



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CREDIT UNIONS

P.O. Box 41200 • Olympia, Washington • 98504-1200

Courier Address: 150 Israel Rd. SW • Tumwater, WA • 98501-6456

Telephone (360) 902-8701 • TDD (360) 664-8126 • (800) 372-8303 • FAX (877) 330-6870 • <http://www.dfi.wa.gov>

March 7, 2013

“A”

RE: Use of the Term “Audit Committee” in Credit Union Bylaws

DCU Interpretive Letter I-13-01

Delivered by Email

Dear “A”:

Issue

“A” has requested guidance for Washington State-chartered credit unions (“State Credit Unions”) as to whether the terms “audit committee” and “supervisory committee” may be used interchangeably and synonymously within State Credit Union bylaws, while still complying with all duties and functions of a supervisory committee specified in the Washington Credit Union Act, chapter 31.12 RCW (the “Act”).

Guidance

A State Credit Union may use the term “audit committee” synonymously and in place of “supervisory committee” in its bylaws. However, if a State Credit Union uses the term “audit committee” in its bylaws, it must still comply with the same requirements for a supervisory committee contained in the Act and all applicable rules for the supervisory committee of a federally insured credit union.

Analysis

The Act requires a State Credit Union to establish a “supervisory committee.”¹ In general, a State Credit Union’s —

“*supervisory committee* is responsible for making sure the credit union’s financial records are in order and that internal controls are in place to protect the assets of the credit union and its members. The committee does this by making sure the annual audit is conducted and by making sure internal controls are tested regularly.”²

¹ See the Act, at RCW 31.12.326.

² *Credit Union Supervisory Committee Handbook*, 3rd ed. (CUNA & Affiliates, 2002), p. 20.

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The term “audit committee” is typically used by corporations, such as banks³ and other companies which are either publicly traded or otherwise regularly file reports with the U.S. Securities and Exchange Commission. The audit committee is charged with oversight of financial reporting and disclosure. The role of audit committees continues to evolve as a result of the passage of the Sarbanes-Oxley Act of 2002.⁴ Many audit committees also have oversight of regulatory compliance and risk management activities. Not-for-profit entities, other than credit unions, may also have audit committees.

A State Credit Union must comply with the Act, and the Act expressly uses the term “supervisory committee” instead of “audit committee.”⁵ In addition, a federally insured State Credit Union must comply with the federal insurance requirements of the National Credit Union Administration (“NCUA”) contained in the Federal Credit Union Act (“FCUA”)⁶ and the NCUA Rules, which employ the term “supervisory committee.”⁷

However, the NCUA has stated in its Supervisory Committee Guide that —

“[f]or some federally insured, state chartered credit unions (FISCUs), the ‘audit committee’ designated by state statute or regulation is the equivalent of a supervisory committee.”⁸

This also appears to be the case with respect to the credit union laws of five other states,⁹ which authorize their state-chartered credit unions to use the term “audit committee” even though they have duties similar or identical to a “supervisory committee” of a State Credit Union under the

³ For a fuller discussion of the role of a bank audit committee, see *The Director’s Book: The Role of the National Bank Director* (Office of Comptroller of Currency, October 2010), pp 29-30, <http://occ.gov/publications/publications-by-type/other-publications-reports/director.pdf>.

⁴ See NCUA’s guidance on the Sarbanes-Oxley Act regarding audit committees and supervisory committees at: <http://www.ncua.gov/Resources/Documents/LFCU2003-07.pdf>; and <http://www.ncua.gov/Resources/Documents/LFCU2003-07ENC.pdf>

⁵ See the Act, at RCW 31.12.326 and RCW 31.12.335.

⁶ See FCUA, at 12 U.S.C. §202 (a)(6).

⁷ See NCUA Rules, at 12 C.F.R. §§715.8 and 741.202.

⁸ *NCUA Supervisory Committee Guide for Federal Credit Unions*, §2.01, see <http://www.ncua.gov/legal/guidesetc/guidesmanuals/supcomm.pdf>.

⁹ These five states are Florida, Iowa, Massachusetts, Ohio, and Texas. See:

- Florida statutes (Title 38?) 657.026 uses the terms supervisory committee and audit committee interchangeably, <http://www.flsenate.gov/Laws/Statutes/2011/657.026>, and http://www.lawserver.com/law/state/florida/regulations/florida_regulations_69u-110-026.
- Iowa Code 2013, §533.208 (8, 5) <https://www.legis.iowa.gov/DOCS/ACO/IC/LINC/Section.533.208.pdf>.
- Massachusetts 209 C.M.R. 43.00 <http://www.mass.gov/ocabr/business/banking-services/banking-legal-resources/laws-and-regs/dob-regulations/209-cmr-4300.html>.
- Ohio 1733.19, <http://codes.ohio.gov/orc/1733>.
- Texas, <http://www.cud.texas.gov/page/rb-2004-01-annual-audit-and-account-verification>.

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Act. In each of these five states, a federally insured, state-chartered credit union is also required to comply with the “supervisory committee” requirements for federal deposit insurance.

The credit union industry also uses both “audit committee” and “supervisory committee” interchangeably.¹⁰ In addition, the Auditing Committee of the National Association of State Credit Union Supervisors (“NASCUS”) recognizes that both “supervisory committee” and “audit committee” perform the same functions for credit unions.¹¹

Conclusion

Accordingly, the Division of Credit Unions is of the view that a State Credit Union may use the term “audit committee” synonymously and in place of “supervisory committee” in its bylaws as long as it complies with the same requirements for a supervisory committee contained in the Act and all applicable rules for a supervisory committee of a federally insured credit union.

If you have any questions, please contact me at Linda.Jekel@dfi.wa.gov or (360) 902-8778.

Sincerely,

/S/

Linda Jekel,
Director Division of Credit Unions

¹⁰ See materials for the 2013 workshop for Supervisory (Audit) Committees, sponsored by the Credit Union National Association (CUNA), at <http://www.theleague.coop/AM/Template.cfm?Section=Calendar&SHOWPRINTVERSION=0&TEMPLATE=/CM/ContentDisplay.cfm&CONTENTID=54270>.

¹¹ See, for example, NACUSAC Newsletter, at <http://www.nacusac.org/downloads/NACUSACNewsFall2012.pdf>.