

**STATE OF MICHIGAN  
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

**Before the Director of the Department of Insurance and Financial Services**

In the Matter of:

Order No. 18-063-CU

Dow Chemical Employees' Credit Union's  
Request for Additional Powers

---

Issued and Entered  
this 15<sup>th</sup> day of October 2018  
By Patrick M. McPharlin  
Director

**ORDER AUTHORIZING STATE-CHARTERED CREDIT UNIONS  
TO EXERCISE ADDITIONAL POWERS**

**I. BACKGROUND**

Dow Chemical Employees' Credit Union (DCECU) is a state-chartered credit union (i.e., a domestic credit union) under the Michigan Credit Union Act (MCUA), MCL 490.101 *et seq.* On July 2, 2018, DCECU applied to the Director (Director) of the Department of Insurance and Financial Services (DIFS) for authority to exercise powers not specifically authorized by the MCUA. Specifically, DCECU requested that the Director authorize DCECU and all domestic credit unions to invest, without limitation, in obligations of Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Corporation (Freddie Mac), Federal Home Loan Banks (FHL), and entities in the federally-chartered Farm Credit System (FCS).

**II. ISSUE**

This order addresses whether it is appropriate and necessary to authorize domestic credit unions to invest, without limitation, in obligations of Fannie Mae, Freddie Mac, FHLB, and entities in the FCS.

**III. ANALYSIS**

Under Section 208 of the MCUA, the Director may, upon application by one or more domestic credit unions, issue an order authorizing domestic credit unions to exercise powers not specifically

authorized by the MCUA, if the Director finds that those powers are appropriate and necessary to compete with other providers of financial services in this state. MCL 490.208(1).

In issuing an order authorizing additional powers, the Director "shall consider the ability of the domestic credit unions to exercise the additional power in a safe and sound manner, the authority of the domestic credit unions under state or federal law or regulation, the powers of other competing entities providing financial services, and any specific limitations on domestic credit union powers contained in this act or in any rules or other law of this state." MCL 490.208(2). Taking each of the criteria in Section 208(2) in turn, the Director makes the following findings.

Ability to Exercise the Additional Power in a Safe and Sound Manner

The additional power DCECU seeks would allow for investment in Fannie Mae, Freddie Mac, FHLB, and entities in FCS without limitation. Exercising this additional power would not affect the domestic credit union's board of directors' responsibility for developing investment policies using prudent judgment (see MCL 490.342(3)(h), MCL 490.431(1)(d)(i) through 490.431(1)(d)(iv)); and for maintaining the credit union's safety and soundness (see MCL 490.342(2)).

Accordingly, the Director finds that domestic credit unions may invest, without limitation, in obligations of Fannie Mae, Freddie Mac, FHLB, and entities in FCS in a safe and sound manner.

Authority Under State and Federal Law and Regulations

Domestic credit unions do not currently have the authority to invest in the above-listed obligations in an amount exceeding 25% of a credit union's net worth. MCL 490.431(1)(a) authorizes domestic credit unions "to make investments in securities, obligations, or other instruments of or issued by or fully guaranteed as to principal and interest by the United States or an agency or instrumentality of the United States, or in any trust or trusts established for investing directly or collectively in those securities, obligations, or instruments." MCL 490.431(2) limits, to 25% of a credit union's net worth, investments that

are not insured or guaranteed by the United States government or an agency of the United States government or a state or local government. In effect, MCL 490.431(2) limits a domestic credit union's investments in Fannie Mae, Freddie Mac, FHLB, and entities in the FCS to no more than 25% of a domestic credit union's net worth because these investments are not insured or guaranteed by the United States government or an agency of the United States government or a state or local government.

The Director finds that domestic credit unions do not currently have the requested additional power under state or federal law or regulation.

#### Powers of Other Competing Entities Providing Financial Services

Domestic credit unions compete with federally-chartered credit unions, which have the authority to invest in the subject obligations without limitation under the Federal Credit Union Act, as follows:

A Federal credit union ... shall have power ... to invest its funds ... in obligations issued by banks for cooperatives, Federal land banks, Federal intermediate credit banks, Federal home loan banks ... in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association or the Government National Mortgage Association, or in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 1454 or 1455 of this title. 12 USC 1757(7)(e).

Domestic credit unions also compete with domestically chartered non-credit union depositories and, as with federal credit unions, those competitors already have the authority to invest without limitation.

With respect to the investment powers of state-chartered banks, the Michigan Banking Code provides:

(2) A bank may hold, without limit, any of the following:

\* \* \*

(b) Obligations issued by an entity of the federally-chartered Farm Credit System.

(c) Obligations issued by banks for cooperatives.

(d) Obligations issued by the federal home loan banks.

(g) Obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association.

(h) Mortgages, obligations, or other securities that are or ever have been sold by the Federal Home Loan Mortgage Corporation under 12 USC 1454 or 1455. MCL 487.14301. (Emphasis added.)

Michigan banks have no limitation on their ability to invest in securities offered by Fannie Mae, Freddie Mac, FHLB, or entities in the FCS, but domestic credit unions are limited to investing only up to 25% of their net worth in a single obligor. Because the requested powers are already available to FCUs and domestically chartered non-credit union depositories, authorizing domestic credit unions to exercise the powers available to their competitors will ensure parity among credit unions operating in Michigan. The additional powers will also enable domestic credit unions to compete more effectively with those financial services providers that already have authority to make such investments without limitation.

#### Conclusion

Based on the foregoing, the Director finds that:

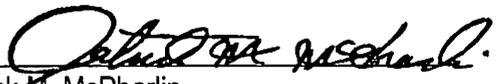
- Domestic credit unions may invest, without limitation, in the obligations of Fannie Mae, Freddie Mac, FHLB and entities in the FCS in a safe and sound manner.
- Domestic credit unions do not currently have authority under state or federal law or regulations to invest, without limitation, in the obligations of Fannie Mae, Freddie Mac, FHLB and entities in the FCS.
- Competing providers of financial services already have authority to invest, without limitation, in the obligations of Fannie Mae, Freddie Mac, FHLB and entities in the FCS, thereby placing domestic credit unions at a competitive disadvantage if they do not have the same authority.
- Granting this additional authority is appropriate and necessary to enable domestic credit unions to compete with other providers of financial services.

#### IV. ORDER

Therefore, it is **ORDERED** that DCECU's request for additional powers is granted and DCECU is expressly authorized to invest, without limitation, in the obligations of Fannie Mae, Freddie Mac, FHLB and entities in the FCS.

It is further **ORDERED** that all domestic credit unions in Michigan are expressly authorized to invest, without limitation, in the obligations of Fannie Mae, Freddie Mac, FHLB and entities in the FCS.

This Order does not exempt domestic credit unions from any other requirement or obligation in the MCUA or other state law that may otherwise apply to the exercise of this additional power.

  
\_\_\_\_\_  
Patrick M. McPharlin  
Director