

CHAPTER 4  
MUTUAL DEPOSITS

[Prior to 3/25/87, Auditor of State[130] Ch 4]

**197—4.1(534) Mutual deposit association.**

**4.1(1) *General approval.*** A state-chartered association may elect to operate in a manner similar to federally chartered savings and loan associations as a “mutual deposit” association or institution. Such an election shall enable such institution or association to avail itself of the various terminology and powers authorized for “mutual deposit” savings associations or institutions as authorized by federal law and limited by rules and regulations of the Federal Home Loan Bank System or the Federal Savings and Loan Insurance Corporation from time to time, and as implemented and approved by the rules of the superintendent of savings and loan associations.

**4.1(2) *Procedure to elect.*** In order to elect to become a “mutual deposit association or institution,” a state-chartered association shall by action of its members at a regular annual meeting or a specially called meeting for that purpose amend its articles of incorporation so as to convert to a mutual deposit type institution or association by adopting articles of incorporation which are substantially similar to those which are available in the office of the superintendent of savings and loan associations. The associations shall obtain the formal approval of the restated articles of incorporation and bylaws of the superintendent.

**4.1(3) *Rights are not affected.*** Such associations as elect to become mutual deposit type associations or institutions shall also continue to have the rights and powers and be generally regulated and limited by the provisions of Iowa Code chapter 534 as amended from time to time, as though they had not converted, excepting where federal regulations or rules of this office specifically adopted for “mutual deposit” type associations may limit same.

**197—4.2(534) Fixed-rate, fixed-term savings deposit accounts.**

**4.2(1) *General approval.*** A state-chartered association which in accordance with state law may accept accounts bearing a definite rate of return for fixed periods of time (hereinafter referred to as “fixed-rate, fixed-term accounts”) and whose board of directors has adopted a resolution providing for the issuance of such fixed-rate, fixed-term accounts may, subject to the limitations contained in 4.2(2), and to the disclosure provisions contained in 4.2(3), issue certificates evidencing such fixed-rate, fixed-term accounts in such form as the board of directors of the institution may determine.

**4.2(2) *Limitations.*** In issuing certificates evidencing fixed-rate, fixed-term accounts pursuant to the approval contained in 4.2(1), no association shall:

*a.* Provide for any forfeiture for breach of condition on the part of any holder, other than loss of interest, partial loss of interest and principal or partial loss of principal for the term of the fixed-rate, fixed-term account or other specified time period; in any event no forfeiture imposed on any account holder by an insured association shall be greater than that specified by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation;

*b.* Issue any negotiable form of certificate that provides for membership in the association, or one subject to redemption, unless the association discloses to the saver all terms and conditions of the redemption;

*c.* Deny any member the opportunity to invest at the same rate offered to any other member at that time on the same classification of fixed-rate, fixed-term account;

*d.* Provide for withdrawal from any fixed-rate, fixed-term account prior to the expiration of the fixed-term, except as provided in 4.2(4); or

*e.* Issue any form of certificate evidencing a fixed-rate, fixed-term account unless the institution has first (1) obtained a written opinion by its legal counsel that such form of certificate complies with the requirements of applicable law and regulations and the institution’s articles of incorporation and bylaws, which opinion shall be retained by the institution so long as it continues to issue certificates in such form, and (2) submitted a copy of such form of certificate, together with a copy of such legal opinion, to the superintendent of savings and loan associations. Provided, that such legal opinion need not be obtained

if the institution uses a form of certificate which has already been approved by the Federal Savings and Loan Insurance Corporation for the use by state-chartered institutions.

**4.2(3) Disclosure.** Each certificate evidencing a fixed-rate, fixed-term account accepted pursuant to the approval contained in 4.2(1) shall include in its provisions and display in easily read type:

- a. The rate of interest to be paid and the dates or frequency at which interest is payable;
- b. The amount of the fixed-rate, fixed-term account;
- c. The term of the fixed-rate, fixed-term account;
- d. The penalty or penalties imposed for withdrawal prior to completion of the fixed term or renewal;
- e. Any provisions relating to renewal at the conclusion of the fixed term;
- f. Any provisions relating to the interest to be paid after the conclusion of a fixed term or renewal;
- g. A provision converting the fixed-rate, fixed-term account at the conclusion of a fixed term or renewal to the status of an account accepted for an indefinite period of time;
- h. The minimum balance requirement applicable to fixed-rate, fixed-term accounts.

**4.2(4) Withdrawal prior to expiration of term.** Each fixed-term certificate issued by an insured institution, which was entered into, renewed or extended between June 2, 1980, and September 30, 1983, and which was not renewed or extended on or after October 1, 1983, shall provide that, in the event of withdrawal of all or any portion of such account prior to the expiration of its term:

a. If the term of such account is less than one year, the account holder shall forfeit an amount equal to three months of interest or dividends, whether earned or not, on the amount withdrawn at the nominal (simple interest) rate being paid on the account, regardless of the length of time the funds withdrawn have remained in the account.

b. If the term of such account is one year or more the account holder shall forfeit an amount equal to six months of interest or dividends, whether earned or not, on the amount withdrawn, at the nominal (simple interest) rate being paid on the account, regardless of the length of time the funds withdrawn have remained in the account.

c. If the account is withdrawn prematurely by the account holder, and the account has been on deposit longer than three months (where the original term or renewal term is less than one year) or six months (where the original term or renewal term is greater than one year), notwithstanding "a" and "b" above, an association may provide in the certificate that the account holder forfeit all interest earned on the amount withdrawn, to the date of withdrawal.

d. Where a certificate has an original maturity of less than three months, the required penalty is to be an amount at least equal to the amount of interest or dividends that could have been earned on the amount withdrawn had the funds remained on deposit until maturity.

e. If any interest has been paid to the account holder prior to such withdrawal, a deduction shall be made from the amount withdrawn to adjust for the penalty applicable to such interest. In the case of early withdrawal of only a portion of such account, appropriate notation may be made on the certificate indicating the amount and date of such withdrawal and the remaining account balance; if the applicable minimum balance requirement ceases to be met the certificate may be canceled and a new certificate issued for the remaining portion of the account. A certificate issued by an insured institution for a fixed-term account may provide that the holder cannot withdraw any portion of such account prior to the expiration of its term except under such emergency circumstances as may be set forth therein.

**4.2(5) Withdrawal penalty effective October 1, 1983.** The following minimum early withdrawal penalties shall apply to time deposits (fixed-term savings accounts) entered into, renewed or extended on or after October 1, 1983:

a. Where a time deposit with an original maturity or required notice period of 7 to 31 days, or any portion thereof, is paid before maturity, a depositor shall forfeit an amount equal to the greater of (1) all interest earned on the amount withdrawn from the most recent of the date of deposit, date of maturity, or date on which notice was given, or (2) all interest that could have been earned on the amount withdrawn during a period equal to one-half the maturity period or the required notice period.

b. Where a time deposit with an original maturity or required notice period of 32 days to one year, or any portion thereof, is paid before maturity, a depositor shall forfeit an amount at least equal to

one month's interest earned, or that could have been earned, on the amount withdrawn at the nominal (simple) interest rate being paid on the deposit, regardless of the length of time the funds withdrawn have remained on deposit.

*c.* Where a time deposit with an original maturity or required notice period of more than one year, or any portion thereof, is paid before maturity, the depositor shall forfeit an amount at least equal to three months' interest earned, or that could have been earned, on the amount withdrawn at the nominal (simple) interest rate being paid on the deposit, regardless of the length of time the funds withdrawn have remained on deposit.

*d.* Notwithstanding subrule 4.2(4), where a time deposit of \$2,500 to less than \$100,000, with an original maturity of 91 days, that has been issued, renewed or extended before October 1, 1983, but not renewed or extended on or after that date, is paid before maturity, a depositor shall forfeit an amount equal to at least all interest earned on the amount withdrawn.

*e.* Notwithstanding subrule 4.2(4), where a nonnegotiable time deposit of \$2,500 or more, with an original maturity or required notice period of 7 to 31 days, that has been issued, renewed or extended before October 1, 1983, but not renewed or extended on or after that date, is paid before maturity, the depositor shall forfeit an amount equal to at least the greater of (1) all interest earned on the amount withdrawn from the most recent of the date of deposit, date of maturity, or date on which notice was given, or (2) all interest that could have been earned on the amount withdrawn during a period equal to one-half the maturity period or required notice period.

These rules are intended to implement Iowa Code section 534.209.

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