

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Credit Union Act is amended by changing Sections 19, 20, 34, 39, 42, and 59 and by adding Section 16.5 as follows:

(205 ILCS 305/16.5 new)

Sec. 16.5. Service to target markets.

(a) As used in this Section:

"Target market" means an investment area or a targeted population, or both, as defined in the Community Development Banking and Financial Institutions Act of 1994, 12 U.S.C. 4702, and regulations issued thereunder by the U.S. Department of the Treasury pursuant to 12 CFR 1805.104 et seq.

Terms used in this Section that are not defined in this Section shall have the meanings ascribed to them in the U.S. Department of Treasury regulations identified in this subsection.

(b) Notwithstanding anything to the contrary in Section 15 or 16.1, persons who reside in investment areas and targeted populations consisting of individuals or identifiable groups of individuals who are low-income persons or lack adequate access to financial products or financial services may be

admitted to membership in a credit union in accordance with the terms of the credit union's written business plan submitted to the Secretary under subsection (e).

(c) In addition to serving persons who reside in investment areas that become members pursuant to subsection (b), a credit union may indirectly serve investment areas by making loans to or investments in community development financial institutions, minority depository institutions, and other businesses that serve the investment areas, subject to the limits set forth in subsection (5) of Section 51 and paragraph (14) of subsection (a) of Section 59.

(d) In addition to serving targeted populations of individuals that become members pursuant to subsection (b), a credit union may indirectly serve members of a targeted population by making loans to or investments in community development financial institutions, minority depository institutions, and other businesses that serve the targeted population, subject to the limits set forth in subsection (5) of Section 51 and paragraph (14) of subsection (a) of Section 59.

(e) A credit union desiring to serve a target market in accordance with this Section shall do so pursuant to a written business plan that confirms the target market meets the definitional criteria set forth in subsection (a) and identifies the financial product and financial service needs of the target market, the financial products and financial

services to be delivered, and the manner of delivery of those financial products and financial services. The credit union must submit the business plan to the Secretary. The Secretary may, in his or her sole discretion, approve the business plan, disapprove the business plan, or require the credit union to modify the business plan to seek approval of the target market as an occupational, community, or associational common bond or common bonds, pursuant to 38 Ill. Adm. Code 190.10. The credit union must be advised in writing of the findings of the Secretary in support of the determination and the specific and reasonable time period in which to file a modified plan. If the Secretary approves the business plan, the credit union shall be required to add the target market to its field of membership.

(205 ILCS 305/19) (from Ch. 17, par. 4420)

Sec. 19. Meeting of members.

(1)(a) The annual meeting shall be held each year during the months of January, February or March or such other month as may be approved by the Department. The meeting shall be held at the time, place and in the manner set forth in the bylaws. Any special meetings of the members of the credit union shall be held at the time, place and in the manner set forth in the bylaws. Unless otherwise set forth in this Act, quorum requirements for meetings of members shall be established by a credit union in its bylaws. Notice of all meetings must be

given by the secretary of the credit union at least 7 days before the date of such meeting, either by handing a written or printed notice to each member of the credit union, by mailing the notice to the member at his address as listed on the books and records of the credit union, by posting a notice of the meeting in three conspicuous places, including the office of the credit union, by posting the notice of the meeting on the credit union's website, or by disclosing the notice of the meeting in membership newsletters or account statements.

(b) Unless expressly prohibited by the articles of incorporation or bylaws and subject to applicable requirements of this Act, the board of directors may provide by resolution that members may attend, participate in, act in, and vote at any annual meeting or special meeting through the use of a conference telephone or interactive technology, including, but not limited to, electronic transmission, internet usage, or remote communication, by means of which all persons participating in the meeting can communicate with each other. Participation through the use of a conference telephone or interactive technology shall constitute attendance, presence, and representation in person at the annual meeting or special meeting of the person or persons so participating and count towards the quorum required to conduct business at the meeting. The following conditions shall apply to any virtual meeting of the members:

(i) the credit union must internally possess or retain

the technological capacity to facilitate virtual meeting attendance, participation, communication, and voting; and

(ii) the members must receive notice of the use of a virtual meeting format and appropriate instructions for joining, participating, and voting during the virtual meeting at least 7 days before the virtual meeting.

(2) On all questions and at all elections, except election of directors, each member has one vote regardless of the number of his shares. There shall be no voting by proxy except on the election of directors, proposals for merger or voluntary dissolution. Members may vote on questions, including, without limitation, the approval of mergers and voluntary dissolutions under this Act, and in elections by ~~secure~~ electronic record if approved by the board of directors. All voting on the election of directors shall be by ballot, but when there is no contest, written or electronic ballots need not be cast. The record date to be used for the purpose of determining which members are entitled to notice of or to vote at any meeting of members, may be fixed in advance by the directors on a date not more than 90 days nor less than 10 days prior to the date of the meeting. If no record date is fixed by the directors, the first day on which notice of the meeting is given, mailed or posted is the record date.

(3) Regardless of the number of shares owned by a society, association, club, partnership, other credit union or corporation, having membership in the credit union, it shall

be entitled to only one vote and it may be represented and have its vote cast by its designated agent acting on its behalf pursuant to a resolution adopted by the organization's board of directors or similar governing authority; provided that the credit union shall obtain a certified copy of such resolution before such vote may be cast.

(4) A member may revoke a proxy by delivery to the credit union of a written statement to that effect, by execution of a subsequently dated proxy, by execution of an ~~a secure~~ electronic record, or by attendance at a meeting and voting in person.

(5) The use of electronic records for member voting pursuant to this Section shall employ a security procedure that meets the attribution criteria set forth in Section 9 of the Uniform Electronic Transactions Act.

(6) ~~(5)~~ As used in this Section, "electronic", ~~and~~ "electronic record", and "security procedure" have the meanings ascribed to those terms in the Uniform Electronic Transactions Act. ~~As used in this Section, "secured electronic record" means an electronic record that meets the criteria set forth in Uniform Electronic Transactions Act.~~

(Source: P.A. 102-38, eff. 6-25-21; 102-496, eff. 8-20-21; revised 10-15-21.)

(205 ILCS 305/20) (from Ch. 17, par. 4421)

Sec. 20. Election or appointment of officials.

(1) The credit union shall be directed by a board of directors consisting of no less than 7 in number, to be elected at the annual meeting by and from the members. Directors shall hold office until the next annual meeting, unless their terms are staggered. Upon amendment of its bylaws, a credit union may divide the directors into 2 or 3 classes with each class as nearly equal in number as possible. The term of office of the directors of the first class shall expire at the first annual meeting after their election, that of the second class shall expire at the second annual meeting after their election, and that of the third class, if any, shall expire at the third annual meeting after their election. At each annual meeting after the classification, the number of directors equal to the number of directors whose terms expire at the time of the meeting shall be elected to hold office until the second succeeding annual meeting if there are 2 classes or until the third succeeding annual meeting if there are 3 classes. A director shall hold office for the term for which he or she is elected and until his or her successor is elected and qualified.

(1.5) Except as provided in subsection (1.10), in all elections for directors, every member has the right to vote, in person, by proxy, or by ~~secure~~ electronic record if approved by the board of directors, the number of shares owned by him, or in the case of a member other than a natural person, the member's one vote, for as many persons as there are

directors to be elected, or to cumulate such shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares equals, or to distribute them on the same principle among as many candidates as he may desire and the directors shall not be elected in any other manner. Shares held in a joint account owned by more than one member may be voted by any one of the members, however, the number of cumulative votes cast may not exceed a total equal to the number of shares multiplied by the number of directors to be elected. A majority of the shares entitled to vote shall be represented either in person or by proxy for the election of directors. Each director shall wholly take and subscribe to an oath that he will diligently and honestly perform his duties in administering the affairs of the credit union, that while he may delegate to another the performance of those administrative duties he is not thereby relieved from his responsibility for their performance, that he will not knowingly violate or permit to be violated any law applicable to the credit union, and that he is the owner of at least one share of the credit union.

(1.10) Upon amendment of a credit union's bylaws approved by the members, in all elections for directors, every member who is a natural person shall have the right to cast one vote, regardless of the number of his or her shares, in person, by proxy, or by ~~secure~~ electronic record if approved by the board of directors, for as many persons as there are directors to be

elected.

(1.15) If the board of directors has adopted a policy addressing age eligibility standards on voting, holding office, or petitioning the board, then a credit union may require (i) that members be at least 18 years of age by the date of the meeting in order to vote at meetings of the members, sign nominating petitions, or sign petitions requesting special meetings, and (ii) that members be at least 18 years of age by the date of election or appointment in order to hold elective or appointive office.

(2) The board of directors shall appoint from among the members of the credit union, a supervisory committee of not less than 3 members at the organization meeting and within 30 days following each annual meeting of the members for such terms as the bylaws provide. Members of the supervisory committee may, but need not be, on the board of directors, but shall not be officers of the credit union, members of the credit committee, or the credit manager if no credit committee has been appointed.

(3) The board of directors may appoint, from among the members of the credit union, a credit committee consisting of an odd number, not less than 3 for such terms as the bylaws provide. Members of the credit committee may, but need not be, directors or officers of the credit union, but shall not be members of the supervisory committee.

(4) The board of directors may appoint from among the

members of the credit union a membership committee of one or more persons. If appointed, the committee shall act upon all applications for membership and submit a report of its actions to the board of directors at the next regular meeting for review. If no membership committee is appointed, credit union management shall act upon all applications for membership and submit a report of its actions to the board of directors at the next regular meeting for review.

(5) The board of directors may appoint, from among the members of the credit union, a nominating committee of 3 or more persons. Members of the nominating committee may, but need not, be directors or officers of the credit union, but may not be members of the supervisory committee. The appointment, if made, shall be made in a timely manner to permit the nominating committee to recruit, evaluate, and nominate eligible candidates for each position to be filled in the election of directors or, in the event of a vacancy in office, to be filled by appointment of the board of directors for the remainder of the unexpired term of the director creating the vacancy. Factors the nominating committee may consider in evaluating prospective candidates include whether a candidate possesses or is willing to acquire through training the requisite skills and qualifications to carry out the statutory duties of a director. The board of directors may delegate to the nominating committee the recruitment, evaluation, and nomination of eligible candidates to serve on committees and

in executive officer positions.

(6) The use of electronic records for member voting pursuant to this Section shall employ a security procedure that meets the attribution criteria set forth in Section 9 of the Uniform Electronic Transactions Act.

(7) ~~(5)~~ As used in this Section, "electronic", ~~and~~ "electronic record", and "security procedure" have the meanings ascribed to those terms in the Uniform Electronic Transactions Act. ~~As used in this Section, "secured electronic record" means an electronic record that meets the criteria set forth in the Uniform Electronic Transactions Act.~~

(Source: P.A. 102-38, eff. 6-25-21; 102-687, eff. 12-17-21.)

(205 ILCS 305/34) (from Ch. 17, par. 4435)

Sec. 34. Duties of supervisory committee.

(1) The supervisory committee shall make or cause to be made an annual internal audit of the books and affairs of the credit union to determine that the credit union's accounting records and reports are prepared promptly and accurately reflect operations and results, that internal controls are established and effectively maintained to safeguard the assets of the credit union, and that the policies, procedures and practices established by the board of directors and management of the credit union are being properly administered. The supervisory committee shall submit a report of that audit to the board of directors and a summary of that report to the

members at the next annual meeting of the credit union. It shall make or cause to be made such supplementary audits as it deems necessary or as are required by the Secretary or by the board of directors, and submit reports of these supplementary audits to the Secretary or board of directors as applicable. If the supervisory committee has not engaged a licensed certified public accountant or licensed certified public accounting firm to make the internal audit, the supervisory committee or other officials of the credit union shall not indicate or in any manner imply that such audit has been performed by a licensed certified public accountant or licensed certified public accounting firm or that the audit represents the independent opinion of a licensed certified public accountant or licensed certified public accounting firm. The supervisory committee must retain its tapes and working papers of each internal audit for inspection by the Department. The report of this audit must be made on a form approved by the Secretary. A copy of the report must be promptly delivered to the Secretary as set forth in paragraph (C) of subsection (3).

(2) The supervisory committee shall make or cause to be made at least once each year a reasonable percentage verification of members' share and loan accounts, consistent with rules promulgated by the Secretary.

(3) (A) The supervisory committee of a credit union with assets of \$10,000,000 or more shall engage a licensed

certified public accountant or licensed certified public accounting firm to perform an annual external independent audit of the credit union's financial statements in accordance with generally accepted auditing standards and the financial statements shall be issued in accordance with accounting principles generally accepted in the United States of America.

(B) The supervisory committee of a credit union with assets of \$5,000,000 or more, but less than \$10,000,000, shall engage a licensed certified public accountant or licensed certified public accounting firm to perform on an annual basis: (i) an agreed-upon procedures engagement under attestation standards established by the American Institute of Certified Public Accountants to minimally satisfy the supervisory committee internal audit standards set forth in subsection (1); ~~or~~ (ii) an external independent audit of the credit union's financial statements pursuant to the standards set forth in paragraph (A) of subsection (3); or (iii) an external independent audit of the credit union's financial statements in accordance with subsection (5).

(C) Notwithstanding anything to the contrary in Section 6, each credit union organized under this Act shall select the annual period it desires to use for purposes of performing the external independent audit, agreed-upon procedures engagement, or internal audit described in this Section. The annual period may end on the final day of any month and shall be construed to mean once every calendar year and not once every 12-month

period. Irrespective of the annual period selected, the credit union shall complete its external independent audit report, agreed-upon procedures report, or internal audit report and deliver a copy to the Secretary no later than 120 days after the effective date of the audit or engagement, which shall mean the last day of the selected annual period. A credit union or group of credit unions may obtain an extension of the due date upon application to and receipt of written approval from the Secretary.

(D) If the credit union engages a licensed certified public accountant or licensed certified public accounting firm to perform an annual external independent audit of the credit union's financial statements pursuant to the standards in paragraph (A) of subsection (3) or an annual agreed-upon procedures engagement pursuant to the standards in paragraph (B) of subsection (3), then the annual internal audit requirements of subsection (1) shall be deemed satisfied and met in all respects.

(4) In determining the appropriate balance in the allowance for loan losses account, a credit union may determine its historical loss rate using a defined period of time of less than 5 years, provided that:

(A) the methodology used to determine the defined period of time is formally documented in the credit union's policies and procedures and is appropriate to the credit union's size, business strategy, and loan portfolio

characteristics and the economic environment of the areas and employers served by the credit union;

(B) supporting documentation is maintained for the technique used to develop the credit union loss rates, including the period of time used to accumulate historical loss data and the factors considered in establishing the time frames; and

(C) the external auditor conducting the credit union's financial statement audit has analyzed the methodology employed by the credit union and concludes that the financial statements, including the allowance for loan losses, are fairly stated in all material respects in accordance with U.S. Generally Accepted Accounting Principles, as promulgated by the Financial Accounting Standards Board, or the regulatory basis of accounting identified in subsection (5).

(5) A credit union with total assets of less than \$10,000,000 that does not engage a licensed certified public accountant or licensed certified public accounting firm to perform an annual external independent audit of the credit union's financial statements pursuant to the standards in paragraph (A) of subsection (3) is not required to determine its allowance for loan losses in accordance with generally accepted accounting principles. Any such credit union may instead use any reasonable reserve methodology, including incurred loss, if it adequately covers known and probable loan

losses and complies with the Department's rule addressing loan loss accounting procedures in 38 Ill. Adm. Code 190.70. Any such credit union shall also have the option of engaging a licensed certified public accountant or licensed certified public accounting firm to perform a financial statement audit in accordance with this regulatory basis of accounting rather than the standards in paragraph (A) of subsection (3).

(6) ~~(5)~~ A majority of the members of the supervisory committee shall constitute a quorum.

(7) ~~(6)~~ On an annual basis commencing January 1, 2015, the members of the supervisory committee shall receive training related to their statutory duties. Supervisory committee members may receive the training through internal credit union training, external training offered by the credit union's retained auditors, trade associations, vendors, regulatory agencies, or any other sources or on-the-job experience, or a combination of those activities. The training may be received through any medium, including, but not limited to, conferences, workshops, audit closing meetings, seminars, teleconferences, webinars, and other Internet-based delivery channels.

(Source: P.A. 101-81, eff. 7-12-19; 102-496, eff. 8-20-21.)

(205 ILCS 305/39) (from Ch. 17, par. 4440)

Sec. 39. Special purpose share accounts; charitable donation accounts.

(1) If provided for in and consistent with the bylaws, Christmas clubs, vacation clubs and other special purpose share accounts may be established and offered under conditions and restrictions established by the board of directors.

(2) Pursuant to a policy adopted by the board of directors, which may be amended from time to time, a credit union may establish one or more charitable donation accounts. The investments and purchases to fund a charitable donation account are not subject to the investment limitations of this Act, provided the charitable donation account is structured in accordance with this Act. At their time of purchase, the book value of the investments in all charitable donation accounts, in the aggregate, shall not exceed 5% of the credit union's net worth.

(a) If a credit union chooses to establish a charitable donation account using a trust vehicle, the trustee must be an entity regulated by the Office of the Comptroller of the Currency, the U.S. Securities and Exchange Commission, another federal regulatory agency, or a State financial regulatory agency. A regulated trustee or other person who is authorized to make investment decisions for a charitable donation account, other than the credit union itself, shall either be registered with the U.S. Securities and Exchange Commission as an investment advisor or regulated by the Office of the Comptroller of the Currency.

(b) The parties to the charitable donation account must document the terms and conditions controlling the account in a written operating agreement, trust agreement, or similar instrument. The terms of the agreement shall be consistent with the requirements and conditions set forth in this Section. The agreement, if applicable, and policies must document the investment strategies of the charitable donation account trustee or other manager in administering the charitable donation account and provide for the accounting of all aspects of the account, including its distributions and liquidation, in accordance with generally accepted accounting principles.

(c) A credit union's charitable donation account agreement, if applicable, and policies shall provide that the charitable organization or non-profit entity recipients of any charitable donation account funds must be identified in the policy and be exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(d) Upon termination of a charitable donation account, the credit union may receive a distribution of the remaining assets in cash, or a distribution in kind of the remaining assets, but only if those assets are permissible investments for credit unions pursuant to this Act.

(3) Pursuant to subsection (20) of Section 13 authorizing a credit union to make reasonable contributions to civic, charitable, service, or religious corporations and to avoid

the cost, administrative expenses, and reporting requirements associated with establishing its own private foundation, a credit union may establish one or more donor-advised fund accounts. The credit union shall maintain the account on its books and records under a name it selects, which may identify the account as a charitable or grant fund or other name that reflects the charitable nature of the account. The account shall be subject to the terms and restrictions set forth in this subsection.

(a) Transfers from a donor-advised fund account shall be limited to foundations exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(b) Distributions by a foundation receiving donor-advised funds from the credit union shall be:

(i) based upon specific grant recommendations of the credit union; and

(ii) limited to public charities exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(c) Transfers by a credit union from its donor-advised fund account to a foundation irrevocably conveys all right, title, and interest in the funds to the foundation, subject only to the continuing right of the credit union to designate the entity or entities that will receive the grant funds. Grants may not be used to satisfy any obligation of the credit union and no goods or services

may be received by the credit union from the recipient organization in consideration of the grant.

(Source: P.A. 97-133, eff. 1-1-12; 98-784, eff. 7-24-14.)

(205 ILCS 305/42) (from Ch. 17, par. 4443)

Sec. 42. Shares in trust.

(1) Shares may be issued in trust to a member as trustee or to an individual or corporate trustee. If a corporate trustee is a bank or trust company, shares may be issued to the corporate trustee only if such bank or trust company is organized under the laws of the State of Illinois or is a nationally chartered bank located principally in the State of Illinois. An individual trustee shall be a member of the credit union unless the person establishing the trust in respect to which such shares are issued or each beneficiary of the trust is a member of the credit union and the name of each beneficiary is disclosed to the credit union. Shares may also be issued in the name of an individual or corporate representative under the Illinois Probate Act of 1975 (i) for or in respect to a member of a credit union; or (ii) for or in respect of a nonmember of a credit union, if the representative is an individual who is a member of the credit union. Shares may also be issued in trust under the Illinois Funeral or Burial Funds Act, for or in respect to a member of a credit union, to a trustee licensed under said Act. Any credit union which issues shares in trust as provided in this Section

must be insured by the NCUA or another approved insurer. Payment of part or all of such shares to such trustee or member shall, to the extent of such payment, discharge the liability of the credit union to the member and the beneficiary and the credit union shall be under no obligation to see to the application of such payment.

(2) If a credit union's shares are insured as provided for in this Act, such credit union shall have power to act as trustee or custodian under individual retirement accounts or plans, health savings accounts, and similar tax-advantaged savings plans established pursuant to the Internal Revenue Code for its members or groups or organizations of its members provided the funds of such accounts or plans are invested solely in (1) share accounts of, or (2) share accounts and obligations issued by such credit union. All funds held in such fiduciary capacity shall be maintained in accordance with applicable statutes and regulations promulgated thereunder by any authority exercising jurisdiction over such trusts or custodial accounts.

(3) Notwithstanding any language to the contrary in this Section 42, a credit union may act as trustee or custodian of individual retirement plans of its members established pursuant to the Employee Retirement Income Security Act of 1974 or self-employed retirement plans established pursuant to the Self-Employed Individuals Retirement Act of 1962, and any laws amendatory or supplementary to such Acts, provided that:

(a) All contributions of funds are initially made to a share account in the credit union;

(b) Any subsequent transfer of funds to other assets is solely at the direction of the member and the credit union performs only custodial duties, exercises no investment discretion and provides no investment advice with respect to plan assets;

(c) The member is notified of the fact that share insurance coverage is limited to funds held in share accounts; and

(d) The credit union complies with all applicable provisions of this Act and applicable laws and regulations as may be promulgated by any authority exercising jurisdiction over such trust or custodial accounts.

(Source: P.A. 94-150, eff. 7-8-05.)

(205 ILCS 305/59) (from Ch. 17, par. 4460)

Sec. 59. Investment of funds.

(a) Funds not used in loans to members may be invested, pursuant to subsection (7) of Section 30 of this Act, and subject to Departmental rules and regulations:

(1) In securities, obligations or other instruments of or issued by or fully guaranteed as to principal and interest by the United States of America or any agency thereof or in any trust or trusts established for investing directly or collectively in the same;

(2) In obligations of any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the several territories organized by Congress, or any political subdivision thereof; however, a credit union may not invest more than 10% of its unimpaired capital and surplus in the obligations of one issuer, exclusive of general obligations of the issuer, and investments in municipal securities must be limited to securities rated in one of the 4 highest rating categories by a nationally recognized statistical rating organization;

(3) In certificates of deposit or passbook type accounts issued by a state or national bank, mutual savings bank or savings and loan association; provided that such institutions have their accounts insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation; but provided, further, that a credit union's investment in an account in any one institution may exceed the insured limit on accounts;

(4) In shares, classes of shares or share certificates of other credit unions, including, but not limited to corporate credit unions; provided that such credit unions have their members' accounts insured by the NCUA or other approved insurers, and that if the members' accounts are so insured, a credit union's investment may exceed the insured limit on accounts;

(5) In shares of a cooperative society organized under the laws of this State or the laws of the United States in the total amount not exceeding 10% of the unimpaired capital and surplus of the credit union; provided that such investment shall first be approved by the Department;

(6) In obligations of the State of Israel, or obligations fully guaranteed by the State of Israel as to payment of principal and interest;

(7) In shares, stocks or obligations of other financial institutions in the total amount not exceeding 5% of the unimpaired capital and surplus of the credit union;

(8) In federal funds and bankers' acceptances;

(9) In shares or stocks of Credit Union Service Organizations in the total amount not exceeding the greater of 6% of the unimpaired capital and surplus of the credit union or the amount authorized for federal credit unions;

(10) In corporate bonds identified as investment grade by at least one nationally recognized statistical rating organization, provided that:

(i) the board of directors has established a written policy that addresses corporate bond investment procedures and how the credit union will manage credit risk, interest rate risk, liquidity risk, and concentration risk; and

(ii) the credit union has documented in its records that a credit analysis of a particular investment and the issuing entity was conducted by the credit union, a third party on behalf of the credit union qualified by education or experience to assess the risk characteristics of corporate bonds, or a nationally recognized statistical rating agency before purchasing the investment and the analysis is updated at least annually for as long as it holds the investment;

(11) To aid in the credit union's management of its assets, liabilities, and liquidity in the purchase of an investment interest in a pool of loans, in whole or in part and without regard to the membership of the borrowers, from other depository institutions and financial type institutions, including mortgage banks, finance companies, insurance companies, and other loan sellers, subject to such safety and soundness standards, limitations, and qualifications as the Department may establish by rule or guidance from time to time;

(12) To aid in the credit union's management of its assets, liabilities, and liquidity by receiving funds from another financial institution as evidenced by certificates of deposit, share certificates, or other classes of shares issued by the credit union to the financial institution;

(13) In the purchase and assumption of assets held by

other financial institutions, with approval of the Secretary and subject to any safety and soundness standards, limitations, and qualifications as the Department may establish by rule or guidance from time to time; ~~and~~

(14) In the shares, stocks, or obligations of community development financial institutions as defined in regulations issued by the U.S. Department of the Treasury and minority depository institutions as defined by the National Credit Union Administration; however the aggregate amount of all such investments shall not at any time exceed 5% of the paid-in and unimpaired capital and surplus of the credit union; and -

(15) (A) In shares, stocks, or member units of financial technology companies in the total amount not exceeding 2.5% of the net worth of the credit union, so long as:

(i) the credit union would remain well capitalized as defined by 12 CFR 702.102 if the credit union reduced its net worth by the full investment amount at the time the investment is made or at any point during the time the investment is held by the credit union;

(ii) the credit union and the financial technology company are operated in a manner that demonstrates to the public the separate corporate existence of the credit union and financial technology company; and

(iii) the credit union has received a composite rating of 1 or 2 under the CAMELS supervisory rating system.

(B) The investment limit in subparagraph (A) of this paragraph (15) is increased to 5% of the net worth of the credit union, if it has received a management rating of 1 under the CAMELS supervisory rating system at the time a specific investment is made and at all times during the term of the investment. A credit union that satisfies the criteria in subparagraph (A) of this paragraph (15) and this subparagraph may request approval from the Secretary for an exception to the 5% limit up to a limit of 10% of the net worth of the credit union, subject to such safety and soundness standards, limitations, and qualifications as the Department may establish by rule or guidance from time to time. The request shall be in writing and substantiate the need for the higher limit, describe the credit union's record of investment activity, and include financial statements reflecting a sound fiscal history.

(C) Before investing in a financial technology company, the credit union shall obtain a written legal opinion as to whether the financial technology company is established in a manner that will limit potential exposure of the credit union to no more than the loss of funds invested in the financial technology company and the legal opinion shall:

(i) address factors that have led courts to "pierce the corporate veil", such as inadequate capitalization, lack of separate corporate identity, common boards of directors and employees, control of one entity over another, and lack of separate books and records; and

(ii) be provided by independent legal counsel of the credit union.

(D) Before investing in the financial technology company, the credit union shall enter into a written investment agreement with the financial technology company and the agreement shall contain the following clauses:

(i) the financial technology company will: (I) provide the Department with access to the books and records of the financial technology company relating to the investment made by the credit union, with the costs of examining those records borne by the credit union in accordance with the per diem rate established by the Department by rule; (II) follow generally accepted accounting principles; and (III) provide the credit union with its financial statements on at least a quarterly basis and certified public accountant audited financial statements on an annual basis; and

(ii) the financial technology company and credit union agree to terminate their contractual relationship: (I) upon 90 days' written notice to the

parties by the Secretary that the safety and soundness of the credit union is threatened pursuant to the Department's cease and desist and suspension authority in Sections 8 and 61; (II) upon 30 days' written notice to the parties if the credit union's net worth ratio falls below the level that classifies it as well-capitalized as defined by 12 CFR 702.102; and (III) immediately upon the parties' receipt of written notice from the Secretary when the Secretary reasonably concludes, based upon specific facts set forth in the notice to the parties, that the credit union will suffer immediate, substantial, and irreparable injury or loss if it remains a party to the investment agreement.

(E) The termination of the investment agreement between the financial technology company and credit union shall in no way operate to relieve the financial technology company from repaying the investment or other obligation due and owing the credit union at the time of termination.

(F) Any financial technology company in which a credit union invests pursuant to this paragraph (15) that directly or indirectly originates, purchases, facilitates, brokers, or services loans to consumers in Illinois shall not charge an interest rate that exceeds the applicable maximum rate established by the Board of the National

Credit Union Administration pursuant to 12 CFR 701.21(c)(7)(iii)-(iv). The maximum interest rate described in this subparagraph that may be charged by a financial technology company applies to all consumer loans and consumer credit products.

(b) As used in this Section:

"Political subdivision" includes, but is not limited to, counties, townships, cities, villages, incorporated towns, school districts, educational service regions, special road districts, public water supply districts, fire protection districts, drainage districts, levee districts, sewer districts, housing authorities, park districts, and any agency, corporation, or instrumentality of a state or its political subdivisions, whether now or hereafter created and whether herein specifically mentioned or not.

"Financial institution" includes any bank, savings bank, savings and loan association, or credit union established under the laws of the United States, this State, or any other state.

"Financial technology company" includes any corporation, partnership, limited liability company, or other entity organized under the laws of Illinois, another state, or the United States of America:

(1) that the principal business of which is the provision of financial products or financial services, or both, that:

(i) currently relate or may prospectively relate to the daily operations of credit unions;

(ii) are of current or prospective benefit to the members of credit unions; or

(iii) are of current or prospective benefit to consumers eligible for membership in credit unions;
and

(2) that applies technological interventions, including, without limitation, specialized software or algorithm processes, products, or solutions, to improve and automate the delivery and use of those financial products or financial services.

(c) A credit union investing to fund an employee benefit plan obligation is not subject to the investment limitations of this Act and this Section and may purchase an investment that would otherwise be impermissible if the investment is directly related to the credit union's obligation under the employee benefit plan and the credit union holds the investment only for so long as it has an actual or potential obligation under the employee benefit plan.

(d) If a credit union acquires loans from another financial institution or financial-type institution pursuant to this Section, the credit union shall be authorized to provide loan servicing and collection services in connection with those loans.

(Source: P.A. 101-567, eff. 8-23-19; 102-496, eff. 8-20-21.)

Public Act 102-0774

HB4462 Enrolled

LRB102 22844 BMS 33257 b

Section 99. Effective date. This Act takes effect upon becoming law, except that Section 16.5 of the Illinois Credit Union Act takes effect January 1, 2023.

INDEX

Statutes amended in order of appearance

205 ILCS 305/16.5 new

205 ILCS 305/19 from Ch. 17, par. 4420

205 ILCS 305/20 from Ch. 17, par. 4421

205 ILCS 305/29 from Ch. 17, par. 4430

205 ILCS 305/34 from Ch. 17, par. 4435

205 ILCS 305/39 from Ch. 17, par. 4440

205 ILCS 305/42 from Ch. 17, par. 4443

205 ILCS 305/59 from Ch. 17, par. 4460