

**189—17.14(533) Permissible investments.**

**17.14(1) *Variable rate investment.*** A credit union may invest in a variable rate investment, as long as the index is tied to domestic interest rates. Except in the case of U.S. Treasury inflation-protected securities, the variable rate investment cannot, for example, be tied to foreign currencies, foreign interest rates, domestic or foreign commodity prices, equity prices, or inflation rates. For purposes of this subrule, the U.S. dollar-denominated London Interbank Offered Rate (LIBOR) is a domestic interest rate.

**17.14(2) *Corporate credit union shares or deposits.*** A credit union may purchase shares or deposits in a corporate credit union, except when the superintendent or the NCUA has notified it that the corporate credit union is not operating in compliance with NCUA rules and regulations, 12 CFR Part 704. A credit union's aggregate amount of paid-in capital and membership capital, as defined in NCUA rules and regulations, 12 CFR Part 704, in one corporate credit union is limited to 2 percent of its assets measured at the time of investment or adjustment. A credit union's aggregate amount of paid-in capital and membership capital in all corporate credit unions is limited to 4 percent of its assets measured at the time of investment or adjustment.

**17.14(3) *Registered investment company.*** A credit union may invest in a registered investment company or collective investment fund, as long as the prospectus of the company or fund restricts the investment portfolio to investments and investment transactions that are permissible for federal credit unions.

**17.14(4) *Collateralized mortgage obligation/real estate mortgage investment conduit.*** A credit union may invest in a fixed or variable rate collateralized mortgage obligation/real estate mortgage investment conduit.

**17.14(5) *Municipal security.*** A credit union may purchase and hold a municipal security, as defined in the Federal Credit Union Act, 12 U.S.C. Section 1757(7)(K), only if the credit union conducts and documents an analysis that reasonably concludes the security is at least investment grade. The credit union must also limit its aggregate municipal securities holdings to no more than 75 percent of the credit union's net worth and limit its holdings of municipal securities issued by any single issuer to no more than 25 percent of the credit union's net worth.

**17.14(6) *Instruments issued by institutions described in the Federal Credit Union Act, 12 U.S.C. Section 1757(8).*** A credit union may invest in the following instruments issued by an institution described in Section 1757(8) of the Federal Credit Union Act:

- a. Yankee dollar deposits;
- b. Eurodollar deposits;
- c. Banker's acceptances;
- d. Deposit notes; and
- e. Bank notes with weighted average maturities of less than five years.

**17.14(7) *European financial options contract.*** A credit union may purchase a European financial options contract or a series of European financial options contracts only to fund the payment of dividends on member share certificates or interest on member certificates of deposit when such dividend or interest rate is tied to an equity index provided:

- a. The option and dividend/interest rate are based on a domestic equity index;
- b. Proceeds from the options are used only to fund dividends/interest on the equity-linked certificates;
- c. Dividends or interest, or both, on the certificates are derived solely from the change in the domestic equity index over a specified period;
- d. The options' expiration dates are no later than the maturity date of the certificate;
- e. The certificate may be redeemed prior to the maturity date only upon the member's death or termination of the corresponding option;
- f. The total costs associated with the purchase of the option is known by the credit union prior to effecting the transaction;
- g. The options are purchased at the same time the certificate is issued to the member;
- h. The counterparty to the transaction is a domestic counterparty and has been approved by the credit union's board of directors;

- i.* The counterparty to the transaction meets the minimum credit quality standards as approved by the credit union's board of directors;
- j.* Any collateral posted by the counterparty is a permissible investment for federal credit unions and is valued daily by an independent third party along with the value of the option;
- k.* The aggregate amount of equity-linked member share certificates does not exceed 50 percent of the credit union's net worth;
- l.* The terms of the certificate include a guarantee that there can be no loss of principal to the member regardless of changes in the value of the option unless the certificate is redeemed prior to maturity; and
- m.* The credit union provides its board of directors with a monthly report detailing, at a minimum:
  - (1) The dollar amount of outstanding equity-linked certificates;
  - (2) The certificates' maturities; and
  - (3) The fair value of the options as determined by an independent third party.

**17.14(8)** *Debt obligations of U.S.-chartered corporations.* An Iowa state-chartered credit union may invest in unsecured notes and acceptances, commonly referred to as "commercial paper" and "corporate bonds," of U.S.-chartered corporations pursuant to Iowa Code section 533.301(5) "h" and "i" and this rule, only if:

- a.* The investment in a corporate bond debt obligation is investment grade and has a maturity of less than five years;
- b.* The investment in a commercial paper debt obligation is investment grade and has a maturity of less than one year;
- c.* An investment in a nonrated equivalent value issue of a commercial paper debt obligation shall be investment grade. A credit union shall retain documentation supporting its determination and the current and previous two years of year-end financial statements which indicate acceptable operating performance of the issuing U.S. corporation;
- d.* If, subsequent to the date of purchase but prior to the date of maturity, the investment no longer meets the investment grade standard and the investment exceeds the credit union's net worth by 5 percent or more, the credit union shall have no more than 30 days to divest of the security unless the credit union seeks and receives a waiver from the superintendent as provided by rule;
- e.* The total investment by a credit union in debt obligations in a lone U.S. corporation and its subsidiaries shall not exceed 25 percent of the credit union's net worth;
- f.* The total aggregate investment by a credit union in debt obligations of U.S. corporations and their subsidiaries shall not exceed the lesser of 100 percent of the credit union's net worth or 20 percent of the credit union's investment portfolio;
- g.* An investment will be considered speculative and unauthorized if it contains any of the following characteristics, and the credit union shall be required to divest of the security in accordance with 17.14(8) "d" without an opportunity of waiver:
  - (1) It is issued by a business entity not recognized in the market place or by other than a U.S.-chartered corporation, or by both;
  - (2) It has a maturity that exceeds that established in this subrule; or
  - (3) It is issued to cover or underwrite foreign market operations, or for new-line products or services, or both, which exceed 25 percent of the investment offering;
- h.* If the net worth level of a credit union falls or remains below an amount which causes the limitations of this subrule to be exceeded for two consecutive quarters and the amount of difference is 5 percent or more of the net worth, the credit union shall divest of a sufficient amount of debt obligations so the credit union no longer exceeds the limitations or seek a waiver from the superintendent as provided by rule;
- i.* A corporate credit union chartered in accordance with Iowa Code chapter 533 is exempt from the provisions and limitations of this subrule and, instead, shall have the powers, restrictions and obligations contained in NCUA rules and regulations, 12 CFR Part 704, for federally insured corporate credit unions.

**17.14(9)** *Mortgage note repurchase transactions.* A credit union may invest in securities that are offered and sold pursuant to Section 4(5) of the Securities Act of 1933, 15 U.S.C. 77d(5), only as a part of an investment repurchase agreement under subrule 17.13(3), subject to all of the following conditions:

*a.* The aggregate of the investments with any one counterparty is limited to 25 percent of the credit union's net worth and 50 percent of its net worth with all counterparties.

*b.* At the time the credit union purchases the securities, the counterparty, or a party fully guaranteeing the counterparty, must meet the minimum credit quality standards as approved by the credit union's board of directors.

*c.* The credit union must obtain a daily assessment of the market value of the securities under paragraph 17.13(3) "a" using an independent qualified agent.

*d.* The mortgage note repurchase transaction is limited to a maximum of 90 days.

*e.* All mortgage note repurchase transactions will be conducted under triparty custodial agreements.

*f.* A credit union must obtain an undivided interest in the securities.

**17.14(10)** *Zero-coupon investments.* A credit union may only purchase a zero-coupon investment with a maturity date that is no greater than ten years from the related settlement date, unless authorized by the superintendent.

**17.14(11)** *Commercial mortgage-related security (CMRS).* A credit union may purchase a CMRS that would be a permissible investment for a federal credit union under 12 U.S.C. Section 1756(7)(E) or Section 1756(15)(B) subject to all of the following conditions:

*a.* The credit union conducts and documents a credit analysis that reasonably concludes the CMRS is at least investment grade.

*b.* The CMRS meets the definition of commercial mortgage security in 189—17.2(533).

*c.* The CMRS's underlying pool of loans contains more than 50 loans with no one loan representing more than 10 percent of the pool.

*d.* The aggregate amount of private label CMRS purchased by the credit union does not exceed 25 percent of its net worth, unless otherwise authorized by the superintendent.

**17.14(12)** *Charitable donation accounts.* An Iowa-chartered credit union may apply to the superintendent for authorization to fund a charitable donation account (CDA) as approved by the National Credit Union Administration. The request to the superintendent should address the items listed in 17.19(2) "a" to "c."

*a.* If the superintendent grants the request, the CDA must satisfy all of the conditions in 12 CFR 721.3(b)(2)(i) to (vii), including but not limited to the following:

(1) The book value of investments in all CDAs in the aggregate must be limited to 5 percent of a credit union's net worth at all times as measured at every call report.

(2) The assets must be held in a segregated custodial account and be specifically identified as a CDA.

(3) If a trust is chosen as the vehicle for the CDA, the trustee must be regulated by the Office of the Comptroller of the Currency (OCC), the U.S. Securities and Exchange Commission (SEC), another federal regulatory agency, or a state regulatory agency. A regulated trustee or other person or entity that is authorized to make investment decisions for a CDA, other than the credit union itself, must be either a registered investment adviser or regulated by the OCC.

(4) The parties to the CDA, typically the funding credit union and trustee or other manager of the account, must document the terms and conditions controlling the account in a written agreement. The terms of the agreement must be consistent with the federal rule. The credit union's board of directors must adopt written policies governing the creation, funding, and management of the CDA that are consistent with the federal rule, must review the policies annually, and may amend them from time to time. Charitable contributions and donations can only be made to organizations that are exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(5) Credit unions utilizing CDAs are required to distribute 51 percent of the total return on investment to one or more qualified charities no less frequently than every five years.

*b.* CDAs are investments that carry risk. It is expected that any credit union that makes this type of investment will conduct the necessary due diligence and retain the due diligence documentation for examiner review. The board must also document the investment strategies and risk tolerances and must account for the CDA in accordance with generally accepted accounting principles.

[ARC 1678C, IAB 10/15/14, effective 11/19/14; ARC 3734C, IAB 4/11/18, effective 5/16/18]