

Article 1.—LOW-INCOME/COMMUNITY DEVELOPMENT CREDIT UNIONS

121-1-1. Low-income credit union non-member shares. (a) Designation of low-income status. A credit union may apply to the administrator for designation as a low-income credit union. A credit union may be designated by the administrator as a low-income credit union if the administrator determines that it is in the public interest that the administrator designate the credit union as a low-income credit union and that:

(1) a majority of members of the credit union are low-income members; or
(2) the credit union's field of membership is limited to geographic areas in which the majority of the residents, if members of the credit union, would be low-income members.

(b) Requirements. A credit union designated by the administrator as a "low-income credit union" may accept payments on shares from non-members of the credit union only if:

(1) the credit union has adopted and follows a written plan meeting the requirements of K.A.R. 121-1-1(e);

(2) the administrator approves the plan;

(3) at or before the time the credit union first receives a payment on shares from any non-member, and annually thereafter, the credit union provides to each non-member shareholder a written share account disclosure statement meeting the requirements of K.A.R. 121-1-1(f);

(4) except as provided in K.A.R. 121-1-1(g), the maximum amount of non-member shares outstanding at any time does not exceed 20 percent of the total shares of the credit union or \$1,500,000, whichever is greater; and

(5) the administrator has not revoked the designation of the credit union as a "low-income credit union."

(c) Maturity. Shares from non-members may be issued either with a fixed maturity not to exceed five years or without a fixed maturity. For shares issued without a fixed maturity, the terms of account required by K.A.R. 121-1-1(e) shall provide the credit union with the right to require up to 60 days advance notice before such shares may be withdrawn from the credit union.

(d) Uses. Except as limited by K.A.R. 121-1-1(g), a low-income credit union may use the payments on shares from non-members for any purpose permitted by law.

(e) Plan for non-member shares. Each plan for non-member shares shall include:

(1) a detailed statement specifying the credit union's need for, amount of, and sources and intended uses of non-member shares;

(2) the terms of the account, including maturity, dividend rate and calculation disclosures, withdrawal restrictions, and balance requirements;

(3) the credit union's loan and investment policies;

(4) the credit union's latest income statement and balance sheet;

(5) a pro forma income statement and balance sheet reflecting the issuance and uses of the amount of non-member shares specified in K.A.R. 121-1-1(e)(1); and

(6) a copy of the credit union's proposed disclosure statement meeting the requirements of K.A.R. 121-1-1(f).

(f) Required disclosure. Each non-member share account disclosure statement shall include:

(1) a statement that non-member shares do not provide the owner with membership or voting rights in the credit union;

(2) a statement that non-member shares are subject to the same statutory provisions as other shares of the credit union, including:

(A) the credit union's lien and right of set-off on non-member shares and dividends thereon;

(B) the proportionate reduction in the liability of the credit union to shareholders in accordance with the provisions of K.S.A. 17-2225 and amendments thereto;

(C) the priority in liquidation or dissolution of the credit union; and

(D) limitations on the credit union's ability to pay dividends; and

(3) the terms of the non-member share account, including the maturity, dividend rate and calculation disclosure, withdrawal restrictions and account balance requirements.

(g) Authority to receive additional payment on non-member shares. A low-income credit union may accept payments on shares from non-members in excess of the limitations provided in K.A.R. 121-1-1(b)(4) only if:

(1) the amounts in excess of the limits imposed by K.A.R. 121-1-1(b)(4) are used to fund loans to members; and

(2) the maximum amount of non-member shares outstanding at any time does not exceed \$5,000,000.

(h) Removal of designation as low-income credit union.

(1) The designation of a credit union as a low-income credit union may be removed by the administrator:

(A) at the request of the credit union if the administrator determines that such action will not adversely affect the members of the credit union and that such action would be in the public interest; or

(B) if, following notice to the credit union and the opportunity for a hearing, the administrator determines that the credit union no longer meets the criteria to be a low-income credit union and that removal of the designation is in the public interest.

(2) Immediately following the removal of the designation as a low-income credit union, the credit union shall give written notice to all members of the removal of the designation.

(i) Redemption of non-member shares. If the designation as a low-income credit union is removed in accordance with K.A.R. 121-1-1(h), the credit union shall give written notice to each non-member shareholder:

(1) that the credit union is no longer eligible to receive payments on shares from non-members;

(2) that all non-member share accounts will be closed;

(3) that all shares of non-members will be redeemed without any early withdrawal penalty; and

(4) of the date of the redemption. The redemption date shall be as follows.

(A) The redemption date for shares issued either with a fixed maturity or with a notice period prior to withdrawal, shall be no later than the maturity date of such shares, or if the non-member gives or has given the required notice of withdrawal, the date on which such shares would be redeemed in accordance with the terms of the account for such shares, or 90 days after the effective date of removal of the designation as a low-income credit union, whichever occurs first;

(B) The redemption rate for shares issued without a fixed maturity shall be no later than the date the non-member requests withdrawal of such shares in accordance with the terms of account for such shares, or 90 days after the effective date of removal of the designation as a low-income credit union, whichever occurs first. (Authorized by K.S.A. 1994 Supp. 17-2204, as amended by 1995 SB 33, Sec. 1; implementing K.S.A. 1994 Supp. 17-2231, as amended by 1995 SB 33, Sec. 2; effective Sept. 15, 1995.)