



Common Sense Initiative

Mike DeWine, *Governor*
Jon Husted, *Lt. Governor*

Joseph Baker, *Director*

MEMORANDUM

TO: John Coady, Ohio Department of Commerce

FROM: Caleb White, Business Advocate

DATE: March 19, 2024

RE: CSI Review – Credit Union, 2023 5YR (OAC 1301:9-1-02, 1301:9-1-03, 1301:9-1-04, 1301:9-2-02, 1301:9-2-03, 1301:9-2-04, 1301:9-2-05, 1301:9-2-07, 1301:9-2-07.1, 1301:9-2-08, 1301:9-2-09, 1301:9-2-10, 1301:9-2-11, 1301:9-2-12, 1301:9-2-13, 1301:9-2-16, 1301:9-2-18, 1301:9-2-19, 1301:9-2-20, 1301:9-2-21, 1301:9-2-22, 1301:9-2-23, 1301:9-2-24, 1301:9-2-25, 1301:9-2-26, 1301:9-2-27, 1301:9-2-28, 1301:9-2-30, 1301:9-2-31, 1301:9-2-32, 1301:9-2-37, 1301:9-2-38, 1301:9-2-39, 1301:9-2-40, 1301:9-2-41, and 1301:9-2-42)

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Department as provided for in ORC 107.54.

Analysis

This rule package consists of thirty-five amended rules and one rescinded rule proposed by the Ohio Department of Commerce (Department) as a part of the statutory five-year review process. This rule package was submitted to the CSI Office on February 1, 2024, and the public comment period was held open through February 26, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on February 1, 2024.

The rules contained in Ohio Administrative Code (OAC) Chapters 1301:9-1 and 1301:9-2 establish the regulatory framework pertaining to state-chartered credit unions in Ohio. The rules in this package address topics such as reporting requirements, guidelines for assessing supervisory for fee credit unions, credit union member voting requirements, bond requirements, loan processes, guidelines, and requirements, the frequency in which members are to be provided their account statements, the investment authority of credit unions, requirements for a credit union to enter into

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certain derivatives transactions, liquidity requirements, requirements that must be met for a credit union to declare dividends, what constitutes impairment, requirements surrounding independent audits, reimbursement rates, service charges, and fees credit unions are authorized to charge, membership regulations, the documentation required to form a credit union, requirements surrounding the purchase of fixed assets or real estate, requirements for credit card lending programs, requirements surrounding joint membership shares, requirements for filing suspicious activity reports, the process, requirements and duties surrounding the liquidation of a credit union, the process and requirements for converting a state chartered credit union to a federally chartered credit union, the conditions in which a credit union may act as a trustee or custodian, the process and requirements surrounding mergers, and requirements for doing business out of state. These rules are largely amended to streamline language and requirements, as well as to update dates and references. In addition to these changes, these rules are also amended to add bank accounts, bank certificates of deposit, and bank deposits to the list of approved investment methods for credit unions, update the standards for calculating liquidity, and require a credit union to check their liquidity on a monthly basis and report to the Department when liquidity falls below five percent.

During early stakeholder outreach, the Department emailed the proposed rules to the Ohio Credit Union League (OCUL) and American Share Insurance in October of 2023 and requested their feedback. The Department then distributed the rules to all Ohio chartered credit unions on November 9, 2023, requesting additional feedback. In response to this outreach, the Department received written comments from the OCUL on behalf of its members. The Department made a number of changes in response to these comments and has met with the OCUL on multiple occasions to further discuss the feedback resulting from this outreach. During the CSI public comment period the Department received one comment from the OCUL in support of the proposed rules. After the public comment period and following questions from the CSI Office, the Department elected to rescind an unnecessary rule related to procedures for amending administrative rules.

The business community impacted by the rules includes all state-chartered credit unions in Ohio. The adverse impacts created by the rules includes supervisory fees, potential fines, fees and civil penalties for rule violations, costs associated with the requirement for a credit union to pay for a bond (which is based on their assets), time and costs associated with providing copies of financial statements, and the time and costs associated with preparing and submitting various types of documentation, reports and materials. The adverse impact to business also includes time and costs associated with notification requirements, obtaining various required approvals from the Department, the costs associated with obtaining an independent auditor, and certain limits for loans. The Department states that the adverse impacts to business are justified to maintain the safety and soundness of Ohio chartered credit unions and the financial system.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Department should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.