice of meeting provisions in the credit union's by-laws;

(7) A copy of the minutes of the membership or board of director meeting, whichever is applicable, evidencing:

(i) the existence of a quorum;

(ii) the actual motion(s) made;

(iii) the action taken on the proposed amendment(s), demonstrating an affirmative vote by at least three-fourths of the members present at the meeting or an affirmative vote by at least two-thirds of the authorized number of members of the board, whichever is applicable; and

(iv) a detailed discussion of the proposed amendment(s) or a certification by the Secretary or comparable officer of the credit union that the proposed amendment(s) were available for distribution to all credit union or board members, whichever is applicable, for their review.

(8) Such other information that the Director shall request.

Proposals submitted to the Director to amend by-laws will be approved or disapproved within sixty (60) days of a completed submission. The Division of Banking will, upon request by the credit union, notify the credit union proposing by-law amendment(s) as to the date of completion of the submission under consideration.

Upon approval, within thirty (30) days, the credit union must submit a revised copy of the by-laws, which incorporates the changes as approved by the Director and the date of such approval.

(b) SUPERVISORY COMMITTEE

Only actual members of the credit union, as defined by the Agreement to Form or the by-laws of the credit union, are eligible to become members of the supervisory committee of that credit union. The following are guidelines and factors to be used to determine whether an eligible member is qualified to serve on a credit union supervisory committee, whether elected or appointed. It shall be the duty of the board of directors of the credit union to determine whether a member is "qualified" by applying the following factors and/or standards.

(1) The member may not be an officer, director or employee of the credit union.

(2) The member may not be an immediate family member of an officer, director or employee of the credit union.

(3) The member must be in good standing. Good standing shall include being in compliance with all share, deposit and loan terms, as set forth in the credit union's by-laws, policies and regulations, as applicable to the member.

(4) The member should have business and/or accounting experience and/or an educational background which would allow the member to discharge the duties and responsibilities of a supervisory committee member, in the opinion of the board of directors. The board of directors of a credit union shall specifically reference such a finding of the

member's qualification in the minutes of the meeting at which such member was determined to be qualified, delineating the reasons for such determination of qualification.

(5) The member or his or her immediate family member may not be a substantial borrower of the credit union. Substantial borrower shall mean, for purposes of this section only, any member and his or her immediate family member who, in the aggregate, have liabilities to the credit union that exceed 0.5% of the total assets of the credit union or 10% of the net capital of the credit union, whichever is greater, directly or indirectly. Indirectly liable shall include but not be limited to loan guarantees, co-signers on loans or loans to entities in which the member and immediate family member has a majority or controlling interest, whether legal or beneficial.

(6) Each credit union shall establish a written policy, not inconsistent with this regulation or state law, which defines how members qualify for election or appointment, as the case may be, to the supervisory committee and the factors and standards used to determine such qualification.

(c) LOANS TO OFFICERS, DIRECTORS AND COMMITTEE MEMBERS

No officer, director or member of a committee may borrow under terms more preferable than those terms offered to other credit union members in the usual course of credit union business. Any loan to an officer, director or member of a committee must be granted in compliance with federal deposit insurance rules and regulations governing loans to officers and directors.

Loans to officers, directors or committee members will be reviewed by the Division of Banking using the same provisions of Federal Reserve System Regulation O, its successor or replacement regulation, which governs lending to officers or directors of banks or other types of deposit taking institutions as well as the provisions of National Credit Union Administration Rules and Regulations Part 701.21(d)(5). Each credit union shall maintain an updated copy of Regulation O or its successor or replacement regulation as well as National Credit Union Administration Rules and Regulations Part 701.21(d)(5). Each credit union must create and maintain a written policy for loans to officers, directors and committee members not inconsistent herewith.

Notwithstanding the above, credit unions are not required to report loans to officers, directors or committee members to the Division of Banking, independent of a request by the Division of Banking for such information.

(d) RECORDS RETENTION

Each credit union shall establish and maintain a written records retention and destruction program which shall be available to the Division of Banking at each examination for review and comment, but not approval. Such a program shall be in conformance with any applicable federal deposit insurance laws, rules, regulations or policies. Notwithstanding anything to the contrary in this regulation, each credit union shall establish its record retention program on or before January 1, 1999.

98-5-6. EFFECTIVE DATE.

Effective date: August 9, 1998; compliance with the requirements of sections (b) and (c) of this regulation optional until November 7, 1998.

Refiled date: December 19, 2001