

IN THE SENATE

SENATE BILL NO. 1301

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO THE IDAHO CREDIT UNION ACT; REPEALING SECTION 26-2106, IDAHO
2 CODE, RELATING TO AMENDMENTS; AMENDING CHAPTER 21, TITLE 26, IDAHO
3 CODE, BY THE ADDITION OF A NEW SECTION 26-2106, IDAHO CODE, TO PROVIDE
4 FOR THE AMENDMENT OF ARTICLES OF INCORPORATION AND BYLAWS; REPEALING
5 SECTION 26-2109, IDAHO CODE, RELATING TO LIMITATIONS OF CORPORATE POW-
6 ERS; AMENDING CHAPTER 21, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW
7 SECTION 26-2109, IDAHO CODE, TO PROVIDE FOR THE ACQUISITION AND HOLD-
8 ING OF REAL PROPERTY; REPEALING SECTION 26-2119, IDAHO CODE, RELATING
9 TO LOANS TO MEMBERS; AMENDING CHAPTER 21, TITLE 26, IDAHO CODE, BY THE
10 ADDITION OF A NEW SECTION 26-2119, IDAHO CODE, TO PROVIDE FOR THE MAKING
11 OF CERTAIN LOANS; REPEALING SECTION 26-2120, IDAHO CODE, RELATING TO
12 LOANS TO OTHER CREDIT UNIONS WHO ARE MEMBERS; AMENDING CHAPTER 21, TITLE
13 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2120, IDAHO CODE, TO
14 PROVIDE FOR CERTAIN LIMITATIONS ON LOANS; AMENDING CHAPTER 21, TITLE
15 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2120A, IDAHO CODE, TO
16 PROVIDE FOR CERTAIN LIMITS ON LOAN MATURITY; REPEALING SECTION 26-2127,
17 IDAHO CODE, RELATING TO INVESTMENTS; AMENDING CHAPTER 21, TITLE 26,
18 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2127, IDAHO CODE, TO
19 PROVIDE FOR THE INVESTMENT OF FUNDS; REPEALING SECTION 26-2130, IDAHO
20 CODE, RELATING TO DIVIDENDS; AMENDING CHAPTER 21, TITLE 26, IDAHO CODE,
21 BY THE ADDITION OF A NEW SECTION 26-2130, IDAHO CODE, TO PROVIDE FOR DIV-
22 IDENDS; REPEALING SECTION 26-2133, IDAHO CODE, RELATING TO REPORTS; AND
23 AMENDING CHAPTER 21, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SEC-
24 TION 26-2133, IDAHO CODE, TO PROVIDE FOR THE FILING OF CERTAIN FINANCIAL
25 AND STATISTICAL REPORTS.
26

27 Be It Enacted by the Legislature of the State of Idaho:

28 SECTION 1. That Section [26-2106](#), Idaho Code, be, and the same is hereby
29 repealed.

30 SECTION 2. That Chapter 21, Title 26, Idaho Code, be, and the same is
31 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
32 ignated as Section 26-2106, Idaho Code, and to read as follows:

33 26-2106. AMENDMENT TO ARTICLES OF INCORPORATION AND BYLAWS -- AP-
34 PROVAL OF DIRECTOR -- PROCEDURE. (1) A credit union's articles of incorpora-
35 tion and bylaws may be amended as provided in the articles of incorporation
36 and bylaws with approval of the director. Amendments to the articles of
37 incorporation or bylaws must be submitted to the director for approval be-
38 fore they are submitted to a vote by the members of the board. Amendments
39 are deemed to be approved by the director if the director does not deny
40 them within thirty (30) days following receipt of the proposed amendments.

1 Amendments to a credit union's articles of incorporation and bylaws must
2 conform with section 26-2105, Idaho Code.

3 (2) Upon approval by the director and the members of the board, as re-
4 quired, the credit union shall promptly deliver amendments to the articles
5 of incorporation, including any necessary filing fees, to the secretary of
6 state for filing. Amendments to the articles of incorporation or bylaws are
7 effective upon written certification of board approval to the director.

8 SECTION 3. That Section 26-2109, Idaho Code, be, and the same is hereby
9 repealed.

10 SECTION 4. That Chapter 21, Title 26, Idaho Code, be, and the same is
11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
12 ignated as Section 26-2109, Idaho Code, and to read as follows:

13 26-2109. POWER TO ACQUIRE AND HOLD REAL PROPERTY. (1) A credit union
14 may invest in fixed assets necessary or related to its operations, subject to
15 the following limitations:

16 (a) The credit union's net worth equals at least seven percent (7%) of
17 total assets;

18 (b) The board approves any investment in real property; and

19 (c) The aggregate book value of all such investments does not exceed
20 seven and one-half percent (7.5%) of the total of its assets.

21 (2) The director may, upon written application, waive any of the limi-
22 tations listed in subsection (1) of this section.

23 (3) A credit union may acquire property through foreclosure, deed in
24 lieu of foreclosure, repossession, or other means in connection with protec-
25 tion or enforcement of the credit union's rights as a secured lender. Prop-
26 erty acquired in this manner shall not be subject to the limitations of sub-
27 section (1) of this section.

28 (4) For purposes of this section:

29 (a) "Abandoned premises" means premises previously used to transact
30 credit union business but no longer used for that purpose. It also means
31 premises originally acquired to transact future credit union business
32 but no longer intended for that purpose.

33 (b) "Fixed assets" means premises and furniture, fixtures, and equip-
34 ment.

35 (c) "Immediate family member" means a spouse, domestic partner, or
36 other family member living in the same household.

37 (d) "Partially occupy" means occupation and use, on a full-time basis,
38 of at least fifty percent (50%) of each of the premises by the credit
39 union.

40 (e) "Premises" means any office, branch office, suboffice, service
41 center, parking lot, other facility, or real estate where the credit
42 union transacts or will transact business.

43 (f) "Senior management employee" means the credit union's chief execu-
44 tive officer, any assistant chief executive officers, and the chief fi-
45 nancial officer.

46 (g) "Unimproved land" or "unimproved real property" means:

47 (i) Raw land or land without development, significant buildings,
48 structures, or site preparation;

1 (ii) Land that has never had improvements;

2 (iii) Land that was improved at one time but has functionally re-
3 verted to its unimproved state; or

4 (iv) Land that has been improved, but the improvements serve no
5 purpose for the credit union's planned use of the property.

6 (5) Premises not currently used to transact credit union business.

7 (a) If a credit union acquires premises, including unimproved land or
8 unimproved real property, it must partially occupy each of them within a
9 reasonable period, but no later than six (6) years after the date of ac-
10 quisition. The director may waive the partial occupation requirements
11 based on economic or business conditions, or other conditions affecting
12 use of the property, subject to a reasonable plan for partial occupancy.
13 To seek a waiver, a credit union must submit a written request to the di-
14 rector and fully explain why it needs the waiver. The director shall
15 provide the credit union a written response, either approving or disap-
16 proving the request. The director's decision shall be based on safety
17 and soundness considerations.

18 (b) A credit union must make diligent efforts to dispose of abandoned
19 premises and property acquired as described in subsection (3) of this
20 section. The credit union must seek fair market value for the premises
21 or property and record its efforts to dispose of the premises or prop-
22 erty. The credit union must complete the sale within five (5) years of
23 abandonment of the premises or acquisition of the property. Upon ap-
24 plication by the credit union, the director shall approve the continued
25 holding by the credit union for an additional period of five (5) years
26 upon the credit union's showing of its good faith attempt to dispose
27 of the premises or property, or that disposal within the first five
28 (5) year period would be detrimental to the credit union. The director
29 shall provide the credit union a written response, either approving or
30 disapproving the application. If the director fails to respond within
31 forty-five (45) days of receipt, the application is deemed approved.
32 The director's decision shall be based on safety and soundness con-
33 siderations. The credit union shall, during the second five (5) year
34 period, at the end of each year beginning at the end of the sixth year
35 in which it holds the premises or property, write down the value of the
36 premises or property by twenty percent (20%) of the value carried on its
37 books at the beginning of the second five (5) year period. Value at the
38 beginning of the second five (5) year period shall be the lower of cost
39 or market value as determined pursuant to appraisal.

40 (6) A credit union must not acquire, except as allowed in subsection
41 (3) of this section for real property, or lease for one (1) year or longer,
42 premises from any of the following, unless the director waives this prohibi-
43 tion:

44 (a) A member of the credit union's board of directors, credit commit-
45 tee, supervisory committee, or senior management, or an immediate fam-
46 ily member of such individual;

47 (b) A corporation in which a member of the credit union's board of
48 directors, credit committee, supervisory committee, or senior manage-
49 ment, or an immediate family member of such individual, is an officer or
50 director or has a stock interest of ten percent (10%) or more; or

1 (c) A partnership, limited liability company, or other entity in which
2 a member of the credit union's board of directors, credit committee, su-
3 pervisory committee, or senior management, or an immediate family mem-
4 ber of such individual, is a general partner or a limited partner or en-
5 tity member with an interest of ten percent (10%) or more.

6 (7) A credit union must not lease for one (1) year or longer premises
7 from any of its employees if the employee is directly involved in acquiring
8 premises, unless the credit union's board of directors determines the em-
9 ployee's involvement is not a conflict of interest.

10 (8) All transactions with business associates or family members not
11 specifically prohibited by this section must be conducted at arm's length
12 and in the interest of the credit union.

13 (9) To seek a waiver of any of the prohibitions in subsections (6)
14 through (8) of this section, a credit union must submit a written request to
15 the director and fully explain why it needs the waiver. Within forty-five
16 (45) days of the receipt of the waiver request or all necessary documen-
17 tation, whichever is later, the director shall provide the credit union a
18 written response, either approving or disapproving its request. The direc-
19 tor's decision shall be based on safety and soundness considerations and a
20 determination as to whether a conflict of interest exists.

21 SECTION 5. That Section [26-2119](#), Idaho Code, be, and the same is hereby
22 repealed.

23 SECTION 6. That Chapter 21, Title 26, Idaho Code, be, and the same is
24 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
25 ignated as Section 26-2119, Idaho Code, and to read as follows:

26 26-2119. LOANS. (1) A credit union may make secured and unsecured
27 loans to its members under policies established by the board. A person that
28 is not a member of the credit union may serve as a co-borrower or guarantor on
29 a loan to a member of the credit union. Each loan must be evidenced by records
30 adequate to support enforcement or collection of the loan and any review of
31 the loan by the director.

32 (2) A credit union may not extend credit to a director, executive offi-
33 cer, supervisory committee member, or credit committee member unless the ex-
34 tension of credit is made on substantially the same terms as those prevailing
35 at the time for comparable transactions by the credit union with members gen-
36 erally.

37 (a) For the purposes of this section, "executive officer" means a per-
38 son who participates or has authority to participate in policymaking
39 functions of the credit union.

40 (b) A director, executive officer, supervisory committee member, or
41 credit committee member may not participate in approving or disbursing
42 a loan in which the director, executive officer, supervisory committee
43 member, or credit committee member has a direct or indirect financial
44 interest.

45 (c) This section shall not prohibit any extension of credit made pur-
46 suant to a benefit or compensation program adopted by the board of di-
47 rectors that:

48 (i) Is widely available to employees of the credit union; and

- 1 (ii) Does not give preference to any director, executive officer,
2 supervisory committee member, or credit committee member over
3 other employees of the credit union.
- 4 (3) A credit union may make loans to another credit union, federal
5 credit union, or out-of-state credit union.
- 6 (4) A credit union may purchase loans made to its members if the credit
7 union's underwriting policies would have permitted it to originate the
8 loans.
- 9 (5) A credit union may purchase, in whole or in part, within the limita-
10 tions of the board of directors' written purchase policies:
- 11 (a) A loan or group of loans of its members from any source, if they are
12 loans the credit union is empowered to grant or the loan or loans are re-
13 financed with the consent of the borrowers within sixty (60) days after
14 they are purchased, so that they are loans it is empowered to grant;
- 15 (b) A loan or group of loans of a liquidating credit union's individual
16 members from the liquidating credit union;
- 17 (c) Student loans from any source if the purchaser is granting student
18 loans on an ongoing basis and if the purchase will facilitate the pur-
19 chasing credit union's packaging of a pool of such loans to be sold or
20 pledged on the secondary market. A pool must include a substantial por-
21 tion of the credit union's members' loans and must be sold promptly; and
- 22 (d) Real estate-secured loans, from any source, if the purchaser is
23 granting real estate-secured loans on an ongoing basis and if the pur-
24 chase will facilitate the purchasing credit union's packaging of a pool
25 of such loans to be sold or pledged on the secondary mortgage market. A
26 pool must include a substantial portion of the credit union's members'
27 loans and must be sold promptly.
- 28 (6) A credit union may sell in whole or in part, to any source, a loan
29 to its members within the limitations of the board of directors' written sale
30 policies, provided:
- 31 (a) The board of directors or investment committee approves the sale;
32 and
- 33 (b) A written agreement and a schedule of the eligible obligations cov-
34 ered by the agreement are retained in the credit union's office.
- 35 (7) A credit union may purchase a participation interest in a loan from
36 a credit union, credit union service organization, federally insured finan-
37 cial institution, and any state or federal government agency and its subdi-
38 vision only if the loan is one the purchasing credit union is empowered to
39 grant and the following additional conditions are satisfied:
- 40 (a) The purchase complies with all requirements to the same extent as if
41 the purchasing credit union had originated the loan;
- 42 (b) The purchasing credit union has executed a written loan participa-
43 tion agreement with the originating lender and the agreement meets the
44 minimum requirements for a loan participation agreement as described in
45 paragraph (g) of this subsection;
- 46 (c) The originating lender retains an interest in each participated
47 loan of at least ten percent (10%) of the outstanding balance of the loan
48 through the life of the loan, unless a higher percentage is required
49 under applicable state law;

1 (d) The borrower becomes a member of one of the participating credit
2 unions before the purchasing credit union purchases a participation in-
3 terest in the loan;

4 (e) The purchase complies with the purchasing credit union's internal
5 written loan participation policy, which, at a minimum, must:

6 (i) Establish underwriting standards for loan participations;

7 (ii) Establish a limit on the aggregate amount of loan participa-
8 tions that may be purchased from any one (1) originating lender,
9 not to exceed the greater of five million dollars (\$5,000,000) or
10 one hundred percent (100%) of the credit union's net worth, unless
11 this amount is waived by the director;

12 (iii) Establish limits on the amount of loan participations that
13 may be purchased by each loan type, not to exceed a specified per-
14 centage of the credit union's net worth; and

15 (iv) Establish a limit on the aggregate amount of loan participa-
16 tions that may be purchased with respect to a single borrower, or
17 group of associated borrowers, not to exceed fifteen percent (15%)
18 of the credit union's net worth, unless waived by the director;

19 (f) To seek a waiver from any of the limitations in subsection (7) of
20 this section, a credit union must submit a written request to the di-
21 rector with a full and detailed explanation of why it is requesting the
22 waiver. Within forty-five (45) days of receipt of a completed waiver
23 request, including all necessary supporting documentation and, if
24 appropriate, any written concurrence, the director shall provide the
25 credit union a written response. The director's decision shall be based
26 on safety and soundness and other considerations. A credit union may
27 request the director to reconsider a denied waiver request or to file an
28 appeal under the administrative procedures rules, or both; and

29 (g) A loan participation agreement must:

30 (i) Be properly executed by authorized representatives of all
31 parties under applicable law;

32 (ii) Be properly authorized by the credit union's board of direc-
33 tors or, if the board has so delegated in its policy, a designated
34 committee or senior management official under the credit union's
35 bylaws and all applicable law;

36 (iii) Be retained, either in original or copied form, in the credit
37 union's office; and

38 (iv) Include provisions that, at a minimum, address the follow-
39 ing:

40 1. Prior to purchase, the identification of the specific
41 loan participation or participations being purchased, ei-
42 ther directly in the agreement or through a document that is
43 incorporated by reference into the agreement;

44 2. The interest that the originating lender will retain in
45 the loan to be participated through the life of the loan;

46 3. The location and custodian for original loan documents;

47 4. An explanation of the conditions under which parties to
48 the agreement can gain access to financial and other perfor-
49 mance information about a loan, the borrower, and the ser-
50 vicer so the parties can monitor the loan;

1 5. An explanation of the duties and responsibilities of the
2 originating lender, servicer, and participants with respect
3 to all aspects of the participation, including servicing,
4 default, foreclosure, collection, and other matters involv-
5 ing the ongoing administration of the loan; and

6 6. Circumstances and conditions under which participants
7 may replace the servicer.

8 (8) Any real estate-secured loans granted by a nonfederally insured
9 credit union shall comply with the appraisal requirements for federally in-
10 sured credit unions. The director may require any credit union to obtain an
11 appraisal on any real estate-secured loan whenever the director believes it
12 necessary to address safety and soundness concerns.

13 (9) Any officer, director, supervisory committee member, or credit
14 committee member who knowingly permits a loan to be made or participates in
15 a loan to a nonmember of the credit union, unless the loan to the nonmember
16 is otherwise allowed in this chapter or by a rule pursuant to this chap-
17 ter, shall be primarily liable to the credit union for the amount illegally
18 loaned. The illegality of such loan shall not be a defense in any action by
19 the credit union to recover the amount loaned.

20 SECTION 7. That Section [26-2120](#), Idaho Code, be, and the same is hereby
21 repealed.

22 SECTION 8. That Chapter 21, Title 26, Idaho Code, be, and the same is
23 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
24 ignated as Section 26-2120, Idaho Code, and to read as follows:

25 26-2120. LIMIT ON LOAN AMOUNT -- LOANS TO ONE BORROWER. (1) Unless oth-
26 erwise provided in this chapter or by a rule pursuant to this chapter, no loan
27 may be made to any borrower if the loan would cause the borrower and any as-
28 sociated borrowers to be indebted to the credit union on all types of loans
29 in an aggregated amount exceeding one hundred thousand dollars (\$100,000)
30 or fifteen percent (15%) of the net worth of the credit union, whichever is
31 greater, without the approval of the director.

32 (a) This section does not apply to a corporate credit union.

33 (b) Two (two) borrowers are "associated" for the purposes of this sec-
34 tion if any of the following factors are present:

35 (i) One (1) of them will derive a direct benefit from the credit
36 union's loan to the other. For this purpose, the term "direct ben-
37 efit" means that the loan proceeds or assets purchased with those
38 proceeds will be transferred to the other party other than in a
39 bona fide arm's length transaction where the proceeds are used to
40 acquire property, goods, or services;

41 (ii) Loan proceeds for each of them are used to purchase interests
42 in the same enterprise, and the borrowers will in the aggregate own
43 more than fifty percent (50%) of the ownership interests in such
44 enterprise. In such case, the borrowers are considered associated
45 only to the extent of the loans made to purchase interests in the
46 same enterprise;

47 (iii) The borrowers are related directly or indirectly through
48 common control and either borrower derives fifty percent (50%) or

1 more of its income from the other. For this purpose, "control"
 2 means that a person directly or indirectly owns or has the power
 3 to vote twenty-five percent (25%) or more of the ownership inter-
 4 est of an organization, controls the election of a majority of the
 5 directors, managers, trustees, or other persons exercising sim-
 6 ilar functions of an organization, or has the power to exercise a
 7 controlling influence over the management or policies of the or-
 8 ganization;

9 (iv) The expected source of repayment is the same for each bor-
 10 rower, and no individual borrower has a separate source of income
 11 from which the loan may be paid, taking into account the borrower's
 12 other obligations; or

13 (v) One (1) borrower is generally liable for the obligations or
 14 actions of the other.

15 (2) The limit on a loan amount in this section does not apply to any loan
 16 that is fully secured by shares or deposits.

17 SECTION 9. That Chapter 21, Title 26, Idaho Code, be, and the same is
 18 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 19 ignated as Section 26-2120A, Idaho Code, and to read as follows:

20 26-2120A. LIMIT ON LOAN MATURITY. The maturity of a loan to a member
 21 may not exceed fifteen (15) years except as follows:

22 (1) A credit union may make loans with maturities not to exceed twenty
 23 (20) years in the case of:

24 (a) A loan to finance the purchase of a manufactured home if the man-
 25 ufactured home will be used as the member's residence and the loan is
 26 secured by a first lien on the manufactured home, and the manufactured
 27 home meets the requirements for the deductibility of residential mort-
 28 gage interest for income tax under the Internal Revenue Code;

29 (b) A second mortgage loan or a nonpurchase money first mortgage loan in
 30 the case of a residence on which there is no existing first mortgage, if
 31 the loan is secured by a residential dwelling that is the residence of
 32 the member; and

33 (c) A loan to finance the repair, alteration, or improvement of a resi-
 34 dential dwelling that is the residence of the member.

35 (2) A credit union may make residential real estate loans on one-to-
 36 four family dwellings used as second or vacation residences, including an
 37 individual cooperative unit, and that are secured by a first lien upon such
 38 dwelling, with maturities not to exceed thirty (30) years.

39 (3) A credit union may make residential real estate loans to members,
 40 including loans secured by manufactured homes permanently affixed to the
 41 land, with maturities not to exceed forty (40) years, subject to the follow-
 42 ing conditions:

43 (a) The loan shall be made on a one-to-four family dwelling that is or
 44 will be the principal residence of the member, and the loan shall be
 45 secured by a perfected first lien in favor of the credit union on such
 46 dwelling, or a perfected first security interest in the case of either a
 47 residential cooperative or a leasehold or ground rent estate;

48 (b) The loan application shall be a completed standard federal housing
 49 administration, veterans administration, federal home loan mortgage

1 corporation, federal national mortgage association, or federal home
 2 loan mortgage corporation/federal national mortgage association ap-
 3 plication form. In lieu of use of a standard application, the credit
 4 union may have a current attorney's opinion on file stating that the
 5 forms in use meet the requirements of applicable federal, state, and
 6 local laws;

7 (c) The security instrument and note shall be executed on the most
 8 current version of the federal housing administration, veterans admin-
 9 istration, federal home loan mortgage corporation, federal national
 10 mortgage association, or federal home loan mortgage corporation/fed-
 11 eral national mortgage association uniform instruments for the juris-
 12 diction in which the property is located. In lieu of use of a standard
 13 security instrument and note, the credit union may have a current attor-
 14 ney's opinion on file stating that the security instrument and note in
 15 use meet the requirements of applicable federal, state, and local laws;
 16 and

17 (d) The loan shall be secured by a perfected first lien or first secu-
 18 rity interest in favor of the credit union supported by a properly exe-
 19 cuted and recorded security instrument.

20 (4) Lines of credit are not subject to a maturity limit except as deter-
 21 mined by contract between the credit union and the member.

22 SECTION 10. That Section [26-2127](#), Idaho Code, be, and the same is hereby
 23 repealed.

24 SECTION 11. That Chapter 21, Title 26, Idaho Code, be, and the same is
 25 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 26 ignated as Section 26-2127, Idaho Code, and to read as follows:

27 26-2127. INVESTMENT OF FUNDS. (1) A credit union's board of directors
 28 must establish a written investment policy consistent with this chapter and
 29 other applicable laws and regulations.

30 (2) A credit union may invest its funds in any of the following, as long
 31 as the investments are deemed prudent by the board:

32 (a) (i) Loans held by credit unions, out-of-state credit unions, or
 33 federal credit unions; and

34 (ii) Loans to members held by other lenders, with approval of the
 35 director;

36 (b) Bonds, securities, or other investments that are fully guaranteed
 37 as to principal and interest by the United States government;

38 (c) General obligations of this state and its political subdivisions;

39 (d) Obligations issued by corporations designated under 31 U.S.C.
 40 9101, or obligations, participations, or other instruments issued
 41 and guaranteed by the federal housing administration, veterans admin-
 42 istration, federal home loan mortgage corporation, federal national
 43 mortgage association, or federal home loan mortgage corporation/fed-
 44 eral national mortgage association, or other government-sponsored
 45 enterprise;

46 (e) Share or deposit accounts of other financial institutions, the ac-
 47 counts of which are federally insured or insured or guaranteed by an-
 48 other insurer or guarantor approved by the director. The shares and de-

1 posits made by a credit union under this subsection may exceed the in-
2 surance or guarantee limits established by the organization insuring
3 or guaranteeing the institution into which the shares or deposits are
4 made;

5 (f) Common trust or mutual funds whose investment portfolios consist of
6 securities issued or guaranteed by the federal government or an agency
7 of the government;

8 (g) Shares or other interests offered by a registered investment com-
9 pany or collective investment fund, if the company or fund restricts the
10 investment portfolio to investments and investment transactions that
11 are permissible for credit unions, as evidenced by its prospectus or
12 other appropriate documentation;

13 (h) Debt or equity issued by an organization owned by a credit union
14 trade association whose members include Idaho credit unions, in an ag-
15 gregate amount not to exceed one percent (1%) of the net worth of the
16 credit union;

17 (i) Stocks, shares, membership units, or other ownership interests in
18 corporations, limited liability companies, or mutual associations, in
19 an aggregate amount not to exceed one percent (1%) of assets, and loans
20 to such organizations in an aggregate amount not to exceed one percent
21 (1%) of assets if:

22 (i) The ownership of such organizations or membership of such mu-
23 tual associations, as applicable, is primarily confined to credit
24 unions or organizations of credit unions; and

25 (ii) The purposes for which the corporation, limited liability
26 company, or mutual association is formed are primarily to service
27 credit unions or their members or otherwise to assist credit union
28 operations.

29 (3) The director may authorize credit unions to purchase investments
30 not listed above by rule or upon written application.

31 (4) If a credit union has lawfully made an investment that later becomes
32 impermissible because of a change in circumstances or law, and the direc-
33 tor finds that this investment will have an adverse effect on the safety and
34 soundness of the credit union, then the director may require that the credit
35 union develop a reasonable plan for the divestiture of the investment.

36 (5) A credit union other than a corporate credit union shall not in-
37 vest an amount that exceeds twenty-five percent (25%) of its net worth in an
38 obligor or affiliate of the obligor. This subsection does not apply to the
39 extent that the investment is insured or guaranteed by the United States gov-
40 ernment or an agency of the United States government or a state or local gov-
41 ernment or that the investment is in a corporate credit union.

42 (6) A credit union shall maintain files containing credit and other in-
43 formation adequate to demonstrate evidence of prudent business judgment in
44 exercising the investment powers granted under this act or by rule, order, or
45 declaratory ruling of the director.

46 SECTION 12. That Section [26-2130](#), Idaho Code, be, and the same is hereby
47 repealed.

1 SECTION 13. That Chapter 21, Title 26, Idaho Code, be, and the same is
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
3 ignated as Section 26-2130, Idaho Code, and to read as follows:

4 26-2130. DIVIDENDS. (1) After allocation to required reserves, the
5 board of directors may, at the end of any dividend period duly established,
6 declare a dividend to be paid on shares or share certificates from undivided
7 earnings as the bylaws may provide. Dividends may be paid at various rates,
8 or not paid at all, with due regard to the conditions that pertain to each
9 class of share.

10 (2) Subject to the approval of the board of directors, accounts closed
11 between dividend periods may be credited with dividends at the rate set by
12 the board of directors.

13 (3) Extraordinary dividends must be calculated on a rational means de-
14 termined by the board of directors. For purposes of this section, "extraor-
15 dinary dividends" means all irregularly scheduled and declared dividends.

16 SECTION 14. That Section 26-2133, Idaho Code, be, and the same is hereby
17 repealed.

18 SECTION 15. That Chapter 21, Title 26, Idaho Code, be, and the same is
19 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
20 ignated as Section 26-2133, Idaho Code, and to read as follows:

21 26-2133. REPORTS -- FINANCIAL AND STATISTICAL DATA. Each credit union
22 shall timely file with the director any financial and statistical report or
23 other information that a federally insured state-chartered credit union is
24 required to file with the national credit union administration. Each report
25 must be certified by the principal operating officer of the credit union. In
26 addition, a credit union shall file reports as may be required by the direc-
27 tor.