

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

FINANCIAL INSTITUTIONS BUREAU

SAVINGS AND LOAN ASSOCIATIONS

(By authority conferred on the commissioner of the financial institutions bureau by section 200 of Act No. 307 of the Public Acts of 1980, being S491.200 of the Michigan Compiled Laws)

R 491.101 Definitions.

Rule 1. (1) As used in these rules:

- (a) "Act" means Act No. 307 of the Public Acts of 1980, being S 491.102 etseq. of the Michigan Compiled Laws.
- (b) "Bureau" means the financial institutions bureau of the department of commerce.
- (2) Terms defined in the act have the same meanings when used in these rules.

History: 1981 AACCS.

R 491.110 Application not considered document.

Rule 10. For purposes of section 208 of the act, an application made pursuant to sections 300 and 522 of the act shall not be considered a document.

History: 1981 AACCS.

R 491.115 Application for permission to organize association; form; review; incomplete application; commencement of statutory periods; priority rights; amendments or supplements; requesting additional information; copies.

Rule 15. (1) An application made pursuant to section 300 of the act shall be on a form that is prescribed by the supervisor.

(2) The application shall be submitted in duplicate for filing with original signatures of each application and shall be accompanied by a check, in the amount required by statute, made payable to "State of Michigan."

(3) The supervisor shall date-stamp and review each application for completeness in the order in which it is submitted.

(4) If an application is incomplete, it shall either be returned for completion or the applicant shall be requested to submit such additional information as is necessary to make the application complete. If an application is returned for completion, it loses all priorities.

(5) When an application is complete to the satisfaction of the supervisor, it shall be considered received for purposes of section 302 of the act and shall be filed.

(6) All statutory periods set forth in section 302 shall commence on the date that the application is filed. The applicant shall be notified of this date. The date of the filing shall determine the priority rights of an applicant.

(7) Subsequent to the date an application is filed, if the applicant wishes to amend or supplement or provide additional material in connection with the application, the supervisor may do 1 of the following:

(a) Establish a new filing date.

(b) Provide additional time to those associations or federal associations, if any, which have filed a written objection.

(c) Proceed with the statutory period as set forth in section 302 for the issuance of an order. If the supervisor establishes a new filing date, that date shall become the date the amended application is considered received for purposes of section 302 of the act. In any event, the applicant shall provide copies of any amendments, supplements, or additional material to those associations or federal associations which have filed a written objection.

(8) The supervisor may request additional information at any time from any source in connection with the application.

(9) Copies of the application, excluding confidential information contained therein, may be obtained at cost from the supervisor.

History: 1981 AACS.

R 491.120 Written objection to application; request for additional time to file supplemental information.

Rule 20. (1) A written objection to an application and any supplemental data in support of an objection shall be delivered to both the supervisor and applicant.

(2) Written objections shall address the issues set forth in section 304 of the act and at a minimum shall include the following:

(a) A statement summarizing the reasons for the objection.

(b) A list of specific matters in the application to which the association objects, together with the reasons for each objection.

(c) A statement of the facts supporting the objection, including relevant economic and financial data.

(3) A request for additional time to file supplemental information shall be made at the time the written objection is filed.

(4) In the discretion of the supervisor, an applicant may be granted additional time to file written material in response to an objection. An applicant shall deliver to the objecting association or federal association a copy of the written material in response to an objection.

History: 1981 AACS.

R 491.125 Oral argument; objections.

Rule 25. (1) A request for oral argument by an association or federal association filing timely objections shall be in writing and shall be made during the statutory period for filing the written objection. Only those objecting associations or federal associations requesting oral argument may be participants.

(2) An applicant may file a request for oral argument within 30 days from the date the supervisor sends notice of the filing date of the application.

(3) If oral argument is to be held, the supervisor shall send notice to the applicant and to the objecting associations or federal associations fixing the time and place for the oral argument. Notice shall be sent not less than 10 days prior to the oral argument.

(4) Oral argument shall be conducted by the supervisor or such other person or persons as designated by the supervisor.

(5) The person or persons conducting the oral argument shall have the right to ask questions of any party regarding the subject matter of the oral argument.

(6) Oral argument shall be limited to a time period not to exceed 1 hour for the applicant and 1 hour total for associations or federal associations filing timely objections. Oral argument may be made by each participant or by an authorized representative, but shall be based on written information which has been filed in connection with the application and any written objection.

(7) A stenographic record of the oral argument shall be made and shall include a transcript. A transcript is the original and 1 copy of the transcribed proceedings. A transcript shall become part of the application. An association or federal association desiring a copy of the transcript shall make separate arrangements with the reporter. The cost of a transcript or, if deemed necessary by the supervisor, an expedited transcript, of an oral argument shall be allocated equally among the participants that requested the oral argument. If oral argument is held at the request of the supervisor, the cost of transcript shall be allocated pro rata to the objecting associations or federal associations and the applicant.

(8) For purposes of section 302 of the act, the oral argument shall be considered completed when the supervisor receives the transcript. The supervisor shall send notice to all participants of the date the transcript is received and the date the decision is due.

(9) Any information considered relevant by the supervisor may be used in the final decision.

History: 1981 AACS.

R 491.130 Application for permission to establish or relocate branch office; form; incomplete application; commencement of statutory periods; priorities; amendments or supplements; requesting additional information; copies.

Rule 30. (1) An application made pursuant to section 522 of the act shall be on a form that is prescribed by the supervisor.

(2) The application shall be submitted for filing with original signature on the application and shall be accompanied by a check, in the amount required by statute, made payable to "State of Michigan."

(3) The supervisor shall date-stamp and review each application for completeness in the order in which it is submitted.

(4) If an application is incomplete, it shall either be returned for completion or the applicant shall be requested to submit such additional information as is necessary to make the application complete. If an application is returned for completion, it loses all priorities.

(5) When an application is complete to the satisfaction of the supervisor, it shall be considered accepted for purposes of section 522 of the act and shall be filed and the process of reviewing its contents for a decision shall begin.

(6) All statutory periods set forth in section 522 of the act shall commence on the date that the application is filed. The applicant shall be notified of this date. The date of the filing shall determine the priority for consideration of the application.

(7) Subsequent to the date an application is filed, if the applicant wishes to amend the application or supplement or provide additional material in connection with the application, the supervisor may do 1 of the following:

(a) Establish a new filing date.

(b) Proceed with the statutory period as set forth in section 522 of the act for the issuance of an order.

If the supervisor establishes a new filing date, that date shall become the filing date for purposes of section 522 of the act.

(8) The supervisor may request additional information at any time from any source in connection with the application.

(9) Copies of the application shall be made available to the public, except for those portions deemed confidential by the supervisor.

History: 1981 AACS.

R 491.135 Oral argument.

Rule 35. (1) If oral argument is held, the supervisor shall send notice fixing the time and place for the oral argument. Notice shall be sent not less than 10 days prior to the oral argument.

(2) Oral argument shall be conducted by the supervisor or such other person or persons as designated by the supervisor.

(3) The person or persons conducting the oral argument shall have the right to ask questions of any participant regarding the subject matter of the oral argument.

(4) Oral argument shall be limited to a time period not to exceed 1 hour for the applicant and 1 hour total for all other participants. Oral argument may be made by each participant or by an authorized representative, but shall be based on written information, which has been filed in connection with the application.

(5) A stenographic record of the oral argument shall be made and shall include a transcript. A transcript is the original and 1 copy of the transcribed proceedings. A transcript shall become part of the application. A participant desiring a copy of the transcript shall make separate arrangements with the reporter. The cost of a transcript or, if deemed necessary by the supervisor, an expedited transcript, of an oral argument shall be allocated equally among the participants. For purposes of this subrule, the bureau shall not be considered a participant.

(6) The oral argument shall be considered completed when the supervisor receives the transcript. The supervisor shall send notice to all participants of the date the transcript is received and the date the decision is due. The supervisor shall announce a decision concerning the application within 60 days after the oral argument is completed.

(7) Any information considered relevant by the supervisor may be used in the final decision.

History: 1981 AACS.

R 491.140 Application to establish agency.

Rule 40. An association seeking approval of the supervisor to establish an agency shall make application on a form prescribed by the supervisor.

History: 1981 AACS.

R 491.145 Agent; authorized services; disbursement of funds or possession of evidence of account ownership prohibited.

Rule 45. (1) An agent is authorized to perform the following services:

(a) Accept a deposit to an existing account and record the addition to the account or give other evidence of receipt as prescribed by the association.

(b) Accept a withdrawal form and such other evidence required by the association from an account holder for transmission to the main office or a branch office of the association for disbursement directly to the account holder by the association.

(c) Solicit and accept a new account; evidence of account ownership shall be issued only by authority of the main office or a branch office of the association. An agent may obtain signature cards from the association for the account holder.

(d) Solicit and accept an application for a loan or for a land contract purchase. The agent shall submit the application to the main office or a branch of the association for processing and approval and for any disbursement of funds.

(e) Accept payment on a loan or on a land contract and issue evidence of receipt as prescribed by the association.

(2) An agent shall not disburse any funds or possess an unissued or blank authenticated savings account passbook or certificate or other evidence of account ownership.

History: 1981 AACS.

R 491.150 Establishment by association of deposit account; withdrawals.

Rule 50. The association shall establish a deposit account in a financial institution convenient to the agency to provide a depository for savings and loan payments. Only the association may make withdrawals from the account.

History: 1981 AACS.

R 491.155 Prohibited acts by association or agent.

Rule 55. An association or an agent shall not represent in any manner or refer to the office of an agent or agency as a branch office.

History: 1981 AACS.

R 491.160 Application for investment in service corporations; conditions.

Rule 60. (1) An application for investment in a service corporation by an association shall be on a form that is prescribed by the supervisor.

(2) Before an association can invest in a service corporation, the association shall cause the following to occur:

(a) The filing of articles and bylaws of the service corporation with the supervisor for approval.

(b) The filing of a written agreement, binding upon the service corporation, with the supervisor. The agreement shall contain a statement that:

(i) The supervisor or designated representative may examine the books, records, and operations of the service corporation, which examinations shall be at the expense of the service corporation.

(ii) A borrowing by a service corporation from a person other than a parent association, except for a loan guaranteed in writing by an association which is subject to the investment limit of R 491.170, shall be

supported by a written certification from the lender that the parent association is not liable for the debt incurred by the service corporation.

(iii) The service corporation shall be operated in a manner which demonstrates to the public it is a separate corporate entity from associations investing therein.

(iv) The service corporation shall adhere to the conditions set forth in R491.165.

History: 1981 AACS.

R 491.165 Agreement between association and service corporation; conditions.

Rule 65. The conditions which shall be a part of the agreement between the association and the service corporation are as follows:

(a) Amendments to a service corporation's articles of incorporation or bylaws shall be filed with and approved by the supervisor.

(b) Any change in the location of a service corporation's office or any addition of offices shall be subject to written approval by the supervisor.

(c) The compensation of and other benefits to directors, officers, and employees of a service corporation shall be reasonable and commensurate with their duties and responsibilities.

(d) Surety coverage in a form and amount approved by the supervisor shall be required of all directors, officers, and employees of a service corporation.

(e) Evidence shall be maintained in the files of a service corporation that its loans and investments have been based upon prudent judgment and made in conformity with safe and sound practices.

(f) A service corporation shall not in any manner extend credit, lease or sell property of any kind, or furnish any service, or fix or vary the consideration therefor, on the condition or requirement that the customer obtains from or provides to a parent association some additional credit, property, or service.

(g) Reports concerning a service corporation shall be filed with the supervisor in such form and containing such information as the supervisor may direct.

History: 1981 AACS.

R 491.170 Limitation on investment by association in service corporations.

Rule 70. (1) The total investment in the aggregate by an association in all service corporations shall be limited to 3% of the association's total assets unless otherwise approved by the supervisor.

(2) As used in this subrule, an investment shall include the following:

(a) An investment in the stock, bonds, debentures, or investment certificates of a service corporation.

(b) Any other investment in, or extension of, unsecured credit to a service corporation, including, but not limited to, unsecured loans granted by an association to a service corporation or to any joint venture of a service corporation.

(c) Loans granted by a third person to a service corporation which are guaranteed in writing by the association.

History: 1981 AACS.

R 491.175 Violations by service corporation; assurance of discontinuance; disposal of investment.

Rule 75. (1) When a service corporation engages in a business activity that the supervisor has not approved or violates any applicable statute or rule, the supervisor shall give notice of the violation to the parent association and request assurance from the association that the activity has been discontinued.

(2) If assurance of the discontinuance of the violation is not provided within the time allotted by the supervisor, an association with an investment in the service corporation shall dispose of its investment within the period determined by the supervisor.

History: 1981 AACS.

R 491.180 Investments; evidence of prudent judgment.

Rule 80. An association shall maintain in its files evidence that its investments have been based upon prudent judgment and made in conformity with safe and sound practices.

History: 1981 AACCS.

R 491.185 Investments; school district or political subdivision obligations; commercial paper; corporate debt securities.

Rule 85. (1) Investments made in obligations of a state school district or political subdivision shall be limited to the following:

(a) Obligations having, at the time of purchase, a rating among the highest 4 grades by a nationally recognized security rating service.

(b) Non-rated obligations if the association obtains at the time of purchase and maintains in its files a copy of the most recent certified financial statement of the issuer.

(2) Investments made in commercial paper or corporate debt securities shall be limited to the following:

(a) Securities denominated in United States dollars.

(b) Securities having, at the time of purchase, a rating among the highest 4 grades by a nationally recognized security rating service, except that commercial paper shall have a rating among the highest 2 grades.

History: 1981 AACCS.

R 491.190 Investments; corporate debt securities convertible into stock; exercise of conversion feature.

Rule 90. (1) Investments may be made in corporate debt securities convertible into stock if all of the following requirements are complied with:

(a) The security meets the requirements of R 491.185(2).

(b) The security is traded on a national securities exchange.

(c) At the time of purchase, the security is reduced on the association's books to an amount which represents its investment value considered independently of the conversion feature.

(d) The security is sold or exchanged within 90 days of the conversion date if the issuer exercises the conversion feature.

(2) If an investment is made pursuant to subrule (1) of this rule, the association shall not exercise the conversion feature.

History: 1981 AACCS.

R 491.195 Limitation on investment in shares of open-end management investment company and in obligations of certain issuers.

Rule 95. (1) An association's total investment in the shares of any 1 open-end management investment company shall not exceed 100% of the association's net worth.

(2) At any one time an association's total investment in the following obligations of any 1 issuer shall not exceed 25% of net worth:

(a) School districts.

(b) Political subdivisions.

(c) Corporate debt securities.

History: 1981 AACCS.

R 491.197 Rescission.

Rule 97. R 489.545 to R 489.812 of the Michigan Administrative Code, appearing on pages 4954 to 4959 of the 1979 Michigan Administrative Code, are rescinded.

History: 1981 AACCS.