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1301:9-2-25 Purchase of fixed assets or purchase of real estate and/or construction of an office building.

(A) As used in this rule:

- (1) "Fixed assets" means any premises, furniture, fixtures, and equipment.
- (2) "Furniture, fixtures, and equipment" include all office furnishings, office machines, computer hardware and software, automated terminals, heating and cooling equipment and machinery.
- (3) "Premises" includes any parking lot, office, branch office, service facility as defined in rule 1301:9-1-01 of the Administrative Code, other facility, or real estate where the credit union transacts or will transact business.

(B) In the case of a purchase of real estate, including when the real estate purchase also includes the construction of an office building. ~~which does not raise the aggregate amount of fixed assets to more than five per cent of the shares and retained earnings,~~ the credit union shall submit to the superintendent the following:

(1) A letter notice proposing the purchase that shall include all of the following:

- (a) The circumstances surrounding the purchase such as the proposed use and complete description of the purchase;
- (b) The amount of the proposed purchase;
- (c) How the credit union intends to fund the purchase;
- (d) The total amount the credit union has invested in fixed assets after the purchase; and
- (e) Any other information the superintendent requires.

(2) The following supporting documents:

- (a) Certified board resolution evidencing the directors' decision; and
- (b) Pro forma financial statements; ~~and.~~
- ~~(c) (c) Certification that the proposed purchase when added to the total amount of current fixed assets does not exceed five per cent of the shares and retained earnings.~~

(C) A credit union may purchase and hold real estate, which is being used or is intended to be used as premises and other fixed assets ~~in an amount aggregating not more than five per cent of the shares and retained earnings of the credit union unless otherwise approved by the superintendent.~~

~~(D) (D) In the case of a purchase of real estate or other fixed asset which raises the aggregate amount of fixed assets to more than five per cent of shares and retained earnings, or a greater amount if approved, the credit union shall submit the following:~~

~~(1) (1) A notice proposing the purchase of real estate or fixed asset that shall address all of the following:~~

- ~~(a) (a) All of the items listed in paragraphs (B)(1) and (B)(2) of this rule;~~

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- ~~(b) (b) The level of fixed assets subsequent to the purchase and the calculated percentage of the fixed assets to shares and retained earnings of the credit union both prior to and after the purchase;~~
- ~~(c) (c) A calculation projecting when the aggregate amount of fixed assets to shares and retained earnings will fall below the five per cent limit; and~~
- ~~(d) (d) Any other information the superintendent requires.~~
- ~~(2) (2) The following supporting documents if applicable:
 - ~~(a) (a) A copy of the offer, contingent upon the superintendent's approval, and acceptance of the agreement to contract for the purchase of real property intended to be used as premises; and~~
 - ~~(b) (b) A copy of the appraiser's report.~~~~
- ~~(E) (E) If the purchase of real estate also includes the construction of an office building and raises the aggregate above five per cent of shares and retained earnings, the credit union shall submit, in addition to the items listed in paragraphs (D)(1) and (D)(2) of this rule, the following:
 - ~~(1) (1) A certified copy of the resolution of the board of directors awarding the general contract that includes the estimated cost of the construction; and
 - ~~(a) (a) The circumstances surrounding the purchase;~~
 - ~~(b) (b) The amount of the proposed purchase;~~
 - ~~(c) (c) How the credit union intends to fund the purchase;~~
 - ~~(d) (d) The total amount the credit union has invested in fixed assets after the purchase; and~~
 - ~~(e) (e) Any other information the superintendent requires.~~~~
 - ~~(2) (2) A copy of the blueprints and architect drawings of the proposed building.~~~~
- ~~(F) (F) If the purchase of real estate also includes the construction of an office building and raises the aggregate above five per cent of shares and retained earnings, the credit union shall submit, in addition to the items listed in this rule, the following:
 - ~~(1) (1) A copy of the blueprints and architect drawings of the proposed building and estimates of the cost for such construction;~~
 - ~~(2) (2) Copies of all written bids by proposed general contractors, indicating the proposed cost of constructing the credit union building; and~~
 - ~~(3) (3) A certified copy of the resolution of the board of directors awarding the general contract.~~~~
- ~~(G) (G) If requested by a credit union, the superintendent may approve a less restrictive fixed asset investment policy than provided in this rule. The request shall be made in writing and filed with the superintendent. It shall include a copy of the proposed fixed asset policy and a certified copy of the resolution of the board of directors approving the policy. The superintendent shall notify the credit union after the filing of the request or policy whether it is denied, approved, or needs modification. If the superintendent does not respond within ten business days after the filing of the request or policy, it shall be deemed approved; unless, the~~

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~~superintendent notifies the credit union in writing within ten business days of the credit union's request being filed that additional documentation is required. If additional documentation is required, the credit union shall have thirty days to file the additional documentation with the superintendent. If the superintendent does not respond within ten business days of the receipt of the additional information, the request or policy shall be deemed approved.~~