

Article 3.—CREDIT UNION SERVICES  
ORGANIZATION (CUSO)

121-3-1. Credit union services organization

(CUSO). (a) Organization. The board of directors of a credit union may invest in or make loans to a CUSO only if the CUSO is legally established under Kansas law as a corporation, a limited partnership, or a limited liability company, is operated as a legal entity separate from the credit union, and meets the following requirements:

- (1) Ensuring that the CUSO's business transactions, accounts, and records are not intermingled with those of an investing or lending credit union;
- (2) observing the formalities of the CUSO's separate corporate procedures;
- (3) ensuring that the CUSO is adequately financed as a separate entity for obligations reasonably foreseeable in a business of its size and character;
- (4) identifying the CUSO to the public as an enterprise separate from the investing or lending credit union;
- (5) not operating as a department of an investing or lending credit union; and
- (6) in the absence of a credit union-guaranteed loan to the CUSO, ensuring that all borrowings by the CUSO indicate that the credit union is not liable for an amount greater than the credit union's loan or investment to the CUSO.

(b) In order to document and verify the required separation, the board of directors of each investing credit union and the board of directors of each lending credit union that intends to invest in or loan to a CUSO on or after February 1, 2008 shall obtain a written legal advice or opinion regarding whether the CUSO is established in a manner that will limit potential exposure of the credit union to no more than the loss of funds invested in, or lent to, the CUSO. The written advice or opinion shall also address the following factors:

- (1) Whether the legal identity of the CUSO is separate from that of the investing or lending credit union;
- (2) whether the boards of directors and employees are persons in common;
- (3) whether one entity has control over the other; and
- (4) whether separate books and records are maintained.

(c) Investments and loans. The board of directors of a credit union may invest in or make loans to a CUSO if all of the following conditions are met:

- (1) The CUSO engages only in permissible operational

and financial services that are primarily provided to the investing or lending credit union, the investing or lending credit union's members, or another credit union and its members.

(2) The investing or lending credit union requires notification by the CUSO when a change in CUSO capital stock or ownership that is greater than 51 percent occurs.

(3) The CUSO does not engage in activities prohibited by subsections (e) or (f).

(4) The CUSO complies with subsections (g), (h), and (i).

(d) Permissible services. The board of directors of a credit union may invest in or make loans to a CUSO that provides one or more of the following general services:

(1) Checking and currency services;

(2) clerical, professional, and management services;

(3) electronic transaction services;

(4) financial counseling services;

(5) loan support services;

(6) record retention, security, and disaster recovery services;

(7) shared credit union branch or service center operations;  
or

(8) trust and trust-related services.

Each CUSO's president or chief executive officer shall ensure the CUSO's compliance with applicable federal, state, and local laws when engaging in any of the services specified in paragraphs (d)(1) through (8). Each service that is not authorized in paragraphs (d)(1) through (8) shall be required to be approved by the administrator of the Kansas department of credit unions, as a financial or operational service before a CUSO may offer that service. Each request for approval shall include a full explanation of the proposed service and how that service would provide a financial or operational benefit to the investing or lending credit union, the investing or lending credit union's members, or another credit union and its members.

(e) Prohibited activities. The board of directors of a credit union shall not invest in or make loans to a CUSO that has acquired control, directly or indirectly, of another financial institution or has invested in shares, stocks, or obligations of an insurance company, trade association, liquidity facility, or similar organization. The board of directors of a credit union shall not engage in any activity, contract for, or enter into any form or manner of arrangement with a CUSO that would cause the credit union to

be committed or liable for an amount in excess of its investment in or loan to the CUSO.

(f) Conflict of interest.

(1) For purposes of this subsection, the following definitions shall apply:

(A) "Official" means a director or committee member of a credit union.

(B) "Senior management employee" means a chief executive officer, assistant chief executive officer, or chief financial officer of a credit union. This term shall include the president, treasurer, manager, assistant president, vice president, assistant treasurer, and assistant manager of a credit union.

(C) "Immediate family member" means a spouse, parent, adult sibling, or other family member who lives in the same household.

(2) An official or senior management employee of a credit union that invests in or makes loans to a CUSO, and any immediate family member of the individual, shall not receive any salary, commission, investment income, or other income or compensation from a CUSO either directly or indirectly, or from any person being served through the CUSO. This paragraph shall not prohibit an official or senior management employee of a credit union from providing occasional minor assistance in the operation of a CUSO, if the individual is not compensated by the CUSO. The CUSO may reimburse the credit union for the services provided by the officials and senior management employees only if the account receivable of the credit union due from the CUSO is paid in full at least every 60 days.

All transactions with business associates or with individuals not specifically prohibited by paragraph (f)(1)(C) shall be conducted at arm's length and in the interest of the credit union.

(g) Accounting procedures. The board of directors of each credit union shall follow generally accepted accounting principles to record any investment in, loan to, or other transactions with a CUSO. The CUSO's president or chief executive officer shall agree in writing with any credit union for which the CUSO provides financial or operational services to follow generally accepted accounting principles.

(h) Financial statements. The board of directors of each credit union shall obtain the following from any CUSO with which the credit union has an outstanding loan or

investment:

(1) A certified public accountant's opinion audit of the CUSO's financial statements conducted in accordance with generally accepted auditing standards on at least an annual basis; and

(2) quarterly financial statements, including a balance sheet and income statement.

(i) Access to records. The board of directors of a credit union shall not invest in or make loans to a CUSO whose chief executive officer has not agreed, in writing, with that credit union's board of directors to provide representatives of the Kansas department of credit unions with complete access to any of the books and records of the CUSO as the administrator may request. (Authorized by K.S.A. 2006 Supp. 17-2204a, as amended by L. 2007, ch. 71, sec. 1, and K.S.A. 17-2260; implementing K.S.A. 17-2204a, as amended by L. 2007, ch. 71, sec. 1; effective Oct. (2) 11, 1996; amended Dec. 28, 2007.)