



State of Wisconsin
Department of Financial Institutions

Scott Walker, Governor

Peter Bildsten, Secretary

November 26, 2014

GENERAL LETTER CU 4-14
CHARITABLE DONATION ACCOUNTS

TO ALL CREDIT UNIONS:

In December 2013, the National Credit Union Administration approved a rule (Parts 703 and 721) to allow federal credit unions to fund hybrid charitable and investment vehicles designated as Charitable Donation Accounts (CDA). In 2014, the Office of Credit Unions promulgated Wisconsin Administrative Code Rule DFI-CU 75, *Authorized Incidental Powers Activities*. Under this new rule, Wisconsin state-chartered credit unions are, therefore, preapproved to invest in CDAs per DFI-CU 75.04 (3).

Wisconsin credit unions that invest in these accounts must comply with NCUA Rules & Regulations Part 721.3(b)(2) and the conditions set forth in the rule. Specifically, the conditions noted in Part 721.3(b)(2) (i –vii) must be followed and include:

- The maximum aggregate investment is 5% of net worth.
- The assets of a CDA must be held in a segregated custodial account or special purpose entity and must be specifically identified as a CDA.
- If a CDA is established using a trust vehicle, 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 financial regulatory agency.
- The parties to the CDA must document the terms and conditions controlling the account in a written agreement. The terms must be consistent with the regulation. The board of directors must adopt written policies governing the creation, funding and management of the CDA.
- 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.
- A 51% of the total return on the investment must be distributed at a frequency of no less than five years.

Charitable donation accounts 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. In addition, the board of directors must establish a policy and investment limits for charitable donation accounts. The board must also document the investment strategies, risk tolerances and must account for the CDA in accordance with generally accepted accounting principles.

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Credit unions must also be mindful of Wisconsin Statute Chapter 186.113(8), *Donations*. The statute states that credit unions can “make donations and grants, the total of which may not exceed 1.0 percent of regular reserves within a given year.” The statute also requires that the board of directors approve any donations and grants after it determines that the donation or grant is in the best interest of the credit union and is reasonable given the size and financial condition of the credit union.

If you have any questions, please contact the Office of Credit Unions at 608-261-9543.

Sincerely,

A handwritten signature in black ink that reads "Kim Santos". The signature is written in a cursive, flowing style.

Kim Santos

Director

OFFICE OF CREDIT UNIONS