

POLICY STATEMENT CONCERNING PAYMENT OF DIVIDENDS BY STATE-CHARTERED CREDIT UNIONS PURSUANT TO SECTION 34-26-710(1)

South Carolina law establishes the framework under which state-chartered credit unions may declare and pay dividends on share accounts. Specifically, the applicable statute states:

At such intervals and for such periods as the board of directors may authorize, and after provision for the required reserves, the board of directors may declare dividends to be paid on share accounts from the current earnings. Any dividends paid from the undivided earnings account must have the prior approval of the commissioner.

S.C. Code Ann. § 34-26-710(1) (West 2020).

The Board believes that the issuance of this policy statement will aid in the implementation of the above statute.

Definition of Terms

Depending on the source of the dividends to be paid, section 34-26-710(1) establishes that a state-chartered credit union may need to obtain the Commissioner's approval prior to paying dividends on share accounts. Per the statute, if the dividends are paid from "current earnings," no approval is required. If the dividends are paid from "undivided earnings," prior approval of the Commissioner is required. However, these two terms are not defined. This policy statement defines those terms in order to provide credit unions with guidance as to implementation of the statute and to provide certainty as to when Commissioner approval is required.

"Current Earnings" is defined as fiscal year-to-date Net Income (after the payment of prior dividends during the current fiscal year) less any transfers to the Regular Reserves that a credit union must fund through year-to-date income.

"Undivided Earnings" is defined as the post-closing balance of the Undivided Earnings account as of the end of the prior fiscal year and adjusted for any decreases during the current year that were funded by Undivided Earnings.

Automatic Approval by the Commissioner of Banking

If any part of a dividend will be paid from Undivided Earnings, a credit union must seek and obtain the prior approval of the Commissioner. When a credit union meets certain financial and safety and soundness criteria, the Commissioner would approve the request to pay a dividend without further analysis; hence, an automatic approval of the Commissioner would streamline the dividend paying process by eliminating paperwork and the time required to obtain the approval.

Therefore, unless otherwise instructed by the State Board of Financial Institutions or the Commissioner of Banking, the Commissioner grants an automatic approval of a dividend payment that is to be paid from Undivided Earnings if (1) the credit union has a net worth ratio after the dividend payment of at least 8%, (2) its capital adequacy rating is a 1 or a 2, and (3) it has adequately provided a provision for loan losses. In such a case, the credit union may pay the dividend without making a written request to the Commissioner for a prior approval. However, the credit union must within thirty days of paying the dividend send a letter to the Commissioner identifying the amount and date of the dividend paid and certifying that the credit union met the three requirements of this policy statement at the time the dividend was paid.

“Net Worth Ratio” is defined as the net worth of the credit union divided by the total assets of the credit union where net worth and total assets have the meanings as defined in §702.2 of the NCUA Rules and Regulations.

On this 5th day of August 2020, the Board hereby adopted and issued this policy statement.



Curtis M. Loftis, Jr.,
Chairman
State Board of Financial Institutions