

**RULES
OF
THE TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS
CHAPTER 0180-10
INVESTMENTS BY STATE CHARTERED CREDIT UNIONS**

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0180-10-1-.01. DEFINITIONS. For the purpose of this chapter, unless the context otherwise provides:

- (1) "Security" means any investment or deposit authorized for a credit union pursuant to T.C.A. Section 45-4-501(3).
- (2) "Standby commitment" means an agreement to purchase or sell a security at a future date, whereby the buyer is required to accept delivery of the security at the option of the seller.
- (3) "Cash forward agreement" means an agreement to purchase or sell a security at a future date requiring mandatory delivery and acceptance. A contract for the purchase or sale of a security for which delivery of the security is made in excess of thirty (30) days of the trade date shall be considered a cash forward agreement.
- (4) "Repurchase transaction" means a transaction in which a credit union agrees to purchase a security from a seller and to resell a security to that seller at a later date.
- (5) "Reverse repurchase transaction" means a transaction whereby a credit union agrees to sell a security to a purchaser and to repurchase the same security from the purchaser at a future date, irrespective of the amount of consideration paid by the credit union or the purchaser.
- (6) "Futures contract" means a contract for the purchase or sale of a commodity on a future date at a specified price through an organized exchange and includes contracts known as "interest rate futures".
- (7) "Settlement date" means the date originally agreed to by a credit union and a vendor for settlement of the purchase or sale of a security, without any modification or extension of that date.
- (8) "Maturity date" means the date on which the security matures and shall not mean the call date or the average life of the security.
- (9) "Adjusted trading" means any method or transaction used to defer a loss whereby a credit union sells a security to a vendor at a price above its current market price and simultaneously purchases or commits to purchase from that vendor another security above its current market price.
- (10) "Trade date" means the date a credit union originally agreed, whether by oral or written agreement, to enter into the purchase or sale of a security with a vendor.
- (11) "Short sale" means the sale of a security not owned by the seller.
- (12) "Market price" means the last established price at which a security is sold.

Authority: T.C.A. §§ 45-4-1001 and 45-4-501(3). **Administrative History:** Original Rule filed September 11, 1980; effective October 27, 1980.

0180-10-1-.02. LIMITATION ON CASH FORWARD (FORWARD PLACEMENT) CONTRACTS. Except as provided by Rule 0180-10-1-.03, a credit union may not enter into a contract for the purchase or sale of a security otherwise authorized by T.C.A. Section 45-4-501(3) if the delivery of the security is to be made more than thirty (30) days from the trade date.

Authority: T.C.A. §§ 45-4-1001 and 45-4-501(3). *Administrative History:* Original Rule filed September 11, 1980; effective October 27, 1980.

0180-10-1-.03. EXCEPTIONS; PROHIBITION AGAINST PAIR-OFF ARRANGEMENTS.

- (1) A credit union may enter into a cash forward agreement to purchase a security; provided that the period from the trade date to the settlement date does not exceed one hundred twenty (120) days, and the credit union has written cash flow projections evidencing its ability to purchase the underlying security.
- (2) A credit union may not enter into a cash forward agreement to sell a security unless it owns the security at the time of the trade date, and the settlement date is not more than thirty (30) days from the trade date. All cash forward agreements must be settled on a cash basis at the settlement date.
- (3) A credit union may not engage in pair-off transactions involving cash forward agreements whereby a credit union agrees to purchase a security and subsequently agrees to sell the same security on the same settlement date.

Authority: T.C.A. §§ 45-4-1001 and 45-4-501(3). *Administrative History:* Original Rule filed September 11, 1980; effective October 27, 1980.

0180-10-1-.04. PROHIBITION AGAINST STANDBY COMMITMENTS. A credit union may not enter into a standby commitment to purchase or sell a security. This limitation also prohibits the use of a yield maintenance contract which is hereby defined as a concurrent commitment to purchase a security by means of a cash forward agreement and to sell the same security on the same settlement date by means of a standby commitment.

Authority: T.C.A. §§ 45-4-1001 and 45-4-501(3). *Administrative History:* Original Rule filed September 11, 1980; effective October 27, 1980.

0180-10-1-.05. REPURCHASE TRANSACTIONS. A credit union may enter into a repurchase transaction only if:

- (a) A credit union purchasing the security takes physical possession of the security, or receives written confirmation of the purchase and a custodial or safekeeping receipt from a third party bank or other financial institution which identifies a specific security in its possession as owned by the credit union;
- (b) There is no restriction on the transfer of the security purchased by the credit union; and
- (c) The credit union is not required to deliver the identical security to the vendor upon resale.

Any other repurchase agreement shall be deemed to be a loan and may be made only to members of the credit union or to other credit unions.

Authority: T.C.A. §§ 45-4-1001 and 45-4-501(3). *Administrative History:* Original rule filed September 11, 1980; effective October 27, 1980.

0180-10-1.06. REVERSE REPURCHASE TRANSACTIONS CONSIDERED BORROWINGS. A credit union may enter into a reverse repurchase transaction subject to the limitation on borrowing contained in T.C.A. § 45-4-501(3) if the investments and deposits from the funds received have a maturity date not later than the future settlement date for the reverse repurchase transaction.

Authority: T.C.A. §§ 45-4-1001 and 45-4-501(3). *Administrative History:* Original rule filed September 11, 1980; effective October 27, 1980. Amendment filed December 28, 1983; effective March 16, 1984.

0180-10-1.07. LIMITATIONS ON DOLLAR PRICE REPURCHASE AGREEMENTS.

- (1) A dollar price repurchase agreement is hereby defined as a sale of a security coupled with a simultaneous agreement to purchase another security in the future by use of a forward placement contract. Accordingly, a credit union may enter into such an agreement only if:
 - (a) gains and losses on the sale of securities sold are recognized on the settlement date of the initial sale;
 - (b) the limitations cited in Rules 0180-10-1-02 and 0180-10-1-03 for purchasing a security under a cash forward agreement are met.

Authority: T.C.A. §§ 45-4-1001 and 45-4-501(3). *Administrative History:* Original rule filed September 11, 1980; effective October 27, 1980.

0180-10-1.08. OTHER GENERAL PROHIBITIONS.

- (1) A credit union may not engage in the following investment activities.
 - (a) adjusted trading;
 - (b) short sales; and
 - (c) the purchase or sale of a futures contract.

Authority: T.C.A. §§ 45-4-1001 and 45-4-501(3). *Administrative History:* Original rule filed September 11, 1980; effective October 27, 1980.

0180-10-1.09. PURCHASES REQUIRED AT MARKET PRICE. All purchases and sales of securities by a credit union by means of a cash forward agreement or cash transaction must be at the market price.

Authority: T.C.A. §§ 45-4-1001 and 45-4-501(3). *Administrative History:* Original rule filed September 11, 1980; effective October 27, 1980.

0180-10-1.10. WRITTEN INVESTMENT POLICY. Prior to engaging in any investment activity permitted by this chapter, the board of directors of the credit union shall adopt a written investment policy setting forth limitations applicable to each type of permissible investment activity provided for in this chapter and indicating the purpose of, and strategy behind, any investment activity undertaken by the credit union. The board of directors or an investment committee appointed by the board shall review all outstanding contract positions at least monthly.

Authority: T.C.A. §§ 45-4-1001 and 45-4-501(3). *Administrative History:* Original rule filed September 11, 1980; effective October 27, 1980.