

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the adoption of New ) NOTICE OF ADOPTION  
Rule I pertaining to credit union )  
supervisory committee, New Rules II )  
through VI pertaining to credit union )  
investment rules, and New Rule VII )  
pertaining to board of director training )

TO: All Concerned Persons

1. On October 15, 2015, the Department of Administration published MAR Notice No. 2-59-533 pertaining to the proposed adoption of the above-stated rules at page 1556 of the 2015 Montana Administrative Register, Issue Number 19.

2. The department has adopted the following rules as proposed: New Rule I (ARM 2.59.415), New Rule III (ARM 2.59.417), New Rule IV (ARM 2.59.418), New Rule V (ARM 2.59.419), New Rule VI (ARM 2.59.420), and New Rule VII (ARM 2.59.421).

3. The department has adopted the following rule as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

NEW RULE II (ARM 2.59.416) NET WORTH DEFINITION – CALCULATION – DETERMINATION (1) For purposes of ARM 2.59.417 and 2.59.418, "net worth" means the sum of regular reserves, and undivided earnings, ~~and membership shares~~. Net worth excludes the allowance for loan and lease losses. Net worth is calculated quarterly based on data from the previous call report.

(2) The department shall determine compliance with ~~these rules~~ ARM 2.59.417 and 2.59.418 using quarterly net worth for the period in which the security is purchased.

(3) A security that complies with ARM 2.59.417 and 2.59.418 at the time of purchase is not in violation of ARM 2.59.417 and 2.59.18 at a later date due to a subsequent decline in net worth.

AUTH: 32-3-701, MCA  
IMP: 32-3-701, MCA

4. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT 1: The Montana Credit Union Network (MCUN) is a trade association made up of the eight state-chartered credit unions in Montana. MCUN commented on the definition of "net worth" in New Rule II. MCUN commented that "net worth" is

a common industry term and the definition proposed by the department is different from the commonly understood definition used by the National Credit Union Administration (NCUA) in its regulations. MCUN commented that this could cause confusion and be the basis for disagreements.

RESPONSE 1: The department agrees that the definition of "net worth" proposed in New Rule II is different from the NCUA definition. The department sought to give credit unions more latitude to make investments using a broader definition of "net worth" than the NCUA uses. But the department agrees with MCUN that credit unions already calculate "net worth" for NCUA purposes and it is burdensome and unnecessary to require credit unions to do two different calculations of "net worth." Therefore, the department has amended New Rule II to be consistent with the NCUA definition of "net worth."

COMMENT 2: MCUN commented that its member credit unions would like to see an expansion of the investment rules to allow revenue bonds.

RESPONSE 2: The department agrees that a new investment rule is necessary to address revenue bonds. The department will propose a new rule on this topic in a separate rulemaking so as not to delay the effective date of these rules.

In addition, the department changed "these rules" in ARM 2.59.416(2) to "ARM 2.59.417 and 2.59.418" to clarify the reference.

By: /s/ Sheila Hogan  
Sheila Hogan, Director  
Department of Administration

By: /s/ Michael P. Manion  
Michael P. Manion, Rule Reviewer  
Department of Administration

Certified to the Secretary of State December 14, 2015.