

3.2 Small Groups. (a) For purposes of implementing C.R.S. 11-30-103 (2), the Commissioner shall consider that small groups consisting of at least 1 but not more than 1,000 persons having a common bond of employment or association lack the potential membership to organize their own credit union and, therefore, may be accepted into the membership of an existing state-chartered credit union, provided that the following requirements are met:

(1) The bylaws of the credit union allow such groups as members.

~~(2) The credit union is not receiving financial assistance from the National Credit Union Administration pursuant to 12 U.S.C. 1788, in effect as of October 22, 2004. Incorporation by reference of this federal statute does not include amendments to this federal statute made after October 22, 2004. The title and address of the division employee responsible for providing information regarding how the incorporated material may be obtained or examined is as follows: Commissioner, Division of Financial Services, 1560 Broadway, Suite 1520, Denver, Colorado 80202. Any material that has been incorporated by reference in this rule may be examined at any state publications depository library.~~

(3) Within thirty days after the group is accepted for membership, the credit union has filed with the Commissioner, in a form prescribed by the Commissioner, the following information:

- (i) Name and address of the group.
- (ii) Description of the group's common bond.
- (iii) Size of the group.
- (iv) Date accepted into membership.
- (v) Identification of any other credit union in which the group is eligible for membership.
- (vi) An affidavit of the small group representing that the group is not interested in organizing its own credit union.

(b) In cases where the size of the group exceeds 1,000 or where other in a form prescribed by the Commissioner.

(c) Notwithstanding any other provision of this rule to the contrary, the Commissioner may, at any time, limit or prohibit a particular credit union from acceptance of small groups of any size or a particular small group into its membership if, ~~in the opinion of the Commissioner~~ finds and determines, any of the following circumstances exist:

- (1) The credit union has failed to comply with the provisions of subsection (a) of this rule.
- (2) The credit union is insolvent.
- (3) The credit union is operating in an unsafe or unsound manner.
- (4) The credit union has willfully violated any provisions of Article 30 of Title 11, C.R.S., or the regulations duly promulgated thereunder.

(5) The credit union's acceptance of a small group may result in an unsafe and unsound condition in another credit union that serves the same group. C.R.S. 11-30-103 (2)

4.2 Investments. (a) A credit union may invest in deposit accounts in federally-insured financial institutions and in the shares and deposits of a central credit union, pursuant to C.R.S. 11-30-104 (1) (d).

(b) A credit union may invest in United States Government obligations, United States agency insured or guaranteed securities, obligations of any state or territory of the United States, and certain obligations of a political subdivision or instrumentality of a state or territory, pursuant to C.R.S. 11-30-104 (1) (e).

(c) In accordance with C.R.S. 11-30-104 (1) (j), a credit union may make any investment authorized for a federal credit union under the Federal Credit Union Act, 12 U.S.C. 1757, and National Credit Union Administration Rules and Regulations, 12 C.F.R. parts 703 and 712, in effect as of October 31, 2012. ~~April 13, 2007~~ Incorporation by reference of this federal law and these federal rules does not include amendments to this federal law and these federal rules made after October 31, 2012. ~~April 13, 2007~~. The title and address of the division employee responsible for providing information regarding how the incorporated material may be obtained or examined is as follows: Commissioner, Division of Financial Services, 1560 Broadway, Suite 950, Denver, Colorado 80202. These materials are available at no cost on the Division of Financial Services website at www.dora.colorado.gov/dfs. This material is also available by contacting the National Credit Union Administration 1775 Duke Street, Alexandria, Virginia, 22314-3428. ~~Any material that has been incorporated by reference in this rule may be examined at any state publications depository library.~~

(d) Pursuant to C.R.S. 11-30-104 (1) (e), a credit union may make an investment in obligations or securities other than those specifically authorized in this rule 4.2, provided it complies with the following conditions:

(1) The credit union's board of directors has adopted written investment policies that authorize such an investment.

(2) The book value of the investment, when added to the book value of all other investments subject to the same limitation, does not exceed 10% of the credit union's shares, deposits and undivided earnings as of the month end preceding the date of investment.

(3) The credit union has received the Commissioner's prior written approval of the investment as prudent and sound.

(e) If the nature of an investment changes so that it is no longer in compliance with subsections (a), (b) or (c) of this rule, the credit union must promptly seek approval from the Commissioner, pursuant to subsection (d) of this rule, to maintain the investment or must divest itself of the investment.

(f) Notwithstanding any other provision of this rule to the contrary, if at any time the Commissioner finds and determines that any investment authorized in this rule is no longer a prudent and sound investment, approval under this rule may be modified or revoked.

(g) A corporate credit union may make any investment authorized under the National Credit Union Administration Rules and Regulations, 12 C.F.R. part 704.5, in effect as of October 31, 2012. ~~April 13, 2007~~. Incorporation by reference of this federal rule does not include amendments to this rule made

after ~~October 31, 2012~~^{April 13, 2007}. The title and address of the division employee responsible for providing information regarding how the incorporated material may be obtained or examined is as follows: Commissioner, Division of Financial Services, 1560 Broadway, Suite 950, Denver, Colorado 80202. These materials are available at no cost on the Division of Financial Services website at www.dora.colorado.gov/dfs. This material is also available by contacting the National Credit Union Administration 1775 Duke Street, Alexandria, Virginia, 22314-3428. ~~Any material that has been incorporated by reference in this rule may be examined at any state publications depository library.~~ C.R.S. 11-30-104 (1) (d), (e) and (j)

- 4.3 Incidental Powers.** (a) In accordance with C.R.S. 11-30-104(1)(i), a credit union may engage in any activity authorized for a federal credit union as an incidental power under the National Credit Union Administration Rules and Regulations, 12 C.F.R. part 721, in effect as of October 31, 2012~~April 13, 2007~~. The activities covered by the National Credit Union Administration Rules and Regulations, 12 C.F.R., part 701.30, in effect as of October 31, 2012~~April 13, 2007~~ are incidental powers for purposes of this rule. Incorporation by reference of these federal rules do not include amendments to this rule made after October 31, 2012~~April 13, 2007~~. The title and address of the division employee responsible for providing information regarding how the incorporated material may be obtained or examined is as follows: Commissioner, Division of Financial Services, 1560 Broadway, Suite 950, Denver, Colorado 80202. These materials are available at no cost on the Division of Financial Services website at www.dora.colorado.gov/dfs. This material is also available by contacting the National Credit Union Administration 1775 Duke Street, Alexandria, Virginia, 22314-3428.~~Any material that has been incorporated by reference in this rule may be examined at any state publications depository library.~~
- (b) To engage in an activity that may be within a credit union's authority~~incidental powers~~, pursuant to C.R.S. 11-30-104(1)(j), but does not fall within a category of activities referenced in subsection (a) of this rule, a credit union may submit an application for the prior written approval of the Commissioner. The application shall be in such form and contain such information as prescribed by the Commissioner. In approving an application, the Commissioner may establish such terms or conditions to the approval as necessary to ensure that any approved activity does not adversely impact the credit union. C.R.S. 11-30-104(1)(i) and (j)

6.2 Establishment and Maintenance of Credit Union Books and Records.

(a) Each credit union, credit union service organization, as that term is defined in 12 C.F.R. part 712 of the National Credit Union Administration Rules and Regulations, in effect as of ~~October 31, 2012~~^{April 13, 2007} or joint venture in which a credit union has an investment or loan thereto, shall establish and maintain such accounting and other records that will provide an accurate and complete record of all business it transacts. Incorporation by reference of this federal rule does not include amendments to this federal rule made after ~~October 31, 2012~~^{April 13, 2007}. The title and address of the division employee responsible for providing information regarding how the incorporated material may be obtained or examined is as follows: Commissioner, Division of Financial Services, 1560 Broadway, Suite 950, Denver, Colorado 80202. These materials are available at no cost on the Division of Financial Services website at www.dora.colorado.gov/dfs. This material is also available by contacting the National Credit Union Administration 1775 Duke Street, Alexandria, Virginia, 22314-3428. ~~Any material that has been incorporated by reference in this rule may be examined at any state publications depository library.~~

(b) Credit unions shall maintain all books, records, accounting systems, and procedures in accordance with generally accepted accounting principles, except as may otherwise be approved in writing by the Commissioner. The board of directors of a credit union may utilize the National Credit Union Administration Accounting Manual For Federal Credit Unions, in effect as of ~~October 31, 2012~~^{April 13, 2007} as guidance in the maintenance of its accounting records. Incorporation by reference of this federal publication does not include amendments to this federal publication made after ~~October 31, 2012~~^{April 13, 2007}. The title and address of the division employee responsible for providing information regarding how the incorporated material may be obtained or examined is as follows: Commissioner, Division of Financial Services, 1560 Broadway, Suite 950, Denver, Colorado 80202. These materials are available at no cost on the Division of Financial Services website at www.dora.colorado.gov/dfs. This material is also available by contacting the National Credit Union Administration 1775 Duke Street, Alexandria, Virginia, 22314-3428. ~~Any material that has been incorporated by reference in this rule may be examined at any state publications depository library.~~

(c) Unless otherwise approved by the Commissioner, all of the books, records, and papers of any credit union relating to its business in any fashion shall be available for inspection and examination by the Commissioner or his designee at any time between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays falling within such periods of time. ~~Noncompliance shall be conclusively presumed whenever the Commissioner or his designee shall call upon the credit union at its place of business within the times specified in this rule or otherwise approved by the Commissioner and determine that the books, records, and papers of the credit union are not available or made available for examination. C.R.S. 11-30-106 (1) and (3)~~

6.4 Fixed Assets. (a) The definitions of terms used in this regulation are as follows:

(1) "Premises" means any office, branch office, service center, parking lot, other facility, or real estate where the credit union transacts or intends to transact business.

(2) "Furniture, fixtures, and equipment" means all office furnishings, office machines, computer hardware and software, automated terminals, automated teller machines, heating and cooling equipment.

(3) "Fixed assets" means premises and furniture, fixtures, and equipment as those terms are defined above.

(4) "Investment in fixed assets" means:

(i) Any investment in real property improved or unimproved which is being used or is intended to be used as premises;

(ii) Any leasehold improvement on premises;

(iii) The aggregate of all capital and operating lease payments pursuant to lease agreements for fixed assets;

(iv) Any investment in the bonds, stock, debentures, or other obligations of a partnership or corporation, including a credit union service organization, holding any fixed assets used by the credit union and any loans to such partnership or corporation; or

(v) Any investment in furniture, fixtures and equipment.

(5) "Immediate family" means the same as set forth in C.R.S. 11-30-103 (2).

(6) "Net worth ratio" means the ratio of the net worth of a credit union to its total assets as defined in 12 C.F.R. part 702 of the National Credit Union Administration Rules and Regulations, in effect as of April 13, 2007. Incorporation by reference of this federal rule does not include amendments to this rule made after April 13, 2007. The title and address of the division employee responsible for providing information regarding how the incorporated material may be obtained or examined is as follows: Commissioner, Division of Financial Services, 1560 Broadway, Suite 950, Denver, Colorado 80202. Any material that has been incorporated by reference in this rule may be examined at any state publications depository library.

(b) Limitations on investment in fixed assets:

(1) Without the prior written approval of the Commissioner, a credit union shall not make an investment in fixed assets if, after the investment, the aggregate of all such investments exceeds 5% of total assets.

(2) Notwithstanding the provisions of paragraph (1) of subsection (b) of this rule, a credit union shall have additional fixed assets investment authority as follows:

(i) If a credit union's net worth ratio is at least 8% and its composite CAMEL rating for the last two regular examinations conducted is at least a 2 (with management rated no lower than 2), the credit union

~~may make investments in fixed assets not in excess of 5.5% of total assets without the prior written approval of the Commissioner.~~

~~(ii) If a credit union's net worth ratio is at least 9% and its composite CAMEL rating for the last two regular examinations conducted is a 1 (with management rated no lower than 2), the credit union may make investments in fixed assets not in excess of 6% of total assets without the prior written approval of the Commissioner.~~

~~(3) A credit union shall submit such information and reports as the Commissioner may require in support of any investment in fixed assets in excess of the limits specified above.~~

~~(4) If the Commissioner determines that the proposed investment will not adversely affect the credit union, the Commissioner shall approve an aggregate dollar amount or percentage of assets for investment in fixed assets. The Commissioner may establish other terms or conditions to the approval.~~

~~(5) The credit union may make such investment in fixed assets, unless the Commissioner within 30 days of receipt of a request for approval from the credit union, gives written notification of his objection and the grounds for his objection to the credit union or requests additional information. If the Commissioner requests additional information, the above 30-day period shall commence upon receipt of such information.~~

(6e) A credit union shall not acquire or lease premises or acquire or lease furniture, fixtures or equipment, without the prior written approval of the Commissioner, from any of the following parties:

(1) Elected or appointed officials of the credit union.

(2) Officers or employees of the credit union.

(3) Immediate family members of any of the foregoing individuals.

(4) A corporation, partnership, or other business in which any of the foregoing individuals have, directly or indirectly, an ownership interest of 10% or more, or are officers or directors thereof. C.R.S. 11-30-106

(1) and (3)

- 8.1 **Report of Election or Appointment.** Within 20 days after any regular or special election or any regular or interim appointment, the Commissioner shall be provided with a record of the names and addresses of all current members of the board of directors, supervisory committee members, credit committee members (and alternates, if any) or the credit officer, and the officers of such bodies. All such notification shall be completed by the credit union updating said information on its Credit Union Profile, housed on the National Credit Union Administration's secure web site. Such report of election or appointment shall be filed in a form prescribed by the Commissioner. In addition, the Commissioner shall be notified in writing of any appointments to such positions made between elections within 20 days after the appointment.

C.R.S. 11-30-108