



COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF BANKS

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MARY L. GALLAGHER
COMMISSIONER

August 22, 2019

The Honorable Steven T. James
Clerk of the House of Representatives
State House, Room 145
Boston, Massachusetts 02133

Dear Mr. James:

Enclosed for filing please find the Division of Banks' (Division) summary of its proposed amendments to 209 CMR 50.00: *Parity with Federal Credit Unions* (Parity Regulations), which are the implementing regulations for Massachusetts General Laws chapter 171, section 6A. This statute authorizes the Commissioner of Banks to propose regulations, subject to Legislative review, to authorize activities that are available to federally chartered credit unions in order to make the state charter more competitive. A copy of the statute is attached to this letter. The summary at Appendix A and a copy of the proposed amendments at Appendix B are required to be filed with your office pursuant to the statute. The Division's required statement that it has complied with the pertinent provisions of Massachusetts General Laws chapter 30A is found at Appendix C.

Public Hearing

A public hearing on these amendments was held pursuant to Massachusetts General Laws chapter 30A on Thursday, September 13, 2018 and written comments were accepted through 5:00 p.m. on Friday, September 21, 2018. The credit union trade association and the banking trade association provided oral and written comments on the proposed amendments. The credit union trade association was in favor and proposed additional amendments. The banking trade association expressed concerns regarding the proposed additional powers.

Summary of Proposed Amendments

The proposed amendments reorganize and amend the Incidental Powers authorities. There are two new authorities proposed under Incidental Powers at 209 CMR 50.09(4)(a) and 209 CMR 50.09(4)(b). The first proposed authority is at 209 CMR 50.09(4)(a), which would authorize a state-chartered credit union to apply for expedited approval from the Division for certain activities that the federal regulator, the National Credit Union Administration (NCUA), has deemed approved or deemed acceptable in writing to be an Incidental Power, and which is reasonably related to an individual power as set forth in 209 CMR 50.09(2) or 209 CMR 50.09(3). The second proposed authority is at 209 CMR

50.09(4)(b), which would authorize a state-chartered credit union to apply for approval from the Division for activities that the NCUA has deemed approved or deemed acceptable in writing as Incidental Powers but which are not included in 209 CMR 50.09(2) or 209 CMR 50.09(3). In addition, the proposed amendments restructure and streamline certain procedural requirements by allowing state-chartered credit unions to exercise certain authorities without approval or notice which previously required approval or notice.

General Background on the Parity Regulations Amendment Process

The Parity with Federal Credit Union regulations had been authorized by the enactment of Chapter 223 of the Acts of 1998, *An Act Relative to State-Chartered Credit Unions* (Act), which authorized the Division to propose regulations that would grant state-chartered credit unions certain expanded powers enjoyed by federally-chartered credit unions. This Act amended Massachusetts General Laws chapter 171, *The Massachusetts Credit Union Act*, by inserting a new section 6A, which permits state-chartered credit unions to exercise certain powers granted to federal credit unions under the Federal Credit Union Act¹. In addition, this provision specifically charged the Commissioner of Banks with promulgating regulations authorizing state-chartered credit unions to exercise such federal credit union powers not otherwise prohibited by Massachusetts law. The Act required the Division's proposed regulations to be subject to Legislative review. Under the law, the Division is precluded from filing final regulations until 90 days after they have been submitted to the Legislature.

The Act's purpose was to ensure that state-chartered credit unions remain competitive with their federally-chartered credit union counterparts in terms of permissible powers and activities. Toward that end, the Parity Regulations and the proposed amendments grant state-chartered credit unions certain expanded powers enjoyed by federally-chartered credit unions in order to promote "competitive equality" between state-chartered credit unions and federally-chartered credit unions. In addition, the Parity Regulations cover all adequately-capitalized and eligible credit unions regardless of size, so all eligible small- and medium-sized credit unions are able to take full advantage of the expanded authorities. In general, the Division's goal in proposing amendments to the Parity Regulations is to continue to offer new authorities in a manner that will make it easier for eligible credit unions to implement and remain competitive.

The Parity Regulations were not intended to be a definitive or static listing of federally-chartered credit union powers. The Legislature, the Division, and the credit union movement all view the federally-chartered credit union parity process as continuously evolving. Consequently, it was intended that additional federally-chartered credit union powers would be adopted on a periodic basis to reflect changes in federal credit union laws, official interpretations, and operating conditions.

Please contact me at (617) 956-1510 or the Division's Legal Unit at (617) 956-1520 if there are any questions regarding these proposed regulations.

Sincerely,

Mary L. Gallagher
Commissioner of Banks

¹ 12 U.S.C. §§1751 *et seq.*

Appendix A

Proposed Amendments to 209 CMR 50.00: Parity with Federal Credit Unions

Overview

The purpose of 209 CMR 50.00 *et seq.* (Parity Regulations) is to implement G.L. c. 171, s. 6A, which authorizes the Commissioner of Banks to promulgate regulations to grant state-chartered credit unions certain expanded powers in parity with federally-chartered credit unions. The proposed amendments primarily reorganize and amend the Incidental Powers authorities, and restore them to a single section, proposed 209 CMR 50.09. In addition, there are two new authorities proposed under Incidental Powers, discussed below. The proposed amendments restructure and streamline procedural requirements by allowing state-chartered credit unions to exercise certain authorities that previously required approval or notice to do so without approval or notice.

Following is an overview and a section-by-section summary of the proposed amendments.

New Authorities

The new authorities set forth in the proposed amendments are as follows:

1. Authority to apply for approval for certain activities that the federal regulator, the National Credit Union Administration (NCUA), has deemed approved or deemed acceptable in writing to be an Incidental Power, and which is reasonably related to an individual power as set forth in the Parity Regulations; and
2. Authority to apply for approval for certain activities that the NCUA has deemed approved or deemed acceptable in writing as Incidental Powers but which are not included in the Parity Regulations.

Reduced Regulatory Burden

Some of the major amendments to reduce regulatory burden are set forth below:

1. Authority for shared branch offices is amended from approval to notice;
2. Authority for community development investments is amended from approval to requiring neither approval nor notice;
3. Authority for low-income designated credit unions and non-low income designated credit unions to accept non-member deposits is amended from notice to requiring neither approval or notice;
4. Authority for certain correspondent services for internal audits is amended from approval to requiring neither approval nor notice;
5. Authority to establish charitable donation accounts is amended from notice to requiring neither approval or notice;
6. Authority for certain correspondent services for other services to credit unions such as loan processing is amended from approval to requiring neither approval nor notice;

7. Authority for operational programs to offer payroll services is amended from notice to requiring neither approval nor notice; and
8. Authority to provide trustee or custodial services is amended from an approval authority to requiring neither approval nor notice.

Section-by-Section Summary

It should be noted that citations below are to the proposed amendments to the Parity Regulations.

209 CMR 50.05: Application Process to Conduct Certain Activities

The following authorities now have the following citations:

- *Temporary Branch Offices*: This authority is now at 209 CMR 50.05(3)(a).
- *Employee Benefits Funded by Impermissible Investments*: This authority is now at 209 CMR 50.05(3)(b).
- *Pilot Investment Program*: This authority is now at 209 CMR 50.05(3)(d).
- *Secondary Capital*: This authority is now at 209 CMR 50.05(3)(e).
- *Private Label Investments*: This authority is now at 209 CMR 50.03(f).

209 CMR 50.06: Notice Process to Conduct Certain Activities

- *Investments in Land, Building, Improvements, and Equipment*: This authority for investments in land, building, improvements and equipment of more than \$1,000,000 is now at 209 CMR 50.06(3)(a).
- *Shared Branch Offices*: This authority to establish and operate a branch office on a shared basis with one or more credit unions or federal credit unions, which was formerly an approval authority, is now a notice authority at 209 CMR 50.06(3)(a).

209 CMR 50.07: Activities Requiring No Application or Notice

- *Investments in Land, Building, Improvements, and Equipment*: This authority is now at 209 CMR 50.07(2)(h).
- *Community Development Investments*. This authority, which was formerly an approval authority, is now a notice authority at 209 CMR 50.07(3)(i).
- *Non-Member Deposits*:
 - o *Low Income Designated Credit Unions*: This amendment provides authority for a credit union designated as low-income by the Division and the NCUA to accept deposits for any purpose from any source up to the aggregate of 20% of its existing deposits or \$3 million, whichever is greater. This authority, which was formerly a notice authority, is now at 209 CMR 50.07(2)(j)1.

- *Non-Low Income Designated Credit Unions:* This amendment provides authority for a credit union that is not designated as low-income to accept deposits for any purpose from any source up to the aggregate of 20% of its existing deposits or \$3 million, whichever is greater. This authority, which was formerly a notice authority, is now at 209 CMR 50.07(2)(j)2.

209 CMR 50.09: Incidental Powers

As in the Parity Regulations in general, the Incidental Powers section is set up in three general sections: provisions requiring notice, provisions requiring neither application nor notice, and provisions requiring approval from the Division.

- *General:* Sets eligibility criteria that a credit union must be well- or adequately capitalized and has not been notified that it is in troubled condition to engage in the activities in this section, provided the activities continue to be deemed legally permissible by the Commissioner and are conducted in accordance with applicable Massachusetts or federal law. This provision is at 209 CMR 50.09(1).
- ***Notice Process to Conduct Certain Activities:***
 - *General:* In addition to the above criteria, written notice must be provided 30 days prior to commencing the new activity. The Commissioner may modify or limit any activity for safety and soundness reasons, and will provide notification of such limitations within the 30 day notice period. A credit union may ask to waive, and the Commissioner may waive the remaining notice period. This provision is at 209 CMR 50.09(2)(a).
 - *Notice:* The notice must be in writing, and must include a complete description of the activity conducted, the credit union's investment in such activity, and a representation and undertaking that the activity will be conducted in accordance with Massachusetts and federal law. Any credit union filing notice pursuant to this provision is deemed to have agreed to conduct the activity in a manner consistent with applicable guidelines. The Commissioner may require other information. This provision is at 209 CMR 50.09(2)(b).
 - *Activities Subject to Notice:*
 - *Certain Correspondent Services -- Internal Audits:* A credit union may perform internal audits for other credit unions. This was formerly an approval authority, and is now at 209 CMR 50.09(2)(c)1.
 - *Non-Member Monetary Instrument Services:* This authority is now at 209 CMR 50.09(2)(c)2.
 - *Certain Finders Activities:* A credit union may make insurance, mutual funds and annuities available to members subject to Massachusetts and federal law. A credit union may also provide finder activities. This provision was updated to clarify that insurance sales activities must also be in accordance with the provisions of G.L. c. 171, § 75B and 209 CMR 49.00 *et seq.* This provision is now at 209 CMR 50.09(3)(c)3.
- ***Activities Requiring No Application or Notice***

General: A credit union that is well or adequately capitalized and not notified that it is in troubled condition may engage in the activities without filing an application or providing notice, provided the activities continue to be deemed legally permissible by the Commissioner, and the activities are conducted in accordance with applicable Massachusetts or federal law. This provision is at 209 CMR 50.09(3)a.

Permissible Activities:

- *Certification Services:* This provision is now at 209 CMR 50.09(3)(b)1.
- *Charitable Contributions and Donations:* This provision is now at 209 CMR 50.09(3)(b)2.
- *Charitable Donation Accounts:* This provision, which authorizes the establishment of charitable donation accounts, was formerly a notice provision, and is now at 209 CMR 50.09(3)(b)3.
- *Correspondent Services – Other Services:* This provision, relative to a credit union providing certain correspondent services to other credit unions, including but not limited to loan processing, loan servicing, member check cashing services, disbursing share withdrawals and loan proceeds, cashing and selling money orders, and automated teller machine deposit services, was formerly an approval authority. It is now at 209 CMR 50.09(3)(b)4.
- *Electronic Financial Services:* This provision is now at 209 CMR 50.09(b)5.
- *Excess Capacity:*
 - *Agreements Relative to Excess Capacity in Personnel:* This provision is now at 209 CMR 50.09(3)(b)6.a.
 - *Sale of Lease of Excess Capacity in Data Processing Equipment or Services:* This provision is now at 209 CMR 50.09(3)(b)6.b.
 - *Sale or Lease of Excess Capacity in Facilities, Equipment, or Office Space:* This provision is now at 209 CMR 50.09(3)(b)6.c.
- *Financial Counseling:* This provision is now at 209 CMR 50.09(3)(b)7.
- *Finder Activities:* This provision, relative to offering products and services to members through outside vendors, including but not limited to advertising space on the credit union's website, is now at 209 CMR 50.09(3)(b)8.
- *Loan Related Products:* This provision, relative to debt cancellation agreements and debt suspension agreements, is now at 209 CMR 50.09(3)(b)9.
- *Marketing Activities:* This provision is now at 209 CMR 50.09(3)(b)10.
- *Member Monetary Services:* This provision is now at 209 CMR 50.09(3)(b)11.
- *Operational Programs:* This provision, which was formerly a notice provision relative to payroll services, is now at 209 CMR 50.09(3)(b)12.

- *Stored Value Products:* This provision is now at 209 CMR 50.09(3)(b)13.
- *Trustee or Custodial Services:* This provision, which was formerly an approval authority, is now at 209 CMR 50.09(3)(b)14.

- ***Approval Process for Additional Incidental Powers***

- *Expedited Approval Process for Additional Incidental Powers Related to Those Set Forth in 209 CMR 50.09(2) and 209 CMR 50.09(3) and Otherwise Approved by the NCUA*

- *General:* A credit union that is well or adequately capitalized and has not been notified that it is in troubled condition may engage in other activities if they are permitted and determined by the NCUA to be incidental powers pursuant to 12 CFR § 721 pursuant to regulations, guidelines or written opinions of the General Counsel of the NCUA only if the Commissioner affirmatively determines by regulation or in writing that the activity is reasonably related to an individual power as set out in 209 CMR 50.09(2) or 209 CMR 50.09(3). This provision is at 209 CMR 50.09(3)(a)1.
- *Federal Authority:* The requested activity must be one that is deemed approved or deemed acceptable by the NCUA as set forth in regulations, guidelines, or written opinions of the General Counsel of the NCUA, as an additional incidental power pursuant to 12 CFR Part 721, and shall also be subject to any conditions the Commissioner may require. This provision is at 209 CMR 50.09(3)(a)2.
- *Application Process:* The credit union shall determine whether the requested activity is permitted and determined by the NCUA to be an incidental power pursuant to 12 CFR § 721 and as set forth in 209 CMR 50.09(4)(a)1. The application shall provide a complete description of the proposed activity, written policies, and a representation and undertaking that the activity will be conducted in accordance with Massachusetts and federal law. The Commissioner may require additional information. The application shall be deemed approved by the Commissioner 30 days after the filing is received by the Commissioner, unless the credit union is notified prior to that date that it is not eligible for expedited review. This provision is at 209 CMR 50.09(3)(a)3.

- *Approval Process of Additional Incidental Powers Otherwise Approved by the NCUA*

- *General:* A credit union that is well or adequately capitalized, and has not been notified that it is in troubled condition, may engage in additional activities approved by the NCUA as incidental powers under 12 CFR Part 721, but not included in 209 CMR 50.09(2) or 209 CMR 50.09(3), by submitting an application to and receiving approval from the Commissioner. This provision is at 209 CMR 50.09(4)(a).
- *Federal Authority:* The requested authority must be one that is deemed approved or deemed acceptable by the NCUA as set forth in regulations,

guidelines, or written opinions of the General Counsel of the NCUA, as an additional incidental power pursuant to the provisions of 12 CFR Part 721, and shall also be subject to any conditions the Commissioner may require. This provision is at 209 CMR 50.09(4)(b).

- *Application Process.* A credit union shall apply to the Commissioner in writing, and determine whether the activity is authorized for federal credit unions pursuant to 209 CMR 50.09(4)(b), and shall also describe the activity, and the credit union's plan for implementing the proposed activity. The credit union shall also submitted the written policies as well as a representation and undertaking that the activity will be conducted in accordance with Massachusetts and federal law. The application shall provide any other information the Commissioner may require.

HOUSE No. 4057

Communication from the Division of Banks (under the provisions of section 171 of Chapter 6A of the General Laws) submitting amendments to 209 CMR 50.00: Parity with Federal Credit Unions (Parity Regulations). Financial Services.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

1 Appendix B

2 Proposed Amendments – 8/22/19

3 209 CMR 50.00 is hereby amended by striking out the text in its entirety and replacing it
4 with the following:--

5 209 CMR 50.00: PARITY WITH FEDERAL CREDIT UNIONS

6 Section

7 50.01: Purpose and Scope

8 50.02: Definitions

9 50.03: Advisory Opinions

10 50.04: Credit Union Eligibility to Conduct Activities

11 50.05: Application Process to Conduct Certain Activities

12 50.06: Notice Process to Conduct Certain Activities

13 50.07: Activities Requiring No Application or Notice

14 50.08: Credit Union Service Organizations

15 50.09: Incidental Powers

16 50.01: Purpose and Scope

17 The purpose of 209 CMR 50.00 et seq. is to specify authorized powers and activities of
18 credit unions, pursuant to M.G.L. c. 171, §6A, and to establish procedures and requirements,
19 applicable to credit unions seeking to exercise powers granted to or conduct activities authorized
20 for federal credit unions under federal law, to the extent that such powers are not otherwise
21 prohibited. In determining whether or not to authorize any power or activity, the Commissioner
22 shall also determine whether or not competition among credit unions will be unreasonably
23 affected and whether public convenience and advantage will be promoted.

24 A credit union may, under M.G.L. c. 171, §6A and 209 CMR 50.00 et seq., exercise only
25 those powers and engage in only those activities expressly authorized by the Commissioner as
26 set forth in 209 CMR 50.00 et seq. Powers and activities not so authorized are prohibited.

27 209 CMR 50.00 et seq. shall apply only to credit unions as defined by 209 CMR 50.02.

28 Any power authorized and exercised pursuant to 209 CMR 50.00 et seq. shall be
29 independent from, and in addition to, any other powers granted to credit unions under applicable
30 General Laws, or regulations promulgated thereunder. The express powers granted to credit
31 unions under the General Laws are not limited or otherwise restricted by 209 CMR 50.00 et seq.

32 Any lending power authorized and exercised pursuant to 209 CMR 50.00 et seq. shall be
33 subject to the limitations on total obligations to one borrower found in M.G.L. c. 171, § 58,
34 unless otherwise specified herein.

35 50.02: Definitions

36 As used in 209 CMR 50.00 et seq., the following words shall, unless the context
37 otherwise requires, have the following meanings:

38 Adequately Capitalized. A credit union shall be deemed adequately capitalized if the
39 credit union meets the definition of an adequately capitalized institution as defined under the
40 prompt corrective action provisions of the Federal Credit Union Act, 12 U.S.C. § 1790d, and the
41 regulations promulgated by the NCUA.

42 Automobile. The word automobile shall include a motorcycle or a truck.

43 Credit union. A credit union chartered pursuant to M.G.L. c. 171 and subject to
44 examination and supervision by the Commissioner under M.G.L. c. 167.

45 Commissioner. The commissioner of banks, including the Division of Banks.

46 CUSO. A credit union service organization authorized under 209 CMR 50.08.

47 Federal law. The Federal Credit Union Act, 12 U.S.C. § 1781 et seq., and its
48 implementing regulations; any other federal statute or regulation authorizing a federal credit
49 union to engage in activities; and, any officially published interpretation or guideline issued
50 thereunder, by the NCUA. An "officially published guideline" must be formally published and
51 circulated by the NCUA or a commercial publisher and be generally available to the public. This

52 phrase shall not include a private, unpublished staff attorney letter issued to a federal credit
53 union.

54 NCUA. The National Credit Union Administration.

55 Organization member. Any fraternal organization, voluntary association, partnership,
56 limited partnership, corporation, limited liability company pursuant to relevant state law, or
57 limited liability partnership pursuant to relevant state law, composed principally of individual
58 members or stockholders who are themselves eligible to membership in a credit union. Said
59 definition shall be effective as used in M.G.L. c. 171 and 209 CMR 50.00 et seq.

60 Real Estate Loan. The term real estate loan shall mean a loan secured by a mortgage on
61 an owner-occupied one-to-four family property; on an owner-occupied unit of a condominium;
62 or a loan secured by a mortgage on non-owner occupied, commercial or any other type of real
63 estate that is authorized pursuant to M.G.L. c. 171 and 209 CMR 50.00. The term real estate
64 loan shall also mean a loan secured by a mortgage on a manufactured home that is permanently
65 affixed to the land, qualifies as real property by being titled as real property under the laws of the
66 state where it is located, and qualifies for a home mortgage interest deduction under the Internal
67 Revenue Code.

68 Strong or Satisfactory Management. A credit union shall be deemed to have strong or
69 satisfactory management if the credit union's management rating meets the definitions set forth
70 in the Federal Financial Institutions Examination Council's Uniform Financial Institution Rating
71 System (UFIRS).

72 Troubled Condition. A credit union is deemed to be in troubled condition if notified of
73 such by the Division or the NCUA pursuant to the Federal Credit Union Act and the regulations
74 promulgated by the NCUA.

75 Well Capitalized. A credit union shall be deemed to be well capitalized if the credit union
76 meets the definition of a well capitalized institution as defined under the prompt corrective action
77 provisions of the Federal Credit Union Act, 12 U.S.C. § 1790d, and the regulations promulgated
78 by the NCUA.

79 50.03: Advisory Opinions

80 The Commissioner may issue from time to time advisory rulings, pursuant to M.G.L. c.
81 30A, § 8, interpreting any provision of the regulations issued hereunder. Each regulation or
82 officially published interpretation or guideline issued by the NCUA which interprets a provision
83 of federal law, as defined by 209 CMR 50.02, similar in substance to a provision of 209 CMR
84 50.00 et seq., shall, until rescinded by the NCUA, be deemed by the Commissioner to be an
85 advisory ruling issued under M.G.L. c. 30A, § 8; provided, however, that the Commissioner, at
86 any time, may reject such a regulation or officially published interpretation or guideline issued
87 by the NCUA.

88 50.04: Credit Union Eligibility to Conduct Activities

89 (1) Financial and Managerial Requirements. Any credit union engaging in an activity
90 pursuant to 209 CMR 50.00 et seq. must be well or adequately capitalized, and shall not be in
91 troubled condition.

92 (2) Policy and Procedure Requirements. Any credit union engaging in an activity
93 pursuant to 209 CMR 50.00 et seq. must have in place adequate policies and procedures

94 governing the performance of such activity by the credit union and its employees, to minimize
95 any credit, market, liquidity, operational, legal and reputational risks to the credit union.

96 (3) Satisfactory CRA Rating Requirement. Any credit union applying to engage in an
97 activity pursuant to 209 CMR 50.00 et seq. must have received at least a satisfactory CRA rating
98 at the most recent examination conducted by the Commissioner pursuant to M. G. L. c. 167, §
99 14.

100 (4) Review. Any activity undertaken by a credit union pursuant to 209 CMR 50.00 et seq.
101 shall remain subject to periodic review by the Commissioner. The Commissioner may modify,
102 curtail, rescind or otherwise limit a credit union's authority to conduct any activity pursuant to
103 209 CMR 50.00 et seq. through a formal or informal remedial action if a credit union ceases to
104 meet any applicable requirements, based upon a report of examination conducted by the
105 Commissioner or the NCUA, or based on other reliable information.

106 50.05: Application Process to Conduct Certain Activities

107 (1) General. A credit union that is well or adequately capitalized, and has not been
108 notified that it is in troubled condition, may engage in any activity listed under 209 CMR
109 50.05(3) by submitting an application to, and receiving approval from the Commissioner before
110 commencing the activity.

111 (2) Application. The application must include a complete description of the credit union's
112 proposed activity, the credit union's investment in such activity, a description of the business
113 purpose as well as the anticipated financial and business impact, the written policies required by
114 209 CMR 50.04(2), as well as a representation and undertaking that the activity will be

115 conducted in accordance with Massachusetts and federal law. The application must also provide
116 any other information the Commissioner may require.

117 (3) Activities subject to application and approval. A credit union may engage in the
118 following activities pursuant to 209 CMR 50.05(1):

119 (a) Temporary Branch Offices. A credit union may establish and operate a temporary
120 branch office, to be open for less than a year, or on an intermittent basis at a designated site,
121 subject to the investment limitations to purchase, hold and lease real estate suitable for the
122 transaction of business, found at M.G.L. c. 171, § 75.

123

124 (b) Employee Benefits Funded by Impermissible Investments. A credit union may
125 provide employee benefits, including retirement benefits, to its employees and officers,
126 individually or collectively with other credit unions, that are funded by impermissible
127 investments. The kind and amount of these benefits must be reasonable given the credit union's
128 size, financial condition, and the duties of the employees. A credit union investment to fund an
129 employee benefit plan obligation is not subject to the investment limitations of M.G.L. c. 171
130 and may purchase an investment that would otherwise be impermissible if the investment is
131 directly related to the credit union's obligation or potential obligation under the employee benefit
132 plan and the credit union holds the investment only for as long as it has an actual or potential
133 obligation under the employee benefit plan. All activities under 209 CMR 50.05(3)(c) shall
134 conform to the procedural and substantive requirements of 12 CFR § 701.19.

135 (c) Derivatives Authority.

136 A credit union may engage in derivatives activities as authorized pursuant to 12 CFR §
137 703, Subpart B. The credit union shall meet the eligibility standards pursuant to 12 CFR §
138 703.108(a), and all activities under 209 CMR 50.05(3)(d) shall conform to the procedural and
139 substantive requirements of 12 CFR § 703, Subpart B and 12 CFR § 741.219(b).

140 (d) Pilot Investment Program. A credit union that is well capitalized and has not been
141 notified that it is in troubled condition may apply to and receive written approval from the
142 Commissioner to participate in a pilot investment program. The application must address the
143 items outlined in 12 CFR § 703.19(b)(1) through 12 CFR § 703.19(b)(9). In approving a credit
144 union's application for participation in a pilot program, the Commissioner may impose such
145 terms and conditions as he or she deems necessary.

146 (e) Secondary Capital. A credit union designated in writing as “low income” by the
147 Division of Banks and NCUA pursuant to 12 CFR § 741.204(b) may accept secondary capital
148 accounts in accordance with 12 CFR § 701.34(b). Before accepting secondary capital, the low-
149 income credit union must adopt a written Secondary Capital Plan that addresses the criteria
150 stated in 12 CFR § 701.34 (b)(1) and submit the plan for approval to the Commissioner and
151 NCUA. The credit union shall conform to all other procedural and substantive requirements of
152 12 CFR § 701.34(b), 12 CFR § 701.34(c), and 12 CFR § 701.34(d).

153 (f) Private Label Investments. A credit union may invest in private label mortgage-
154 related securities, as authorized pursuant to 12 CFR § 703.14(a). All activities under 209 CMR
155 50.05(3)(g) shall conform to the procedural and substantive requirements of 12 CFR § 703,
156 Subpart A, and such investments shall be made in accordance with a detailed written policy
157 approved and reviewed annually by the credit union’s directors.

158 50.06: Notice Process to Conduct Certain Activities

159 (1) General. A credit union that is well or adequately capitalized and has not been
160 notified that it is in troubled condition may engage in any activity listed under 209 CMR
161 50.06(3), by providing the Commissioner written notice 30 days prior to commencing the new
162 activity. The Commissioner may modify, curtail, rescind, or otherwise limit any activity listed
163 under 209 CMR 50.06(3) for safety and soundness reasons pursuant to 209 CMR 50.04(4).
164 Notification of limitations will be provided within the 30 day notice period. At the time the
165 notice is filed or at any time the notice is pending, a credit union may request that the
166 Commissioner waive and the Commissioner may waive the remaining notice period.

167 (2) Notice. The written notice must include a complete description of the activity
168 conducted, the credit union's investment in such activity, and a representation and undertaking
169 that the activity will be conducted in accordance with Massachusetts and federal law. Any credit
170 union filing notice pursuant to 209 CMR 50.06(1) is deemed to have agreed to conduct the
171 activity in a manner consistent with applicable guidelines. The Commissioner may require other
172 information as deemed necessary.

173 (3) Activities Subject to Notice. A credit union may engage in the following activities
174 pursuant to 209 CMR 50.06(1):

175 (a) Investments in Land, Building, Improvements, and Equipment. A credit union may
176 invest in land, building, improvements and equipment. Notice is required if a credit union
177 invests more than \$1,000,000 per one parcel of real estate or purchase of equipment per
178 transaction.

179 (b) Shared Branch Offices.

180 1. Authority. A credit union may establish and operate a branch office on a shared basis
181 with one or more credit unions or federal credit unions subject to providing notice to the
182 commissioner under M.G.L. c. 171, § 8. Relocation and closure of any branch office shall be in
183 accordance with the provisions of M.G.L. c. 171, § 8.

184 2. Credit Union Service Organizations. Shared branch offices may be established through
185 a CUSO or by written agreement among two or more credit unions. Such CUSO shall comply
186 with 209 CMR 50.08.

187 3. Mandatory safeguards. Any such CUSO or agreement shall establish adequate
188 safeguards relative to credit union liability for employee breaches of member confidentiality;
189 loss against fraud or dishonesty; and any other risks associated with the operation of a shared
190 branch office.

191 4. Maximum investment. Shared branch offices shall be subject to the investment
192 limitations to purchase, hold and lease real estate suitable for the transaction of business, found
193 at M.G.L. c. 171, § 75 and 209 CMR 50.06(3)(a) and 209 CMR 50.07(2)(h). In the event of a
194 conflict between the investment limitations of M.G.L. c. 171, § 75 and the maximum investment
195 limitations of 209 CMR 50.08(2)(a)l.a. and b. governing CUSOs, the former provision shall
196 control.

197 50.07: Activities Requiring No Application or Notice

198 (1) General. A credit union that is well or adequately capitalized and has not been
199 notified that it is in troubled condition may engage in the activities listed in 209 CMR 50.07(2)
200 without filing an application or providing notice to the Commissioner, provided the activities

201 continue to be deemed legally permissible by the Commissioner, and the activities are conducted
202 in accordance with applicable Massachusetts or federal law.

203 (2) A credit union may engage in the following activities pursuant to 209 CMR 50.07(1):

204 (a) Additional Consumer Loan Participation Authority Not Included in M.G.L. c. 171. A
205 credit union may, by written agreement, make or invest in consumer loan participations with any
206 credit union service organization or any state or federal government agency and its subdivisions
207 meeting the requirements of 209 CMR 50.07 subject to the terms and conditions applicable to
208 federal credit unions found in 12 CFR § 701.22. For the purposes of 209 CMR 50.07(2)(a), a
209 consumer loan is defined as a loan or line of credit, whether secured by collateral or security of
210 any nature or unsecured, for consumer or other purposes other than a real estate loan.

211 (b) Real Estate Loan Participations. A credit union may, by written agreement, make or
212 invest in real estate loan participations with any federally-chartered or federally-insured credit
213 union, any federally-chartered or federally-insured bank, any state or federal government agency
214 and any subdivision thereof, or any credit union service organization meeting the requirements of
215 209 CMR 50.08 subject to the terms and conditions applicable to federal credit unions found in
216 12 CFR §701.22.

217 (c) Deposits in Federally Insured Banks and Credit Unions.

218 1. Types of Deposits.

219 a. A credit union may invest in the deposits, including certificates of deposit, of federally
220 insured banks located within or without the Commonwealth, provided such institutions are well
221 capitalized under applicable federal share or deposit insurance laws and regulations.

222 b. A credit union may invest in the shares and deposits, including certificates of deposit,
223 of federally insured credit unions located within or without the Commonwealth, provided such
224 institutions are well capitalized under applicable federal share or deposit insurance laws and
225 regulations.

226 c. Certificates of deposit authorized by 209 CMR 50.07(2)(c)1.a. and b. may exceed two
227 years in maturity provided such investment is consistent with a credit union's formal asset
228 liability management strategy.

229 2. Cash on Hand Requirements. Deposits or certificates of deposit authorized by 209
230 CMR 50.07(2)(c)1.a. and b. shall not qualify towards the cash on hand requirements of M.G.L. c.
231 171, § 71, unless the deposit or certificate of deposit meets the maturity and eligible depository
232 requirements of M.G.L. c. 171, § 71.

233 (d) Additional Investment Authorities. A credit union may invest or engage in
234 investment repurchase transactions; securities lending transactions; borrowing repurchase
235 transactions, including reverse repurchase transactions; and federal funds from any financial
236 institution insured by the Federal Deposit Insurance Corporation or the NCUA subject to the
237 terms and conditions applicable to federal credit unions found in 12 CFR Part 703. Any
238 investments made under 209 CMR 50.07(2)(d) shall be made in accordance with a detailed
239 written policy approved and reviewed annually by the credit union's directors.

240 (e) Interest Bearing Corporate Checking Accounts. To the extent permitted by federal
241 law, a credit union may pay dividends on organization member share draft accounts and may
242 permit such organization members to make withdrawals from such accounts by negotiable or
243 transferable instruments or other orders for the purpose of making transfers to third parties;

244 provided, however, that the entire beneficial interest in such account shall be held by an
245 organization member.

246 (f) Treasury Tax and Loan Depositories. A credit union may establish Treasury Tax and
247 Loan Remittance Accounts subject to the requirements and limitations of 12 U.S.C. § 1767(a)
248 and 12 CFR § 701.37, its implementing regulations. Such authority shall not extend to acting as a
249 fiscal agent or depository for the Commonwealth or its political subdivisions unless expressly
250 authorized by Massachusetts law.

251 (g) Leasing.

252 1. Authority. A credit union may engage in automobile and personal property lease
253 financing transactions with its members on a net, full payout basis. Such automobile and
254 personal leasing activities may be conducted on either a direct or indirect basis and on either an
255 open or closed end basis.

256 2. Conditions and Limitations. All credit union leasing activities shall strictly conform to
257 the conditions and limitations set forth in 12 CFR Part 714, Leasing. Those requirements include,
258 but are not limited to, provisions governing maximum residual value; salvage values over leased
259 property; and, contingent liability insurance policy endorsements for leasing. Credit union
260 leasing activities shall remain subject to applicable usury limits under Massachusetts law.

261 (h) Investments in Land, Building, Improvements, and Equipment. A credit union may
262 invest in land, building, improvements and equipment up to \$1,000,000 per one parcel of real
263 estate or purchase of equipment per transaction without providing notice to the Commissioner.

264 (i) Community Development Investments.

265 1. Investments in Community Development Credit Unions. A credit union may,
266 individually or with other credit unions or federal credit unions, make deposits in, invest in, or
267 lend to, a state or federally chartered credit union designated as a community development or
268 low-income credit union located in the Commonwealth. A credit union's total deposits,
269 investments and loans to all community development credit unions shall not exceed, in the
270 aggregate, 5% of its total paid in and unimpaired capital and surplus, as of its last calendar year-
271 end financial report.

272 2. Community Development Loan Pools. A credit union may, with other state or
273 federally-chartered credit unions or banks, invest in, or lend to, a residential mortgage loan pool
274 designed to promote affordable housing for low to moderate income persons residing in the
275 Commonwealth for the purpose of meeting its obligations under the Massachusetts Community
276 Reinvestment Act, M.G.L. c. 167, § 14. Such investments and loans shall not exceed, in the
277 aggregate, 5% of the credit union's total paid in and unimpaired capital and surplus, as of its last
278 calendar year-end financial report. Credit unions shall comply with the member business lending
279 provisions found in NCUA Rules and Regulations Part 723 when lending to mortgage loan
280 pools.

281 (j) Non-Member Deposits.

282 1. Low Income Designated Credit Unions. A credit union designated in writing as “low
283 income” by the Division of Banks and NCUA pursuant to 12 CFR § 741.204(b) may accept
284 deposits for any purpose from any source up to the aggregate of 20% of its existing deposits or
285 \$3 million, whichever is greater. Said deposits shall not exceed federal or excess share insurance
286 limits. Any acceptance of deposits made under 209 CMR 50.07(2)(j) shall be made in

287 accordance with a detailed written policy approved and reviewed annually by the credit union's
288 directors.

289 2. Non-low Income Designated Credit Unions. A credit union that is not designated as
290 low income may accept deposits for any purpose from any credit union insured by the NCUA up
291 to 20% of its existing deposits or \$3 million, whichever is greater. Said deposits shall not exceed
292 federal or excess share insurance limits. Any acceptance of deposits made under 209 CMR
293 50.07(2)(j) shall be made in accordance with a detailed written policy approved and reviewed
294 annually by the credit union's directors.

295 50.08: Credit Union Service Organizations

296 (1) Application Process to Conduct Certain Activities Relative to CUSOs

297 (a) General. A credit union that is well or adequately capitalized, and has not been
298 notified that it is in troubled condition, may engage in any activity listed under 209 CMR
299 50.08(2) by submitting an application to, and receiving approval from the Commissioner before
300 commencing the activity.

301 (b) Application. The application must include a complete description of the credit union's
302 proposed activity, the credit union's investment in such activity, a description of the business
303 purpose as well as the anticipated financial and business impact, the written policies required by
304 209 CMR 50.04(2), as well as a representation and undertaking that the activity will be
305 conducted in accordance with Massachusetts and federal law. The application must also provide
306 any other information the Commissioner may require.

307 (2) Activities subject to Application and Approval. A credit union may engage in the
308 following activities pursuant to 209 CMR 50.08(1):

309 (a) Investments in Credit Union Service Organizations. A credit union may, individually
310 or with other credit unions, federal credit unions, or non-credit union parties, invest in one or
311 more CUSOs. Investments in or loans to CUSOs are permissible only if the CUSO primarily
312 services credit unions, its membership, or the membership of credit unions contracting with the
313 CUSO, provided, however, with respect to any approved CUSO service as set out in 209 CMR
314 50.08(2)(a)2.r., this requirement is met if the CUSO primarily provides such services to persons
315 who are eligible for membership in the credit union or are eligible for membership in credit
316 unions contracting with the CUSO. Such investments in or loans to CUSOs shall otherwise
317 conform to the customer base requirements of 12 CFR §712.3(b) and shall conduct activities and
318 services related to the routine, daily operations of a credit union. Investments in or loans to
319 federally-chartered CUSOs are permissible only if said federally-chartered CUSO limits itself at
320 all times to those activities that can be conducted by a state-chartered CUSO pursuant to 209
321 CMR 50.08(2). Investment or lending pursuant to 209 CMR 50.08(1) shall be subject to the
322 following conditions and limitations:

323 1. Maximum Investment.

324 a. Equity Investments. A credit union may invest in the shares, stocks or obligations of
325 any other organization, providing services which are associated with the routine operations of
326 credit unions, up to 1% of its total paid in and unimpaired capital and surplus, as of its last
327 calendar year-end financial report, with the approval of the Commissioner.

328 b. Lending. A credit union's total loans to all CUSOs shall not exceed, in the aggregate,
329 1% of its total paid in and unimpaired capital and surplus, as of its last calendar year-end
330 financial report. The lending authority under 209 CMR 50.08(2)(a)1.b. is independent from the
331 investment authority authorized under 209 CMR 50.08(2)(a)1.a.

332 c. Investment Limitations. The investment authorized by 209 CMR 50.08(2)(a)1.a. shall
333 not include the power to acquire control, directly or indirectly, of another financial institution or
334 to invest in shares, stocks or obligations of a trade association, liquidity facility or any similar
335 organization, corporation, or association, except as otherwise expressly authorized by 12 U.S.C.
336 § 1781 et seq. or M.G.L. c. 171.

337 2. Permissible Activities. A credit union may invest in, or lend to a CUSO that engages
338 in any of the following activities:

339 a. Checking and Currency Services.

340 i. Check cashing;

341 ii. Coin and currency services;

342 iii. Money order, savings bonds, travelers checks, and purchase and sale of U.S. Mint
343 commemorative coins services; and

344 iv. Stored value products.

345 b. Clerical, Professional and Management Services.

346 i. Accounting services;

347 ii. Courier services;

348 iii. Credit analysis;

349 iv. Facsimile transmissions and copying services;

350 v. Internal audits for credit unions;

- 351 vi. Locator services;
- 352 vii. Management and personnel training and support;
- 353 viii. Marketing services;
- 354 ix. Research services; and
- 355 x. Excess Capacity. Agreements Relative to Excess Capacity in Personnel.

356 A CUSO with excess capacity in its personnel may enter into an agreement to permit its
357 employees to work elsewhere subject to the provisions of M.G.L. c. 171, § 19, and applicable
358 state and federal law.

359 c. Business Loan Origination, including the authority to buy and sell participation
360 interests in such loans.

361 d. Consumer Mortgage Loan Origination, including the authority to buy and sell
362 participation interest in such loans.

363 e. Electronic Transaction Services.

364 i. Automated teller machine (ATM) services;

365 ii. Credit card and debit card services;

366 iii. Data processing;

367 iv. Electronic fund transfer (EFT) services;

368 v. Electronic income tax filing;

369 vi. Payment item processing;

- 388 i. Alarm-monitoring and other security services;
- 389 ii. Disaster recovery services;
- 390 iii. Microfilm, microfiche, optical and electronic imaging, CD-ROM data storage and
391 retrieval services;
- 392 iv. Provision of forms and supplies; and
- 393 v. Record retention and storage.
- 394 j. Student Loan Origination, including the authority to buy and sell participation interests
395 in such loans.
- 396 k. CUSO Investments in Non-CUSO Service Providers. In connection with providing a
397 permissible service, a CUSO may invest in a non-CUSO service provider. The amount of the
398 CUSO's investment is limited to the amount necessary to participate in the service provider, or a
399 greater amount if necessary to receive a reduced price for goods or services.
- 400 l. Activities Related to Routine Daily Operations. A CUSO may engage in other
401 activities if said activities are related to the routine daily operations of credit unions as permitted
402 by the NCUA pursuant to 12 CFR §712.5 provided, however, that the Commissioner
403 affirmatively deems such activity permissible by regulation or in writing.
- 404 m. Trust and Trust-Related Services. Trust and trust-related services as set forth at 12
405 CFR § 712.5(p): Acting as administrator for prepaid legal service plans; acting as trustee,
406 guardian, conservator, estate administrator, or in any other fiduciary capacity; and trust services.
- 407 n. Securities Brokerage Services.

408 o. Insurance Sales. Agency for sale of insurance in accordance with the provisions of
409 M.G.L. c. 171, § 75B and 209 CMR 49.00 et seq.

410 p. Credit Card Loan Origination;

411 q. Payroll Processing Services; and

412 r. Check Cashing and Money Transfer Services to Certain Nonmembers Who Are
413 Eligible for Specified Fields of Membership.

414 i. Selling negotiable checks, travelers checks, money orders and other similar money
415 transfer instruments;

416 ii. Cashing checks and money orders; and

417 iii. Receiving international and domestic electronic fund transfers.

418 3. Prohibited Activities. Notwithstanding 12 CFR § 712.5, a credit union may not invest
419 in or lend to a CUSO that engages in the following activities or services, unless such activity or
420 service is otherwise expressly authorized under M.G.L. c. 171:

421 a. "Fixed asset services" under 12 CFR § 712.5(g)(1) and (2);

422 b. "Travel agency services" under 12 CFR § 712.5(o); and

423 c. "Real estate brokerage" under 12 CFR § 712.5(q).

424 4. Corporate Requirements.

425 a. Corporate Structure. A credit union may invest in or lend to a CUSO structured as a
426 business corporation, provided such entity is established and maintained under relevant federal
427 or state law, or limited liability company or limited partnership, provided such entity is

428 established and maintained under relevant state law. A credit union may also invest in a
429 federally-chartered CUSO pursuant to 209 CMR 50.08 if said federally-chartered CUSO limits
430 itself at all times to those activities that can be conducted by a state-chartered CUSO pursuant to
431 209 CMR 50.08(2).

432 b. Separate Corporate Identity. A CUSO shall maintain a separate and distinct corporate
433 identity from the investing credit union. A credit union or CUSO that complies with the
434 provisions of 12 CFR § 712.3, 12 CFR § 712.4, and 12 CFR § 712.8 shall be deemed to be in
435 compliance with 209 CMR 50.08(4).

436 5. Officials and Senior Management Employees. Officials, senior management
437 employees and their immediate family members of a credit union that has outstanding loans or
438 investments in a CUSO shall not receive any salary, commission, investment income, or other
439 income or compensation from the CUSO either directly or indirectly, or from any person being
440 serviced through the CUSO as set forth under 12 CFR § 712.8.

441 (3) Notice Process to Conduct Certain Activities Relative to CUSOs.

442 (a) General. Once a credit union has applied for and received approval from the
443 Commissioner to engage in any CUSO activity pursuant to 209 CMR 50.08(1), they may
444 subsequently engage in other CUSO activities listed under 209 CMR 50.08(2) by only providing
445 notice to the Commissioner. In order to qualify for the notice authority pursuant to 209 CMR
446 50.08(3), a credit union must be well or adequately capitalized and has not been notified that it is
447 in troubled condition. The written notice shall be provided 30 days prior to commencing the new
448 activity. At the time the notice is filed or at any time the notice is pending, a credit union may

449 request that the Commissioner waive and the Commissioner may waive the remaining notice
450 period.

451

452 (b) Notice. The notice must include a complete description of the activity conducted, the
453 credit union's investment in such activity, and a representation and undertaking that the activity
454 will be conducted in accordance with Massachusetts and federal law. Any credit union filing
455 notice pursuant to 209 CMR 50.08(3) is deemed to have agreed to conduct the activity in a
456 manner consistent with applicable guidelines.

457 50.09: Incidental Powers

458 (1) General. A credit union that is well or adequately capitalized and has not been
459 notified that it is in troubled condition may engage in the activities as set forth in 50.09, provided
460 the activities continue to be deemed legally permissible by the Commissioner, and the activities
461 are conducted in accordance with applicable Massachusetts or federal law as set forth herein.

462 (2) Notice Process to Conduct Certain Activities.

463 (a) General. A credit union that is well or adequately capitalized and has not been notified
464 that it is in troubled condition may engage in any activity listed under 209 CMR 50.09(2), by
465 providing the Commissioner written notice 30 days prior to commencing the new activity. The
466 Commissioner may modify, curtail, rescind, or otherwise limit any activity listed under 209
467 CMR 50.09(2) for safety and soundness reasons pursuant to 209 CMR 50.04(4). Notification of
468 limitations will be provided within the 30 day notice period. At the time the notice is filed or at
469 any time the notice is pending, a credit union may request that the Commissioner waive and the
470 Commissioner may waive the remaining notice period.

471 (b) Notice. The written notice must include a complete description of the activity
472 conducted, the credit union's investment in such activity, and a representation and undertaking
473 that the activity will be conducted in accordance with Massachusetts and federal law. Any credit
474 union filing notice pursuant to 209 CMR 50.09(2) is deemed to have agreed to conduct the
475 activity in a manner consistent with applicable guidelines. The Commissioner may require other
476 information as deemed necessary.

477 (c) Activities Subject to Notice. A credit union may engage in the following activities
478 pursuant to 209 CMR 50.09(2):

479 1. Certain Correspondent Services.

480 a. Internal audits. A credit union may perform internal audits for other credit
481 unions.

482 2. Non-Member Monetary Instrument Services. As set forth in 12 CFR § 721 and
483 NCUA Opinion Letter 02-0250, in order to provide monetary instrument services for non-
484 members, a credit union may engage in the following: may establish a simplified membership
485 program, with a non-dividend bearing membership account; with appropriate limitations may
486 provide wire transfer services as a promotional activity pursuant to 209 CMR 50.09(2)(c)2. and
487 209 CMR 50.09(3)(b)8.; and in appropriate circumstances may provide wire transfer services as
488 a charitable activity. A credit union may also offer check cashing and money transfer services to
489 certain non-members within the credit union's field of membership including the following: the
490 sale of negotiable checks, travelers checks, money orders and other similar money transfer
491 instruments; the cashing of checks and money orders; and the receiving of international and
492 domestic electronic fund transfers.

493

494 3. Certain Finders Activities. A credit union may make insurance in accordance with
495 the provisions of M.G.L. c. 171, § 75B and 209 CMR 49.00 et seq.; mutual funds; and annuities
496 available to its members through outside vendors subject to the requirements of 12 CFR § 721
497 and Massachusetts law. A credit union may also provide additional finder activities.

498

499 (3) Activities Requiring No Application or Notice

500 (a) General. A credit union that is well or adequately capitalized and has not been
501 notified that it is in troubled condition may engage in the activities listed in 209 CMR 50.09(3)
502 without filing an application or providing notice to the Commissioner, provided the activities
503 continue to be deemed legally permissible by the Commissioner, and the activities are conducted
504 in accordance with applicable Massachusetts or federal law.

505 (b) Permissible Activities. A credit union may engage in the following activities pursuant
506 to 209 CMR 50.09(3):

507 1. Certification Services. A credit union may provide the following certification services:
508 notary services, signature guarantees, certification of electronic signatures, and share draft
509 certifications.

510 2. Charitable Contributions and Donations. A credit union may make charitable
511 contributions and donations, including gifts the credit union provides to assist others through
512 contributions of staff, equipment, money, or other resources. Examples of charitable

513 contributions include donations to community groups, nonprofit organizations, other credit
514 unions or credit union affiliated causes, as well as donations to create charitable foundations.

515 3. Charitable Donation Accounts. A credit union may establish charitable donation
516 accounts. All charitable donation accounts shall conform to the procedural and substantive
517 requirements of 12 CFR § 721.3(b)(2).

518

519 4. Correspondent Services. A credit union may provide the following other correspondent
520 services to other federally-insured credit unions: loan processing, loan servicing, member check
521 cashing services, disbursing share withdrawals and loan proceeds, cashing and selling money
522 orders, and automated teller machine deposit services.

523 5. Electronic Financial Services. A credit union may provide the following electronic
524 financial services: automated teller machines, electronic fund transfers, online transaction
525 processing through a web site, web site hosting services, account aggregation services, and
526 Internet access services to perform or deliver products or services to members.

527 6. Excess Capacity.

528 a. Agreements Relative to Excess Capacity in Personnel. A credit union with excess
529 capacity in its personnel may enter into an agreement to permit its employees to work elsewhere
530 subject to the provisions of M.G.L. c. 171, § 19.

531 b. Sale or Lease of Excess Capacity in Data Processing Equipment or Services. A credit
532 union may sell or lease the excess capacity in data processing equipment or services.

533 c. Sale or Lease of Excess Capacity in Facilities, Equipment or Office Space. A credit
534 union may sell or lease the excess capacity in facilities, equipment or office space.

535 7. Financial Counseling. A credit union may provide advice, guidance or services to
536 members to promote thrift or to otherwise assist members on financial matters and may provide
537 the following financial counseling services: income tax preparation service; electronic tax filing
538 for members; counseling regarding estate and retirement planning; investment counseling; and
539 debt and budget counseling.

540 8. Finder Activities. A credit union may provide the following finder activities by
541 offering products and services to members through outside vendors: offering third party products
542 and services through the sale of advertising space on the credit union's web site and account
543 statements and receipts; and selling statistical or consumer financial information to outside
544 vendors to facilitate the sale of their products to the members of the credit union. This may also
545 include endorsing a product or service, negotiating group discounts on behalf of members, or
546 performing administrative functions on behalf of vendors to facilitate transactions between
547 members and another institution.

548 9. Loan-related Products. A credit union may provide the following loan-related
549 products: debt cancellation agreements and debt suspension agreements.

550 a. The credit union shall adopt policies relative to debt cancellation or debt
551 suspension agreements to include provisions addressing, but not limited to, disclosures relative to
552 the prohibition against tying; total fees; payment methods and termination process; eligibility
553 requirements; and an affirmative election by the member to purchase a debt cancellation or debt

554 suspension product, and a written acknowledgment of the disclosures with receipt by the
555 member.

556 b. Any agreement between the credit union and the vendor, and any agreements with
557 additional or different third parties in connection with this authority, must include a provision
558 that allows the Division access to its records regarding debt cancellation or debt suspension
559 products for examination purposes. Any agreement with the vendor or any additional or
560 different third parties must include provisions granting the Division access to the books and
561 records of third party providers for the purpose of verifying compliance with applicable laws,
562 rules, regulations and regulatory guidelines.

563 c. The credit union shall also be subject to any directives and regulations the
564 National Credit Union Administration and the Division may promulgate in the future on debt
565 cancellation or debt suspension products.

566 d. Should the credit union decide to compensate member service representatives for
567 the sale of debt cancellation or debt suspension agreements, said compensation would have to be
568 at a nominal level. The credit union would be required to establish written policies and internal
569 controls in connection with said incentive and monitor compliance with such policies and
570 controls at least annually.

571 10. Marketing Activities. A credit union may engage in the following marketing
572 activities: advertising and other promotional activities such as raffles, membership referral
573 drives, and the purchase or use of advertising.

574 11. Member Monetary Instrument Services. A credit union may provide the following
575 monetary instrument services to its members: sale and exchange of foreign currency and U.S.

576 commemorative coins; use of a credit union's accounts in foreign financial institutions to
577 facilitate members' transfer and negotiation of checks denominated in foreign currency; and
578 engaging in monetary transfer services for members, provided, however, that under no
579 circumstances can a credit union engage in foreign exchange activities for speculative purposes
580 for its own account.

581 12. Operational Programs. A credit union may provide payroll services.

582 13. Stored Value Products. A credit union may provide the following stored value
583 products: stored value cards, public transportation tickets, event and attraction tickets, gift
584 certificates, prepaid phone cards, postage stamps, electronic benefits transfer script, and similar
585 media.

586 14. Trustee or custodial services. A credit union may offer trustee or custodial services in
587 which the credit union is authorized to act under any written trust instrument or custodial
588 agreement created or organized in the United States and forming part of a tax-advantaged
589 savings plan, as authorized under the Internal Revenue Code. These services may include acting
590 as a trustee or custodian for member retirement, education and health savings accounts. The
591 term health savings account shall include a tax-advantaged savings account a member may use to
592 pay some medical expenses not covered by health insurance in accordance with 26 U.S.C. § 223
593 and any guidelines issued by the NCUA.

594 (4) Approval Process for Additional Incidental Powers.

595 (a) Expedited Approval Process for Additional Incidental Powers Related to Those
596 Set Forth in 209 CMR 50.09(2) and 209 CMR 50.09(3) and Otherwise Approved by the NCUA.

597 1. General. A credit union that is well or adequately capitalized and has not been
598 notified that it is in troubled condition may engage in other activities if they are permitted and
599 determined by the NCUA to be incidental powers pursuant to 12 CFR § 721 pursuant to
600 regulations, guidelines or written opinions of the General Counsel of the NCUA only if the
601 Commissioner affirmatively determines by regulation or in writing that the activity is reasonably
602 related to an individual power as set out in 209 CMR 50.09(2) or 209 CMR 50.09(3).

603 2. Federal Authority. The requested activity must be one that is deemed approved or
604 deemed acceptable by the NCUA as set forth in regulations, guidelines or written opinions of the
605 General Counsel of the NCUA, as an additional incidental power pursuant to the provisions of 12
606 CFR Part 721, and shall also be subject to any conditions the Commissioner may require.

607 3. Application Process. A credit union shall apply to the Commissioner in writing
608 setting forth the activity for which the credit union seeks approval under 209 CMR 50.09(4)(a).
609 The credit union shall determine whether the requested activity is permitted and determined by
610 the NCUA to be an incidental power pursuant to 12 CFR § 721 and as set forth in 209 CMR
611 50.09(4)(a)1. The application must include a complete description of the proposed activity,
612 written policies required by 209 CMR CMR 50.04(2), as well as a representation and
613 undertaking that the activity will be conducted in accordance with Massachusetts and federal
614 law. The application must also provide any other information the Commissioner may require.
615 Such an application shall be deemed approved by the Commissioner 30 days after the filing is
616 received by the Commissioner, unless the Commissioner notifies the credit union prior to that
617 date that the filing is not eligible for expedited review.

618 (b) Approval Process for Additional Incidental Powers Otherwise Approved by the
619 NCUA.

620 1. General. A credit union that is well or adequately capitalized, and has not been
621 notified that it is in troubled condition, may engage in additional activities approved by the
622 NCUA as incidental powers under 12 CFR Part 721, but not included in 209 CMR 50.09(2) or
623 209 CMR 50.09(3), by submitting an application to, and receiving approval from the
624 Commissioner before commencing the activity as set forth herein, and in accordance with the
625 provisions set forth at 209 CMR 50.01.

626 2. Federal Authority. The requested activity must be one that is deemed approved or
627 deemed acceptable by the NCUA as set forth in regulations, guidelines or written opinions of the
628 General Counsel of the NCUA, as an additional incidental power pursuant to the provisions of 12
629 CFR Part 721, and shall also be subject to any conditions the Commissioner may require.

630 3. Application Process. A credit union shall apply to the Commissioner in writing
631 setting forth the activity for which the credit union seeks approval under this section. The credit
632 union shall determine whether the activity is authorized for federal credit unions pursuant to 209
633 CMR 50.09(4)(b), and shall also describe the activity, and the credit union's plan for
634 implementing the proposed activity. The credit union shall also submit the written policies
635 required by 209 CMR 50.04(2), as well as a representation and undertaking that the activity will
636 be conducted in accordance with Massachusetts and federal law. The application must also
637 provide any other information the Commissioner may require.

638 REGULATORY AUTHORITY

639 209 CMR 50.00: M.G.L. c. 171, § 6A.



COMMONWEALTH OF MASSACHUSETTS
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COMMISSIONER

August 22, 2019

This is to certify that the Division of Banks has complied with all pertinent provisions of Massachusetts General Laws chapter 30A regarding publication and notice of its September 13, 2018 public hearing on its proposed amendments to 209 CMR 50.00 *et seq.*, *Parity with Federal Credit Unions*, pursuant to Massachusetts General Laws chapter 171, section 6A, as added by Chapter 223 of the Acts of 1998.

Sincerely,

Merrily S. Gerrish
Deputy Commissioner of Banks
and General Counsel