

§ 703.110

12 CFR Ch. VII (1–1–98 Edition)

(k) You may enter into a securities lending transaction as long as:

(1) You receive written confirmation of the loan;

(2) Any collateral you receive is a legal investment for federal credit unions, you obtain a perfected first priority security interest in the collateral, you either take physical possession or control of the collateral or are recorded as owner of the collateral through the Federal Reserve Book-Entry Securities Transfer System; and you receive a daily assessment of the market value of the collateral, including accrued interest, and maintain adequate margin that reflects a risk assessment of the collateral and the term of the loan;

(3) Any cash you receive is subject to the borrowing limit specified in Section 107(9) of the Act, and any investments you purchase with that cash are permissible for federal credit unions and mature no later than the maturity of the transaction; and

(4) You have executed a written loan and security agreement with the borrower.

(l)(1) You may trade securities, including engaging in when-issued trading and pair-off transactions, as long as you can show that you have sufficient resources, knowledge, systems, and procedures to handle the risks.

(2) You must record any security you purchase or sell for trading purposes at fair value on the trade date. The trade date is the date you commit, orally or in writing, to purchase or sell a security.

(3) At least monthly, you must give your board of directors or investment-related committee a written report listing all purchase and sale transactions of trading securities and the resulting gain or loss on an individual basis.

[62 FR 33001, June 18, 1997, as amended at 62 FR 64148, Dec. 4, 1997]

§ 703.110 What investments and investment activities are prohibited for me?

(a) You (a federal credit union) may not purchase or sell financial derivatives, such as futures, options, interest rate swaps, or forward rate agree-

ments, except as permitted under § 701.21(i) of this chapter.

(b) You may not engage in adjusted trading or short sales.

(c) You may not purchase stripped mortgage backed securities, residual interests in CMOs/REMICs, mortgage servicing rights, commercial mortgage related securities, or small business related securities.

(d) You may not purchase a zero coupon investment with a maturity date that is more than 10 years from the settlement date.

§ 703.120 May my officials or employees accept anything of value in connection with an investment transaction?

(a) Your (a federal credit unions) officials and senior management employees, and their immediate family members, may not receive anything of value in connection with your investment transactions. This prohibition also applies to any other employee, such as an investment officer, if the employee is directly involved in investments, unless your board of directors determines that the employee's involvement does not present a conflict of interest. This prohibition does not include compensation for employees.

(b) Your officials and employees must conduct all transactions with business associates or family members that are not specifically prohibited by paragraph (a) of this section at arm's length and in your best interest.

(c) Senior management employee means your chief executive officer (typically this individual holds the title of President or Treasurer/Manager), any assistant chief executive officers (e.g., Assistant President, Vice President, or Assistant Treasurer/Manager) and the chief financial officer (Comptroller).

(d) Immediate family member means a spouse or other family member living in the same household.

§ 703.130 May I continue to hold investments purchased before January 1, 1998, that will be impermissible after that date?

(a) Subject to safety and soundness considerations, your (a federal credit unions) authority to hold an investment is governed by the regulations in

effect when you purchased the investment. Paragraphs (b) through (d) of this section describe past regulations governing certain investments.

(b) Subject to safety and soundness considerations, you may hold a CMO/REMIC purchased:

(1) Before December 2, 1991;

(2) On or after December 2, 1991, but before July 30, 1993, if its average life does not extend or shorten by more than 6 years if interest rates rise or fall 300 basis points;

(3) On or after December 2, 1991, but before January 1, 1998, if for the sole purpose of reducing interest rate risk and:

(i) You have a monitoring and reporting system in place that provides the documentation necessary to evaluate the expected and actual performance of the investment under different interest rate scenarios;

(ii) You use the monitoring and reporting system to conduct and document an analysis that shows, before purchase, that the proposed investment will reduce your interest rate risk;

(iii) After purchase, you evaluate the investment at least quarterly to determine whether or not it actually has reduced your interest rate risk; and

(iv) You classify the investment as either trading or available-for-sale.

(c) Subject to safety and soundness considerations, and notwithstanding paragraph (b) of this section, you may hold a variable-rate CMO/REMIC purchased:

(1) On or after December 2, 1991, but before July 30, 1993, if:

(i) The interest rate is reset at least annually;

(ii) The maximum allowable interest rate on the instrument is at least 300 basis points above the interest rate of the instrument at the time of purchase; and

(iii) The interest rate of the instrument varies directly (not inversely) with the index upon which it is based and is not reset as a multiple of the change in the related index; or

(2) On or after July 30, 1993, but before January 1, 1998, if:

(i) The interest rate of the instrument is reset at least annually;

(ii) The interest rate of the instrument, at the time of purchase or at a

subsequent testing date, is below the contractual cap of the instrument;

(iii) The index upon which the interest rate is based is a conventional widely-used market interest rate such as the London Interbank Offered Rate (LIBOR);

(iv) The interest rate of the instrument varies directly (not inversely) with the index upon which it is based and is not reset as a multiple of the change in the related index; and

(v) The estimated change in the instrument's price is 17 percent or less, due to an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points.

(d) Subject to safety and soundness considerations, you may hold a CMO/REMIC residual, SMBS, or zero coupon security with a maturity greater than 10 years, if you purchased the investment:

(1) Before December 2, 1991; or

(2) On or after December 2, 1991, but before January 1, 1998, if for the purpose of reducing interest rate risk and you meet the requirements of paragraph (b)(3) of this section.

(e) All grandfathered investments are subject to the valuation and monitoring requirements of §§ 703.70, 703.80, and 703.90.

§ 703.140 What is the investment pilot program and how can I participate in it?

(a) Under the investment pilot program, NCUA will permit a limited number of federal credit unions to engage in investment activities prohibited by this part but permitted by statute.

(b) Except as provided in paragraph (c) of this section, before you (a federal credit union) may engage in additional activities, you must obtain written approval from

NCUA. To begin the approval process, you must submit a request to your regional director that addresses the following items:

(1) Board policies approving the activities and establishing limits on them.

(2) A complete description of the activities, with specific examples of how you will conduct them and how they will benefit you.