STATE OF GEORGIA
DEPARTMENT OF
BANKING AND FINANCE

BULLETIN... BULLETIN... BULLETIN... BULLETIN... BULLETIN...

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SPECIAL EDITION
IMPORTANT NOTICE
FINAL RULEMAKING

July 7, 2023

NOTICE OF FINAL RULEMAKING

DEPARTMENT OF BANKING AND FINANCE
STATE OF GEORGIA

Adopted July 7, 2023

To all interested persons:

Notice is hereby given that pursuant to the provisions of the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-1 et seq., and by the authority of O.C.G.A. §§ 7-1-61, 7-1-690, 7-1-706.1, 7-1-1012, 7-3-51, and other cited statutes, the following attached Rules of the Department of Banking were adopted on July 7, 2023. The Rules were filed with the Secretary of State on July 7, 2023, and, pursuant to O.C.G.A. § 50-13-6, will be effective on July 27, 2023, which is twenty days following the filing of the Rules with the Secretary of State.

Prior to adopting the Rules, the proposed Rules along with a synopsis were distributed on June 1, 2023. The Department received six written comments regarding the proposed Rules. The Department fully considered the comments it received and made a substantive revision to Rule 80-2-4-.01 and Rule 80-2-12-.02. The Department believes that the Rules as adopted encourage safety and soundness, encourage safe and fair lending, and conform to the law.

CHAPTER 80-1

BANKS

SUBJECT 80-1-1

APPLICATIONS, REGISTRATIONS AND NOTIFICATIONS

80-1-1-.01 Applications, Registrations and Notifications, Generally

(1) Proposed activities in Georgia by financial institutions, may require a form application, a letter application, a form registration, or merely a letter notification to the Department. Certain qualifying institutions may be eligible to shorten the form of application, and may benefit from an expedited processing time including shortened or consolidated notice periods. Such criteria for banks are provided at Department of Banking and Finance Rule 80-1-1-.10, and Rule 80-6-1-.03. Criteria for bank holding companies may be found at Rule 80-6-1-.04. Requirements for all banking institutions to conduct certain other activities have been streamlined to coordinate with federal requirements.

(2) Where forms are required, they may be obtained from the Department.

(3) Other Applications. Within these Rules: Chapter 80-2 covers credit union activities; Chapter 80-3 covers money transmitters, Chapter 80-4 covers check cashers; Chapter 80-6 covers holding companies; Chapter 80-7 covers foreign bank organizations; Chapter 80-11 covers mortgage lenders, brokers, and loan originators; Chapter 80-13 covers trust companies; and Chapter 80-14 covers installment lenders.

(4) The Department has made available an Applications Manual and a Statement of Policy with details of the procedures required for most activities of regulated institutions in Georgia. Interested persons should consult the Applications Manual, Department's Statement of Policy, Rules, and applicable law which form the basis for Department decisions. These materials are available electronically. The regulations provide an overview; the Applications Manual and Statement of Policy provide detailed instructions.

(5) Fees are provided in Rule Chapter 80-5.

(6) References in these Rules to "Code Section", "O.C.G.A.", "Title", "Code of Georgia", and "Section" are to the Official Code of Georgia Annotated.

Authority: O.C.G.A. §§ 7-1-61, 7-1-602.

SUBJECT 80-1-2

AGENCY RELATIONSHIPS OF FINANCIAL INSTITUTIONS; BANK SERVICE CONTRACTS

80-1-2-.01 General Provisions and Definitions

(1) A state bank may contract with another financial institution or a third party service provider to provide certain services in a principal-agent relationship, provided both parties comply with the applicable rules and regulations of the Department.

(2) Agency relationships shall comport with safety and soundness principles to protect the financial integrity of the bank and the accounts of its customers.

(3) Definitions:

(a) "Bank Service Contract" shall mean a contract executed by a bank and a third party, to provide financial services, whether direct or indirect, to the bank.

(b) "Third party service provider" shall mean any provider of financial services to a bank as authorized by O.C.G.A. § 7-1-72.

(4) This chapter is not intended to apply to non-banking related operational or administrative functions which do not tend to impact the safety and soundness of the bank or the accessibility to the Department of records.

Authority: O.C.G.A. §§ 7-1-61, 7-1-612.

80-1-2-.02 Repealed and Reserved

Authority: O.C.G.A. § 7-1-61.

80-1-2-.03 Repealed and Reserved

Authority: O.C.G.A. § 7-1-61.

80-1-2-.04 Repealed and Reserved

Authority: O.C.G.A. § 7-1-61.

80-1-2-.05 Bank Service Contracts: Requirements of Third Party Service Providers

(1) Each third party service provider that enters into a bank service contract with a state-chartered bank shall be subject to examination and regulation by the department as if the entity were a state financial institution, as authorized by O.C.G.A. § 7-1-72.

(2) In the event that a third party service provider has been examined by a federal agency that is a member of the Federal Financial Institutions Examination Council ("FFIEC"), or any successor entity, in the previous twenty-four (24) months and the department is provided a copy of the examination, the department shall accept the results of such examination in lieu of conducting its own examination. However, nothing contained herein, shall be construed as limiting or otherwise restricting the department from participating in such examination.

Authority: O.C.G.A. § 7-1-61.

80-1-2-.06 Bank Service Contracts

(1) If a state-chartered bank is required to disclose a bank service contract to the Federal Deposit Insurance Corporation or the Board of Governors of the Federal Reserve System, a duplicate of such disclosure will simultaneously be submitted to the Department.

(2) A state-chartered bank entering into a bank service contract with a third party service provider must maintain the following information on file at the bank and shall not execute a contract with a third party service provider unless this information has been obtained.

(a) A copy of the contract under which the services are provided;

(b) A schedule of fees to be charged for each type of service to be performed;

(c) Written assurance from the third party service provider that:

1. The records of the bank for which the services are to be performed will be subject to examination and regulation by the department as if the records were maintained by the bank on its own premises,

2. The records of the bank in the service provider's possession shall be available to examiners promptly upon receipt of notice; and

3. The department shall have the authority to periodically review the internal routine and controls of the servicers to ascertain that the operations are being conducted in a sound manner in keeping with generally accepted banking procedures and requirements;

(d) A listing of all reports, and printouts which the third party service provider is offering the bank and the time required, after receipt of notice of examination, to provide those reports or information in readable form to the examiners;

(e) Evidence of financial stability, to include a copy of the third party service provider's most recent audit and financial statement, both of which should be aged no more than 18 months; and

(f) Biographical information on key officers may be desirable where a provider is not a publicly traded company.

(3) A state-chartered bank contracting with a third party service provider must employ good faith efforts to monitor the financial condition of the service provider and must notify the department immediately when it discovers or suspects that the servicer is insolvent or has suffered significant financial losses that threaten the continuing viability of the third party service provider.

Authority: O.C.G.A. §§ 7-1-61, 7-1-612.

80-1-2-.08 Repealed and Reserved

Authority: O.C.G.A. § 7-1-61.

SUBJECT 80-1-4

INVESTMENT SECURITIES

80-1-4-.01 Permissible Investments and Limitations

Subject to such further restrictions and approvals as its board of directors may set forth in its investment policy, a bank may purchase, sell, and hold securities, as set forth in the following:

(1) Debt Obligations.

(a) Obligations of the United States Government or Agencies of the United States Government.

The following may be held without limitation:

1. Securities issued by the United States government or an agency of the United States government;

2. Securities guaranteed as to principal and interest by the United States government or an agency of the United States government;

3. Securities issued under the U.S. Treasury's Separate Trading of Registered Interest and Principal (STRIP's) program, which are offered in book entry form and which are direct obligations of the U.S. Government, as authorized by Subtitle III, Chapter 31 of Title 31 U.S.C.; and

4. Securities which are pre-refunded, with the redemption proceeds invested in securities issued by the United States Government or an Agency of the United States Government.

(b) Obligations of a State or Territorial Government of the United States or Agencies of State or Territorial Governments.

The following may be held without limitation:

1. General obligations of any state or territorial government of the United States or any agency of such governments;

2. Securities guaranteed as to principal and interest by such state or territorial governments or any agency thereof; and

3. Securities which are pre-refunded, with the redemption proceeds invested in securities issued by state or territorial governments or agencies thereof.

(c) Obligations of counties, district, and municipalities of any state or territorial government of the United States.

1. The general obligations of counties, districts, and municipalities of any state or territorial government of the United States which is authorized to levy taxes may be held without limit.

2. Securities issued by counties, districts, and municipalities of any state or territorial government of the United States which are secured by a pledge or assignment of tax receipts sufficient to pay the principal and interest of such securities as they become due may be held without limit.

3. Revenue obligations of counties, districts, and municipalities of any state or territorial government of the United States authorized to establish utility fees, public transportation usage fees or public use fees where such levies or fees are pledged to and are sufficient to pay the principal and interest of the securities as they become due may be held without limit.

4. In those instances where the repayment of revenue obligations is dependent upon rentals or other fees payable to a political subdivision located within the United States by a non-governmental unit, such as in the case of industrial revenue bonds, the obligor shall be deemed to be the non-governmental unit responsible for the payment of such rentals or other fees and any guarantor of such payments. Investment in such securities is limited to fifteen (15) percent of the bank's statutory capital base.

5. Securities issued by political subdivisions located within the United States rated in the four highest rating categories by a nationally recognized rating service may be held in an amount up to fifteen (15) percent of a bank's statutory capital base.

(d) Corporate Debt Securities.

Corporate debt securities may be purchased which are:

1. Rated in the four highest rating categories by a nationally recognized rating service;

2. Readily salable in an established market with reasonable promptness at a price which corresponds to its fair value;

3. Denominated in U.S. dollars; and

4. With respect to banks having a statutory capital of less than $20,000,000, such securities must mature within 15 years.

A bank's investment in corporate debt securities is limited to fifteen (15) percent of the bank's statutory capital base per obligor. A bank's aggregate investment in corporate debt securities shall not exceed one hundred (100) percent of the bank's statutory capital base.

(e) Debt Securities Taken in Conformity with Lending Policies.

Debt obligations shall not be considered investments within the meaning of this regulation where they:

1. Are taken in conformity with the bank's lending policies;

2. Are included in determining the outstanding credit for purposes of ascertaining compliance with the bank's secured and unsecured loan limitations in O.C.G.A. § 7-1-285; and

3. With respect only to banks having a statutory capital base of less than $20,000,000, mature within 15 years, and are treated by the bank in all other respects as loans.

The debt obligations that qualify for this exception must be combined with other investment securities or other obligations to the same entity. This aggregation must not exceed the twenty-five (25) percent limitation on obligations to any one person in O.C.G.A. § 7-1-285.

(2) Equity Securities.

Except as allowed by O.C.G.A. § 7-1-288 or in this regulation, a bank may not engage in any transaction with respect to shares of stock or other capital securities of any corporation.

(3) Investment Funds.

A state-chartered bank may invest up to fifteen (15) percent of its statutory capital base in securities of, or other interests in, any open-end or closed-end management type investment fund or investment trust which is registered under the Investment Company Act of 1940, subject to the following additional conditions.

(a) The investment portfolio of such investment fund or investment trust shall be limited to those securities in which banks or trust companies are permitted to invest directly under this rule and Title 7 of the Official Code of Georgia; and

(b) The investment fund or trust shall not:

1. Except to the extent authorized in subparagraph (1)(a)3. of this rule, acquire or hold investments in the form of stripped or detached interest obligations;

2. Engage in the purchase or sale of interest rate futures contracts;

3. Purchase securities on margin, make short sales of securities or maintain a short position; or

4. Otherwise engage in futures, forwards or options transactions, except that forward commitments may be entered into for the express purpose of acquiring securities on a when-issued basis.

(c) On an aggregate basis, investments in such funds or trusts shall not exceed:

1. Thirty (30) percent of the bank's statutory capital base per fund/trust family or sponsor; and

2. Sixty (60) percent of the bank's statutory capital base for all funds combined.

(d) An aggregate limitation of one hundred twenty (120) percent of the bank's statutory capital base shall be allowed for all funds combined if the funds or trusts:

1. Are managed so as to maintain the fund or trust shares at a constant net asset value;

2. Are no-load; and

3. Are rated in the highest rating category by a nationally recognized rating service.

(4) Asset-Backed Securities.

A bank may purchase asset-backed securities repayable in both interest and principal which are issued under any of the following:

(a) Governmentally sponsored programs which are fully collateralized by obligations fully guaranteed as to principal and interest by a governmental entity to the same extent as direct obligations of the governmental entity which is the guarantor;

(b) Private programs which are fully collateralized by obligations fully guaranteed as to principal and interest by a governmental entity to the same extent as direct obligations of the governmental entity which is the guarantor; or

(c) Other private programs in amounts which do not exceed twenty-five (25) percent of the bank's statutory capital base for each issuer, provided the issue:

1. Is in registered form;

2. Is collateralized by assets which could be owned directly by the bank and the investing bank has analyzed and understands the underlying collateral characteristics of the investment; and

3. Is investment quality or the credit equivalent of investment quality. Investment quality means that a rating in one of the four highest categories has been assigned to the securities by a nationally recognized rating service and, as such, are not predominantly speculative in nature. If the securities are not rated by a nationally recognized rating service, then credit equivalency shall be determined by the methods in subsection (e) of this rule.

(d) Aggregate investment in private program issues by all issuers shall not exceed fifty (50) percent of the bank's statutory capital base unless approved by the Department.

(e) Before the purchase of any asset-backed securities, the investing bank shall perform a due diligence suitability analysis to determine whether the asset-backed securities are suitable for purchase relative to the bank's asset liability position, sensitivity to market risk, and its liquidity exposure. Further, before the purchase of any asset-backed

securities under subsection (c), the investing bank shall include in the due diligence suitability analysis an evaluation of whether the asset-backed securities are suitable for purchase relative to the bank's tolerance for credit risk. A periodic update of the suitability analysis shall be performed by the bank at least as frequently as annually during the term of the investment. The initial and subsequent documentation of the suitability analysis shall be in written form and maintained in the bank's files.

(5) Interest-Only ("IO") Securities.

(a) Nothing contained herein shall permit the purchase of investments in the form of stripped or detached IO obligations. An exception to this rule is that securities issued under the U.S. Treasury's Separate Trading of Registered Interest and Principal (STRIP's) program, which are offered in book entry form and which are direct obligations of the U.S. Government, as authorized by Subtitle III, Chapter 31 of Title 31 USC, may be purchased without limitation.

(b) Purchasing or trading any other type of IO securities may receive prior written approval from the Department for institutions demonstrating technical expertise and policies sufficient to promote safe and sound use of such investments as part of prudent investment strategies.

(6) Futures, Forwards, Option Contracts and Interest Rate Swaps.

(a) Futures, forwards, option contracts, interest rate swaps, and direct and indirect investments associated with any security which otherwise constitutes a permissible investment under provisions of this rule may be approved in writing by the Department for banks demonstrating technical expertise and policies sufficient to promote safe and sound use of such investments as part of prudent investment strategies.

(b) Notwithstanding the limitation in subparagraph (6)(a), a bank may invest in derivative instruments, including forwards and interest rate swaps, without the approval of the Department so long as the investment is solely for the purpose of managing interest rate risk. Such investment must be denominated in U.S. dollars, have a contract maturity of fifteen (15) years or less, and be based on domestic interest rates or the Secured Overnight Financing Rate (SOFR), or similar replacement rate for the U.S. dollar-denominated London Interbank Offered Rate (LIBOR). A bank must adhere to safe and sound banking practices in making such investments.

(7) Trust Preferred Securities.

Trust preferred securities, generally, may be defined as issues of cumulative preferred securities, containing characteristics of both debt and equity securities, where the issuer is normally a business trust formed by a corporate issuer. The corporate issuer issues debt to the trust in the form of deeply subordinated debentures. The securities represent undivided beneficial interests in the assets of the issuer trust, and distributions by the issuer trust are guaranteed by the corporate issuer to the extent of available funds of the issuer trust. The trust preferred securities may or may not be rated, but in any event must be scrutinized under

the suitability analysis in this rule as if they were a loan being underwritten by the purchasing bank. Trust preferred securities are authorized investments for a state bank subject to the terms and conditions contained in this paragraph 7. A bank's investment in a closed or open-end investment fund, consisting of trust preferred securities, shall be subject to the terms and conditions contained in Rule 80-1-4-.01, paragraph 3. entitled "Investment Funds". A security backed by trust preferred securities shall be deemed an asset-backed security and shall be subject to the terms and conditions contained in Rule 80-1-4-.01, paragraph 4. entitled "Asset-Backed Securities".

(a) The bank's investment in each corporate issuer of trust preferred securities, that is, in each entity that controls an issuer trust (other than in a fiduciary capacity), shall not exceed fifteen (15) percent of the bank's statutory capital base.

(b) The bank's aggregate investment in trust preferred securities shall not exceed the bank's policy limits or one hundred (100) percent of the bank's statutory capital base, whichever is less.

(c) The issuance of the trust preferred securities shall be registered under the Securities Act of 1933, as amended, shall be eligible for resale pursuant to Securities and Exchange Commission Rule 144A, or the securities shall be capable of being sold with reasonable promptness at a price which corresponds to their fair value. As to this requirement, if an issuance is not registered, eligible for resale, or readily marketable, it must meet a suitability analysis test as provided in (e) of this rule;

(d) The securities shall be of investment quality or the credit equivalent of investment quality. Credit equivalency shall be determined by the methods in subparagraph (e) of this rule. Investment quality means that a rating in one of the four highest categories has been assigned to the securities by a nationally recognized rating service and, as such, are not predominantly speculative in nature;

(e) Before the purchase of any trust preferred securities, the investing bank shall perform a due diligence suitability analysis to determine whether the trust preferred securities are suitable for purchase relative to the bank's tolerance for credit risk, asset liability position, sensitivity to market risk, and its liquidity exposure. Such analysis shall include, at a minimum, the following:

1. A complete credit analysis, including cash flow projections, sufficient to determine that the issuer is creditworthy and thus has the ability to meet the debt repayment schedule;

2. A credit underwriting analysis sufficient to determine that the securities meet the credit underwriting criteria set forth by the bank's lending policies;

3. A marketability analysis, sufficient to determine whether or not the securities may be sold with reasonable promptness at a price corresponding to their fair value;

4. The documentation of the suitability analysis shall be in written form and maintained in the bank's files;

5. A periodic update of the suitability analysis shall be performed by the bank at least as frequently as annually during the term of the investment; and

(f) The bank shall obtain and monitor the securities' market values on an ongoing basis.

(g) The bank's written policies and procedures shall adequately address the various risks inherent in these securities including credit risk, price or market risk, interest rate risk, and liquidity risk.

(h) The bank shall notify the Department in writing of any investment in trust preferred securities where the issuer is not a bank or bank holding company as defined in O.C.G.A. § 7-1-605.

(8) Tier 2 Subordinated Debt Securities.

Tier 2 subordinated debt securities are subordinated notes issued by banks or bank holding companies, as defined in O.C.G.A. § 7-1-605, intended to qualify as Tier 2 capital under federal regulatory capital guidelines. The subordinated debt securities may or may not be rated, but in any event must be scrutinized under the suitability analysis in this rule as if they were a loan being underwritten by the purchasing bank. Tier 2 subordinated debt securities are authorized investments for a state bank subject to the terms and conditions contained in this paragraph. The permissibility of such investment may be determined pursuant to this paragraph or pursuant to any other paragraph or paragraphs of this rule to the extent the terms of such investment conform to such other paragraph or paragraphs.

(a) The bank's investment in each corporate issuer of Tier 2 subordinated debt securities shall not exceed fifteen (15) percent of the bank's statutory capital base. For purposes of determining compliance with this requirement, investments in Tier 2 subordinated debt securities issued by a bank shall be aggregated with securities issued by such bank's holding company.

(b) The bank's aggregate investment in Tier 2 subordinated debt securities shall not exceed the bank's policy limits or one hundred (100) percent of the bank's statutory capital base, whichever is less. For purposes of determining compliance, this aggregation requirement applies to all subordinated debt investments, whether purchased pursuant to this paragraph or any other paragraph of this rule.

(c) The issuance of the Tier 2 subordinated debt securities shall be registered under the Securities Act of 1933, as amended, shall be eligible for resale pursuant to Securities and Exchange Commission Rule 144A, or the securities shall be capable of being sold with reasonable promptness at a price which corresponds to their fair value as determined by the bank following due diligence. In the alternative, the issuance can satisfy the suitability analysis test as provided in subsection (e) of this rule.

(d) The securities shall be of investment quality or the credit equivalent of investment quality. Investment quality means that a rating in one of the four highest categories has been assigned to the securities by a nationally recognized rating service and, as such, are not predominantly speculative in nature. If the securities are not rated by a nationally recognized rating service, then credit equivalency shall be determined by the methods in subsection (e) of this rule.

(e) Before the purchase of any Tier 2 subordinated debt securities, the investing bank shall perform a due diligence suitability analysis to determine whether the Tier 2 subordinated debt securities are suitable for purchase relative to the bank's tolerance for credit risk, asset liability position, sensitivity to market risk, and its liquidity exposure. Such analysis shall include, at a minimum, the following:

1. A complete credit analysis, including pro forma cash flow analysis, sufficient to determine that the issuer is creditworthy and thus has the ability to meet the debt repayment schedule;

2. A marketability analysis, sufficient to determine whether or not the securities may be sold with reasonable promptness at a price corresponding to their fair value, which analysis may be supported by input from the placement agent for such securities;

3. The documentation of the suitability analysis shall be in written form and maintained in the bank's files; and

4. A periodic update of the suitability analysis shall be performed by the bank at least as frequently as annually during the term of the investment.

(f) The bank shall obtain and monitor the securities' market values on an ongoing basis.

(g) The bank's written policies and procedures shall adequately address the various risks inherent in these securities including credit risk, price or market risk, interest rate risk, and liquidity risk.

(h) Subordinated notes issued by banks or bank holding companies, as defined in O.C.G.A. § 7-1-605, shall not be deemed to be impermissible investments solely by virtue of the fact that the issuer has not obtained regulatory confirmation that proceeds from the issuance of the securities will qualify as Tier 2 capital.

(9) All Other Securities.

A bank may invest in such other securities or funds as the Department may approve, upon a finding that the securities are marketable under ordinary circumstances, with reasonable promptness at a price which corresponds to their fair value, approval shall be in writing and subject to such limitations as the Department may specify. This requirement for departmental approval shall not apply where the statutory capital base of the purchasing bank exceeds $ 20,000,000. However, in such instances, such securities may be purchased only in an amount which does not exceed fifteen (15) percent of the bank's statutory capital base.

(10) In the event a bank's investment in securities no longer conforms to this rule but conformed when the investment was originally made, the bank shall provide written notification to the Department regarding the nonconforming investment within 30 days of discovering the nonconforming investment or 120 days of the investment becoming nonconforming, whichever event occurs first. In the event a bank wishes to hold the nonconforming investment, the bank must submit a letter form application to the Department including the institution's current assessment of the condition of the nonconforming security and supporting documentation that details the cause of the deterioration, severity of the deterioration, and resulting accounting treatment by the institution. Upon review of the application, the Department may request additional information if it determines such additional information is necessary in order to fully and completely evaluate the application. After completion of its review, the Department shall either approve, conditionally or otherwise, or deny such application in writing.

(11) A bank may sell a nonconforming investment without Department authorization but only if it provides the Department with written notice no later than five (5) business days after the sale.

Authority: O.C.G.A. §§ 7-1-61, 7-1-288.

SUBJECT 80-1-11

PUBLIC DISCLOSURE OF INFORMATION

80-1-11-.05 Annual Disclosure Statements by Banks

(a) Requirement of availability - Each bank shall make its annual disclosure statement available to requesters beginning not later than March 31 following its issuance or, if the bank or its holding company mails an annual report to its shareholders, beginning not later than five days after the mailing of such reports, whichever occurs first. A bank shall continually make a disclosure statement available until the disclosure statement for the succeeding year becomes available.

(b) Contents - The disclosure statement may, at the option of the bank, consist of the bank's entire Call Report for the relevant dates and periods. At a minimum, the statement must contain information comparable to that provided in the following Call Report schedules: Balance Sheet; Past Due and Nonaccrual Loans and Leases; Income Statement; Changes in Equity Capital; Charge-Offs and Recoveries and Changes in Allowances for Credit Losses.

(c) Notice - A notice, which the bank shall at all times display, shall be posted in the lobby of its main office and each branch office, informing its customers and general public

that the annual disclosure statement may be obtained from the bank. The notice shall include at a minimum an address and telephone number to which the request should be directed. The first copy of the annual disclosure statement shall be provided to a requester free of charge.

(d) Delivery - Each bank shall, after receiving a request for an annual disclosure statement, promptly mail or otherwise furnish a statement to the requester.

Authority: O.C.G.A. § 7-1-61.

CHAPTER 80-2

CREDIT UNIONS

SUBJECT 80-2-1

BOOKS AND RECORDS

Rule 80-2-1-.01. General Requirements for Accounting Procedures

(1) A credit union is required to maintain its books of account in accordance with Generally Accepted Accounting Principles, including a complete and accurate account of:

(a) All of its assets, whether in its name or in the name of another person;

(b) All of its liabilities, its borrowings, and any security interests in its assets; and

(c) All of its income, expenses, capital gains and losses.

(2) Each credit union shall, by the end of each month, prepare a financial statement reflecting its position and operations of the preceding month. This statement, to be prepared from the accounts of the general ledger of the credit union, shall include a complete report of the credit union's earnings, setting forth in detail all items of income and expense. In the event the credit union shall become aware of a misstatement in a financial statement, then the credit union must amend the financial statement in a timely manner. A notice, which the credit union shall at all times display, shall be posted in a public area of its main office and each branch office as well as any credit union website, informing its members that the monthly financial statement may be examined, upon request of a member, at each office of the credit union and/or on the credit union's website. The notice shall include at a minimum, directions as to who to contact to view the statement.

(3) Each credit union shall file with the Department a complete report of its condition as of the last business day in March, June, September and December of each calendar year and at such other dates as the Commissioner may determine. Such reports shall be filed no more than thirty (30) days after the close of the applicable accounting period. Each such report shall be on forms required by the Department and shall be attested as provided on the form.

Authority: O.C.G.A. §§ 7-1-61, 7-1-663.

Rule 80-2-1-.06. Notification of Reportable Cyber Incident

Pursuant to 12 C.F.R. Part 748 credit unions are required to notify the appropriate federal regulator no later than 72 hours after the credit union determinates that a cyber incident, which rises to the level of a reportable cyber incident, has occurred. A reportable cyber incident is an occurrence identified in 12 CFR § 748.1. If a cyber incident is required to be reported under federal law, then a duplicate of such report, whether provided via email, telephone, or otherwise, will be submitted simultaneously to the Department.

Authority: O.C.G.A. §§ 7-1-61, 7-1-663.

SUBJECT 80-2-3

SHARES, DEPOSITS AND DIVIDENDS

Rule 80-2-3-.01 Certificate of Deposit

(1) Certificates of Deposit Generally--Any credit union may, from time to time as determined by its board of directors, issue deposit contracts in the form of Certificates of Deposit whereby the credit union agrees to pay a guaranteed rate of interest to the depositor which may be less than, equal to, or greater than any rate paid in the past or anticipated to be paid in the future on regular share deposits of members, provided the terms of such contracts are in compliance with the provisions of this regulation.

(2) Minimum Contract Terms and Standards:

(a) Monies accepted by a credit union pursuant to the authority of paragraph (1) of this regulation shall be considered to be a deposit subject to the provisions of the Financial Institutions Code of Georgia under the following conditions:

1. Certificates of deposit are issued only to members of the issuing credit union or to another financial institution consistent with O.C.G.A. § 7-1-650;

2. Certificates of deposit shall have a fixed maturity, and shall disclose their terms, including any automatic renewal provisions as established by the board of directors;

3. Funds deposited thereunder shall be subject to penalty provisions for withdrawal prior to maturity;

4. Certificates of deposit shall be non-negotiable and nontransferable;

5. The rates of interest payable under the certificate of deposit contract shall be approved by the Board of Directors of the credit union;

6. Requirements set forth in sections (2)(a)2., (2)(a)3. and 2(a)4. of this rule shall be disclosed to the depositor along with the date of maturity, interest rate, penalties for early withdrawal, and principal amount of the certificate of deposit.

(b) Every credit union issuing Certificates of Deposit shall maintain a record of every certificate of deposit issued. The record may be in the form of a register, ledger, or copy of the certificate by other technological means available and shall show:

1. The name of the registered owner of the certificate of deposit;

2. The amount of the certificate of deposit;

3. The maturity of the certificate of deposit; and

4. The rate of interest payable on the certificate of deposit.

(c) Interest may be payable at such intervals in accordance with the contract as determined by the board of directors but not more frequently than monthly except for the payment of accrued interest at the time of redemption of the certificate of deposit. Interest may be paid by check or other electronic means, by deposit to the member's regular share account, or added to the principal value of the certificate of deposit.

Authority: O.C.G.A. §§ 7-1-61, 7-1-650, 7-1-663.

Rule 80-2-3-.04 Departmental Approval of Dividends

(1) A credit union proposing to pay dividends that total less than 50% of its net income of the preceding calendar year as reported in the Statement of Income and Expense in the December 31st Call Report may do so without the prior written approval of the department; provided that:

(a) Total adversely classified assets at the most recent examination of the credit union, the conclusions of which may have been presented to the Board of Directors, do not exceed eighty (80) percent of net worth as reflected at such examination; and

(b) The net worth ratio after dividend distribution shall not be less than seven (7) percent.

(2) If a request for approval of the payment of a dividend is required by this Rule, then such requests must be submitted on forms provided by the department.

(3) Approval of dividends shall be based upon the following considerations:

(a) Adequacy of current year earnings to fund the proposed dividends;

(b) Adequacy of reserves;

(c) Adequacy of undivided earnings from previous fiscal years to maintain a level of capital commensurate with asset growth, net worth requirements in accordance with applicable law and regulations, and adequate funding of ongoing operations;

(d) Effects of any dividend reduction on cash flow and liquidity; and

(e) Asset condition of the credit union.

Authority: O.C.G.A. §§ 7-1-61, 7-1-660, 7-1-663.

SUBJECT 80-2-4

INVESTMENT OF CREDIT UNION FUNDS

80-2-4-.01 Deposit of Credit Union Funds in Other Financial Institutions

(1) No credit union shall deposit its funds in an amount exceeding twenty-five (25) percent of the net worth of the credit union in any one bank, savings and loan association, or other credit union that is less than adequately capitalized as defined by 12 CFR § 324.403, 12 CFR § 702.102, or 12 CFR § 704.4 as applicable, unless the credit union obtains prior written approval from the Department.

(2) A credit union’s policies and procedures shall take into account credit and liquidity risks, including operational risks, in selecting financial institutions in which to deposit funds and terminating those relationships.

(3) Where deposits at a financial institution exceed twenty-five percent of the credit union's net worth, the credit union's policies and procedures shall require periodic reviews of the financial condition of the financial institution and shall take into account actions to be taken in the event of any deterioration in the financial condition of the financial institution. Factors bearing on the financial condition of the financial institution include the capital level, level of nonaccrual and past due loans and leases, level of earnings, and other factors affecting its financial condition. Where public information on the financial condition of the financial institution is available, a credit union may base its review of the financial condition of the financial institution on such information and is not required to obtain non-public information for its review.

(4) Where the deposits at a financial institution exceed twenty-five percent of the credit union's net worth or the financial condition of the financial institution creates a significant risk that the financial institution may not be able to honor a withdrawal of the credit union's deposits, a credit union's policies and procedures shall limit the credit union's exposure to the financial institution, either by the establishment of internal limits or by other means. Limits shall be consistent with the risk undertaken, considering the financial condition of the credit union as well as the financial condition of the financial institution holding the credit union's deposits. Limits may be fixed as to amount or flexible, based on such factors as the financial condition of the credit union or the financial institution. A credit union shall monitor its deposits at a financial institution to ensure that its deposits ordinarily do not exceed the credit union's internal limits except for occasional excesses resulting from unusual market disturbances, market movements favorable to the credit union, increases in activity, operational problems, or other unusual circumstances. Generally, monitoring may be done on a retrospective basis. The level of monitoring required depends on the extent to which the amount of the deposits approaches the credit union's internal limits and the financial condition of the financial institution. A credit union shall establish appropriate procedures to promptly address deposits in excess of its internal limits.

(5) The policies and procedures established under this rule shall be reviewed and approved by the credit union's board of directors at least annually.

(6) If the funds a credit union has deposited in a financial institution are fully and continuously insured by federal deposit insurance, then the credit union does not have to develop the policies and procedures required by this rule.

Authority: O.C.G.A. §§ 7-1-61, 7-1-663.

80-2-4-.02 Investment of Credit Union Funds in Fixed Assets; Requirements

(1) The aggregate investment by a credit union in fixed assets shall not exceed sixty (60) percent of net worth except that a greater sum may be invested with the prior approval of the Department.

(2) In the event a credit union invests in a leasehold in order to occupy the premises for the transaction of its business and the investment does not cause the credit union to exceed the

fixed asset limitation set forth in paragraph (1), the credit union shall provide the Department with written notification of the investment.

(3) Letter form applications seeking approval to invest in fixed assets in an amount in excess of sixty (60) percent of net worth, must provide for an orderly plan of restoring the fixed asset investment to the sixty (60) percent limitation within not more than five (5) years.

(4) Nothing herein shall be construed as permitting a credit union to acquire real estate without the prior approval of the Department or as expressly provided in Rule 80-2-4-.04.

Authority: O.C.G.A. §§ 7-1-61, 7-1-663.

80-2-4-.03 Investment of Credit Union Funds in Subsidiaries

(1) Unless otherwise precluded by law or regulations, a credit union may acquire and hold for its own account shares of stock or interest in a subsidiary or affiliate corporation or limited liability company engaged in the following functions or activities that do not pose undue risk to the safety and soundness of the credit union and that are consistent with the objectives of O.C.G.A. § 7-1-3. The functions or activities that the credit union subsidiary or affiliate is authorized to conduct include, but are not limited to:

(a) offering third party payment services;

(b) holding real estate;

(c) acting as a financial planner or investment adviser;

(d) offering a full range of investment products;

(e) exercising powers incidental to financial activities as provided in O.C.G.A. § 7-1-650; and

(f) exercising powers granted by Department rules or powers determined by the Commissioner to be financial in nature or incidental to the provision of financial services.

(2) O.C.G.A. § 7-1-650(6) contemplates that a credit union can have a separate subsidiary or affiliate to exercise powers that are express or incidental to the credit union's authority with the approval of the Department. Subject to certain investment limitations for credit unions, the subsidiary or affiliate can conduct such powers as may be financial in nature or incidental or complimentary to the provision of financial services. Prior to the subsidiary or affiliate engaging in any functions or activities that a credit union is authorized to engage, the credit union must submit a letter form application to the Department describing the proposed activity, detailing the activity's relationship to the business of the credit union, and setting

forth the provisions that will be implemented in order to mitigate any related risks. Upon review of the application, the Department may request additional information if it determines such additional information is necessary in order to fully and completely evaluate the application. After completion of its review, the Department shall either approve, conditionally or otherwise, or deny such application in writing.

(3) If more than one credit union has an ownership interest in such subsidiary or affiliate, the credit union that has the largest percentage ownership in the subsidiary or affiliate must submit the application to the Department. In the event the largest credit union percentage ownership in the subsidiary or affiliate is held by multiple credit unions, then only one credit union is required to submit an application to the Department.

(4) Notwithstanding paragraph (2) of this Rule, if a credit union owns less than ten (10) percent of the subsidiary or affiliate and the ownership interest in the subsidiary or affiliate is less than ten (10) percent of the credit union's net worth, then the credit union does not need to obtain approval from the Department for such investment. Further, notwithstanding the requirement in paragraph (3) of this Rule that the credit union with the largest percentage ownership must submit the application to the Department, if the credit union with the largest percentage ownership does not have to obtain approval from the Department pursuant to this paragraph, then the credit union, if any, that has an ownership interest in the subsidiary or affiliate that is ten (10) percent or more of the credit union's net worth must submit the required application under paragraph (3) to the Department.

(5) For purposes of this rule only, "affiliate" means a corporation or limited liability company, that a credit union has less than a majority ownership interest.

Authority: O.C.G.A. §§ 7-1-61, 7-1-663.

80-2-4-.08 Application Requirements for Branch Offices

(1) Branch offices may be established with the prior approval of the Department by regular application or by expedited application for certain qualified credit unions as provided in paragraph (3).

(2) Unless the provisions related to an expedited application in paragraph (3) is satisfied, a credit union must submit an application to the Department in order to obtain approval to establish a branch office. An application will not be deemed to have been accepted by the Department until all portions of the application have been completed to the satisfaction of the Department. If the Department notifies the credit union of deficiencies in the application, the credit union must complete the application within thirty (30) days of receipt of the notification of the Department. The Department will approve or deny an application for a branch office within thirty (30) days of receipt of a completed application.

(3) In lieu of an application, a credit union is authorized to submit an expedited application to establish a new branch office subject to the below conditions.

(a) The credit union must meet the following criteria:

1. The credit union must be well capitalized as defined by the capital requirements of the Department and the NCUA;

2. The credit union must have received a CAMELS composite rating of "1" or "2" as a result of the most recent state or federal examination;

3. The credit union must not be subject to any agreements, orders, or other enforcement or administrative agreements with the Department or the NCUA; and

4. Total investments in fixed assets do not exceed sixty (60) percent of net worth.

(b) The expedited application must include the following:

1. The physical address of the branch office;

2. A statement regarding whether or not an insider is involved in the acquisition, construction, or leasing of the property;

3. The anticipated fixed asset investment for this proposal and whether the credit union will be in compliance with Rule 80-2-4-.02; and

4. A statement certifying that the credit union qualifies for expediated processing under subparagraph (a).

(c) Unless it has previously issued an approval letter under subparagraph (d), the Department will attempt to acknowledge receipt of an expedited application or notify the applicant that it does not qualify for expedited processing and may submit an application for regular processing within two business days of receipt of such notice.

(d) The approval to establish a branch office will be effective at the earlier of the approval letter from the Department or 10 business days from the date of acknowledged receipt.

(e) Notwithstanding the above, the Department may deny or remove from expedited processing any credit union's application where it finds that:

1. Safety and soundness concerns of the Department dictate a more comprehensive review;

2. Any material adverse comment is received by the Department;

3. Other supervisory concerns, legal issues, or policy issues come to the attention of the Department;

4. If applicable, any acquisition of fixed assets would cause the institution to exceed the fixed asset limitation; or

5. Any other good cause exists for denial or removal.

In this event, the credit union will be notified that expedited processing is not available, the reason, and instructions as to how to proceed.

Authority: O.C.G.A. §§ 7-1-61, 7-1-663, 7-1-665.

SUBJECT 80-2-7

CREDIT UNION SERVICE CONTRACTS

80-2-7-.01 General Provisions and Definitions

(1) A state credit union may contract with another financial institution or a third party service provider to provide certain services in a principal-agent relationship, provided both parties comply with the applicable rules and regulations of the Department.

(2) Agency relationships shall comport with safety and soundness principles to protect the financial integrity of the credit union and the accounts of its members.

(3) Definitions:

(a) "Credit Union Service Contract" shall mean a contract executed by a credit union and a third party service provider to provide financial services, whether direct or indirect, to the credit union.

(b) “Third party service provider" shall mean any provider of financial services to a credit union as authorized by O.C.G.A. § 7-1-72.

(4) This chapter is not intended to apply to non-banking related operational or administrative functions which do not tend to impact the safety and soundness of the credit union or the accessibility to the Department of records.

Authority: O.C.G.A. §§ 7-1-61, 7-1-663.

80-2-7-.02 Credit Union Service Contracts

(1) If a state-chartered credit union is required to disclose a credit union service contract to the National Credit Union Administration, a duplicate of such disclosure will simultaneously be submitted to the Department.

(2) A state-chartered credit union entering into a credit union service contract with a third party service provider must maintain the following information on file at the credit union and shall not execute a contract with a third party service provider unless this information has been obtained:

(a) A copy of the contract under which the services are provided;

(b) A schedule of fees to be charged for each type of service to be performed;

(c) Written assurance from the third party service provider that:

1. The records of the credit union for which the services are to be performed will be subject to examination and regulation by the department as if the records were maintained by the credit union on its own premises;

2. The records of the credit union in the service provider's possession shall be available to examiners promptly upon receipt of notice;

3. The department shall have the authority to periodically review the internal routine and controls of the service provider to ascertain that the operations are being conducted in a sound manner in keeping with generally accepted credit union procedures and industry standards;

(d) A listing of all reports and printouts which the third party service provider is offering the credit union and the time required, after receipt of notice of examination, to provide those reports in readable form to the examiners; and

(e) Evidence of financial stability to include a copy of the third party service provider's most recent audit and financial statement, both of which should be aged no more than 18 months. This is a continuous requirement.

(3) A state-chartered credit union contracting with a third party service provider must employ good faith efforts to monitor the financial condition of the service provider and must notify the department immediately when it discovers or suspects that the service provider is insolvent or has suffered significant financial losses that threaten the continuing viability of the third party service provider.

Authority: O.C.G.A. §§ 7-1-61, 7-1-663.

80-2-7-.03 Credit Union Service Contracts: Requirements of Third Party Service Providers

(1) Each third party service provider that enters into a credit union service contract with a state-chartered credit union shall be subject to examination and regulation by the department as if the entity were a state financial institution, as authorized by O.C.G.A. § 7-1-72.

(2) In the event that a third party service provider has been examined by a federal agency that is a member of the Federal Financial Institutions Examination Council ("FFIEC"), or any successor entity, in the previous twenty-four (24) months and the department is provided a copy of the examination, the department shall accept the results of such examination in lieu of conducting its own examination. However, nothing contained herein, shall be construed as limiting or otherwise restricting the department from participating in such examination.

Authority: O.C.G.A. §§ 7-1-61, 7-1-663.

SUBJECT 80-2-9

INVESTMENT SECURITIES

80-2-9-.01 Investment Securities

(1) Subject to such further restrictions and limitations as its board of directors may set forth in this investment policy, a credit union may purchase, sell and hold securities:

(a) Without limitation if such securities are:

1. The general obligations of the United States Government or any agency or instrumentality thereof;

2. Guaranteed as to principal and interest by the United States Government or any agency or instrumentality thereof; or

3. Separate Trading of Registered Interest and Principal of Securities which are offered exclusively in book entry form, are direct obligations of the United States, and are issued under Chapter 31, Title 13 USC.

(b) Without limitation if such securities are:

1. The general obligations of any state or territorial government of the United States or any agency of such governments;

2. Securities guaranteed as to principal and interest by such states or territorial governments or any agency of such governments;

3. The general obligations of counties, districts, and municipalities of any state or territorial government of the United States which is authorized to levy taxes;

4. Securities issued by counties, districts, and municipalities of any state or territorial government of the United States which are secured by a pledge or assignment of tax receipts sufficient to pay the principal and interest of such securities as they become due; or

5. Revenue obligations of counties, districts, and municipalities of any state or territorial government of the United States authorized to establish utility fees, public transportation usage fees, or public use fees where such levies or fees are pledged to and are sufficient to pay the principal and interest of the securities as they become due.

(c) Up to fifteen (15) percent of the net worth of the credit union if the securities are:

1. Revenue obligations issued by a political subdivision located within the United States where the repayment is dependent upon rentals or other fees payable to such political subdivision by a non-governmental unit, such as in the case of industrial revenue bonds. In such cases, the obligor for the purpose of applying legal limitations shall be the non-governmental unit responsible for the payment of such rentals or other fees and any guarantor of such payments;

2. Reserved;

3. Reserved; and

4. The securities are the securities of, or other interests in, any open-end or closed-end management type investment fund or investment trust which:

(i) Is registered under the Investment Company Act of 1940,

(ii) Expressly requires that any changes in the investment objectives, fundamental operating policies, and limitations of the fund or trust must receive prior approval by a majority of the shareholders authorized to vote on such matters,

(iii) Limits the investment portfolio of such investment fund or investment trust to:

(I) Obligations otherwise authorized under subparagraphs (1)(a)1., (1)(a)2., and (1)(a)3. Of this Rule;

(II) Repurchase agreements, which are fully collateralized by securities authorized in subparagraph (1)(a)1., (1)(a)2., and (1)(a)3. of this Rule, and where the fund or trust takes delivery of such collateral either directly or through an authorized custodian; or

(III) Certificates of deposit issued by financial institutions insured by an instrumentality of the United States government, and;

(iv) Does not:

(I) Except to the extent authorized in subparagraph (1)(a)3. of this Rule, acquire investments in the form of stripped or detached interest obligations associated with any security which otherwise constitutes a permissible investment under the provisions of this Rule;

(II) Engage in the purchase or sale of interest rate futures contracts;

(III) Purchase securities on margin, make short sales of securities or maintain a short position; or

(IV) Otherwise engage in futures, forwards or options transactions, except, however, that forward commitments may be entered into for the express purpose of acquiring securities on a when-issued basis;

5. Bankers Acceptances and Subordinated Securities issued by financial institutions domiciled in Georgia or by financial institutions affiliated with a financial institution domiciled in Georgia;

6. Commercial paper issued by corporations domiciled within the United States which are rated in the four highest rating categories by a nationally recognized rating service;

7. Other securities issued by political subdivisions located within the United States which are rated in the four highest rating categories by a nationally recognized rating service;

8. Credit unions may invest in such other investment securities as may be authorized for federally chartered credit unions subject to the prior approval of the Department; or

9. Such other securities as the Department may approve and subject to such limitations as the Department may specify upon a finding that the securities are marketable under ordinary circumstances, with reasonable promptness, at a fair value.

(2) In the case of a corporate credit union, the Department may approve investments of the type described in subparagraph (1)(c) of this rule which may exceed fifteen (15) percent of net worth but in no event exceed 25% of net worth. Prior approval is required and may be subject to certain conditions of approval.

(3) Reserved.

(4) Asset backed securities repayable in both interest and principal which are issued under:

(a) Governmentally sponsored programs which are fully collateralized by obligations fully guaranteed as to principal and interest by a governmental entity may be purchased to the same extent as direct obligations of the governmental entity granting the guarantee; and

(b) Private programs which are fully collateralized by obligations fully guaranteed as to principal and interest by a governmental entity may be purchased to the same extent as direct obligations of the governmental entity granting the guarantee.

(5) (a) Except for those investments specifically authorized in subparagraph (1)(a)3. of this Rule, futures, forwards, option contracts, interest rate swaps, and direct and indirect investments associated with any security which otherwise constitutes a permissible investment under provisions of this Rule may be approved in writing by the Department for credit unions demonstrating technical expertise and policies sufficient to promote safe and sound use of such investments as part of prudent investment strategies.

(b) Notwithstanding the limitation in subparagraph (5)(a), a credit union may invest in derivative instruments, including forwards and interest rate swaps, without the approval of the Department so long as the investment is solely for the purpose of managing interest rate risk. Such investment must be denominated in U.S. dollars, have a contract maturity of fifteen (15) years or less, and be based on domestic interest rates or the Secured Overnight Financing Rate (SOFR), or similar replacement rate for the U.S. dollar-denominated London Interbank Offered Rate (LIBOR). A credit union must have technical expertise, sufficient policies and procedures, and adhere to safe and sound practices in making such investments.

(6) Subordinated debt is a security issued by a credit union after approval by the National Credit Union Administration, which may qualify as capital under federal regulatory capital guidelines. The subordinated debt must be scrutinized under the suitability analysis in this rule as if it was a loan being underwritten by the purchasing credit union. Subordinated debt is an authorized investment for a state credit union subject to compliance with the terms and conditions contained in this paragraph.

(a) Notwithstanding any provision in this rule to the contrary, the credit union's aggregate investment in subordinated debt shall not exceed the credit union's policy limits or twenty-five percent of net worth, whichever is less. For purposes of determining compliance, this aggregation requirement applies to all subordinated debt investments,

whether purchased pursuant to this paragraph or any other paragraph of this rule.

(b) The securities shall be of investment quality or the credit equivalent of investment quality. Investment quality means that a rating in one of the four highest categories has been assigned to the securities by a nationally recognized rating service and, as such, are not predominantly speculative in nature. If the securities are not rated by a nationally recognized rating service, then credit equivalency shall be determined by the methods in subsection (c) of this rule.

(c) Before the purchase of subordinated debt, the credit union shall perform a due diligence suitability analysis to determine whether the subordinated debt is suitable for purchase relative to the credit union's tolerance for credit risk, asset liability position, sensitivity to market risk, and its liquidity exposure. Such analysis shall include, at a minimum, the following:

1. A complete credit analysis, including pro forma financial statements and cash flow analysis, sufficient to determine that the issuer is creditworthy and thus has the ability to meet the debt repayment schedule;

2. A review of the subordinated debt plan submitted by the issuing credit union to the National Credit Union Administration;

3. An analysis of the quality, capability, and leadership expertise of the management of the issuing credit union;

4. A marketability analysis, sufficient to determine whether or not the securities may be sold with reasonable promptness at a price corresponding to their fair value, which analysis may be supported by input from the placement agent for such securities;

5. The documentation of the suitability analysis shall be in written form and maintained in the credit union's files; and

6. A periodic update of the suitability analysis shall be performed by the credit union at least as frequently as annually during the term of the investment.

(d) The credit union shall obtain and monitor the securities' market values on an ongoing basis.

(e) The credit union's written policies and procedures shall adequately address the various risks inherent in these securities including credit risk, price or market risk, interest rate risk, and liquidity risk.

(7) Department Rule 80-2-4-.03(1) authorizes credit unions to obtain shares of stock or interests in certain subsidiary or affiliates. A credit union may invest in such subsidiary or affiliate without the approval of the Department if it owns less than ten (10) percent of the subsidiary or affiliate and the ownership interest in the subsidiary or affiliate is less than ten (10) percent of the credit union's net worth. However, in the event the credit union wishes to have an ownership interest of ten (10) percent or more in the subsidiary or affiliate or an ownership

interest in the subsidiary or affiliate that is ten (10) percent or more of the credit union's net worth, then it must obtain prior approval from the Department pursuant to subparagraph (1)(c)8. of this Rule.

(8) In the event a credit union's investment in securities no longer conforms to this Rule but conformed when the investment was originally made, the credit union shall provide written notification to the Department regarding the nonconforming investment within 30 days of discovering the nonconforming investment or 120 days of the investment becoming nonconforming, whichever event occurs first. In the event a credit union wishes to hold the nonconforming investment, the credit union must submit a letter form application to the Department including the institution's current assessment of the condition of the nonconforming security and supporting documentation that details the cause of the deterioration, severity of the deterioration, and resulting accounting treatment by the institution. Upon review of the application, the Department may request additional information if it determines such additional information is necessary in order to fully and completely evaluate the application. After completion of its review, the Department shall either approve, conditionally or otherwise, or deny such application in writing.

(9) A credit union may sell a nonconforming investment without Department authorization but only if it provides the Department with written notice no later than five (5) business days after the sale.

Authority: O.C.G.A. §§ 7-1-61, 7-1-663.

SUBJECT 80-2-12

CREDIT UNION LOANS

80-2-12-.02 Real Estate Loans

(1) A real estate loan shall be any loan secured by real estate where the credit union relies upon such real estate as the primary security for the loan. If the proceeds of the loan are used for the purchase of the real estate pledged, the loan will be presumed to be a real estate loan. Where the credit union relies substantially upon other factors, such as the general credit standing of the borrower, guaranties, or security other than real estate, the loan does not constitute a real estate loan, although as a matter of prudent underwriting it may also be secured by real estate, provided:

(a) Current credit information on the borrower and/or the guarantors is maintained to sufficiently show the credit worthiness of the borrower or guarantors is adequate to support the debt; and

(b) The other collateral is properly pledged to the credit union, protected by adequate hazard insurance, and supported by a statement of appraised or estimated value.

(2) A loan may be secured by a first lien although subordinate to another lien if:

(a) The credit union takes obligations of the borrower in an amount equal to the debt outstanding on the prior mortgage obligation plus the amount secured by such credit union's lien; and

(b) The credit union may at any time effect payment of the prior lien. In such case the credit union may require the borrower to make all mortgage payments to such credit union, with that credit union servicing the prior lien from such payments, provided that:

1. Where such "wrap around" arrangements are made, the credit union will obtain a statement from the borrower and the holder of the first lien that no further advances will be made to the borrower by the first lien holder and subject to its lien without the prior consent of the credit union, and that

2. The credit union may repay the first lien at its option with no penalty or a stated prepayment penalty.

(3) Conditions common to all real estate loans as to legal requirements and technical aspects shall be met, including but not limited to evidence of title search, recordation, an independent written appraisal or, in the alternative, a written estimate of market value in conformity with 12 CFR 722.3 (hereinafter “estimate”), and adequate insurance protection upon the insurable improvements with loss payable clause to the credit union. The lack of the foregoing technical requirements, while causing the loan to be technically defective, shall not be cause to consider the loan as nonconforming and in violation of law unless the total aggregate borrowings by the borrower exceed the unsecured lending limits of O.C.G.A. § 7-1-658, in which case the real estate collateral will not contribute to the "ample security" of the line.

(4) Interpretations of provisions within the statute:

Nonamortized commercial real estate loans shall not exceed seventy-five percent (75%) of the fair market value of the property pledged, such loans and renewals thereof may be made payable on demand, or on demand after a specified future date, but no such loans or renewals may be made or held for a period in excess of five years, after which time sufficient principal payments must be made on a regular basis to amortize the loan.

(5) Other exemptions from the limitations as to loan to value ratios and requirements for first lien are as follows:

(a) Loans to the extent secured in whole or in part by guarantees or commitments to take over, insure, participate in, or purchase the same, made by any governmental agency of the United States or entities sponsored by the United States, including corporations wholly owned either directly or indirectly by the United States.

(b) Loans which are fully guaranteed or insured by this State or by a State Authority.

(c) Loans secured in whole or in part by real estate occupied by the borrower for residential purposes, provided the credit is extended for purposes other than acquisition of the property and the aggregate outstanding debt secured by the property does not exceed the appraised value of the property as established by appraisal or estimate plus reasonable estimated values for other collateral held against the total indebtedness.

(d) Commercial loans made for operating funds, working capital, or similar purposes, (other than the purchase of, investment in, or development of real estate) predicated upon the credit standing of the borrower or endorser, guarantor or co-maker, or other such security, but on which real estate collateral (including second mortgages) is taken as precautionary measure against possible contingencies may be exempt from the restrictions and limitations imposed upon real estate loans, provided such loans are supported (in addition to adequate credit information and/or collateral documents) by a general purpose statement signed by the borrower or by a credit memorandum signed by a loan officer, stating the purpose for which the loan is made and sufficient to indicate the exemption is valid.

(e) Loans representing the sale by the credit union of other real estate acquired for debts previously contracted shall be exempt from the limitations as to property values and membership requirements exempted by O.C.G.A. § 7-1-650(9), but shall be subject to all other requirements of this regulation, provided that the amount so financed shall not be for a greater sum than the credit union's investments in such property.

(f) Loans which, when made, were either unsecured or secured by personalty, but which are now secured in whole or in part by liens on real estate taken in order to prevent loss on a debt previously contracted.

(g) Amortized loans in excess of ninety-five percent (95%) of fair market value, but not more than one hundred percent (100%) of fair market value, where not less than twenty percent (20%) of the outstanding principal balance on the loan is insured or a commitment is made to insure for the first ten (10) years of the loan by a mortgage guaranty insurance company licensed to do business in this State.

(h) Temporary loans maturing in not more than one year made for the purpose of financing the acquisition of single-family, residential property to be used as the principal residence of the borrower and where the aggregate total of all liens against the property does not exceed the purchase price of such property; provided, such loan is to be repaid from the sale of the borrower's former principal residence and the proceeds in excess of amounts owed against the former residence and costs of sale are assigned to the credit union.

(6) All construction and development loans made or held by a credit union shall be exempt from the state loan to value limitations of this statute when made to comply with the following conditions:

(a) Loans having maturities not to exceed sixty (60) months may be made to finance the construction of industrial or commercial buildings where there is a valid and binding agreement entered into by a financially responsible lender to advance the full amount of the credit union's loan upon completion of the buildings.

(b) Loans having maturities not to exceed twenty-four (24) months may be made for residential construction or development purposes where the credit union holds a firm (or conditional) commitment to guarantee or insure from any instrumentality or corporation wholly-owned by the United States or by any Authority of this State as indicated in Rule 80-2-12-.02(5)(a) and (b) of this Rule, or where there is a take-out agreement by any financially responsible lender to advance the full amount of the credit union's loan upon completion of the dwelling.

(c) Temporary construction or development loans may be made by a credit union for a period not to exceed sixty (60) months where the loan is made to finance the construction of residential development which will exceed nine (9) units or industrial or commercial buildings, or for a period not to exceed twenty-four (24) months where the loan is made to finance construction of nine (9) or less residential units or farm buildings or to improve and develop land preliminary to such construction, without a prior commitment to guarantee or insure or take-out agreement by an instrumentality or corporation wholly-owned by the United States or of this State or any other financially responsible lending agency. The parties must actually intend the loan to be paid off or refinanced by a purchaser within the specified maturities and the lots, when development is residential, must be released periodically during the development of land for such purposes, and pro rata reductions must be made in the principal of the debt. All such temporary construction and development loans must be supported by a statement of purpose or intent, and if held beyond the construction or development periods, must be made to conform to the seventy-five percent (75%) and ninety-five percent (95%) limitations; otherwise, they will be held to be nonconforming real estate loans.

For purposes of this Rule, 75% and 95% limitations are defined as loans for not more than 75 percent of the fair market value of the real estate in the case of a single maturity loan, or for not more than 95 percent of the fair market value of the real estate in the case of loans that must be regularly amortized.

(d) Commitments to guarantee, insure or purchase must be currently valid, and maturities of the loans may not be extended or loans held beyond the periods stipulated above.

(7) Except as otherwise provided in law or regulations, credit unions may not acquire directly or indirectly an ownership interest in real estate without the prior written approval of the Department.

Authority: O.C.G.A. §§ 7-1-61, 7-1-663, 7-1-650.

80-2-12-.04 Assets Acquired - Debts Previously Contracted ("D.P.C.")

(1) All assets acquired through foreclosure or in lieu of foreclosure and all "Other Real Estate" acquired in such manner or otherwise shall be valued six (6) months prior to or three (3) months following the acquisition by an independent appraiser knowledgeable in the fair market value of such assets or, in the alternative, evaluated by a qualified officer of the credit union in conformity with the Evaluation Content portion of the Interagency Appraisal and Evaluation Guidelines (hereinafter "evaluation") if the book value of the property is less than two (2) percent of the net worth and allowances for credit losses of the credit union, $400,000 for residential property, or $500,000 for commercial property whichever amount is greater. Appraisals or evaluations subsequent to the initial valuation are required if, based upon a review of the following factors, there is a reasonable basis to determine that the prior valuation is no longer reliable as a reasonable estimate of the property's fair market value: volatility of local market; changes in terms and availability of financing; natural disasters; limited or over supply of competing properties; improvements to the subject property or competing properties; lack of maintenance of the subject or competing properties; changes in underlying economic and market assumptions, such as capitalization rates and lease terms; changes in zoning, building materials, or technology; and environmental contamination. In the event there is no basis to determine that the initial valuation is no longer reliable, then appraisals or evaluations shall be at intervals of not more than five (5) years.

(2) All requests for permission to hold assets acquired through foreclosure or in lieu of foreclosure and to hold other types of "Other Real Estate" beyond limitations imposed by statute must include a statement as to efforts made to dispose of the asset, reasons for the failure of such efforts, plans for disposal of the asset during the extended ownership period, a copy of the most recent appraisal or evaluation, and a statement as to the estimated annual cost of carrying the asset and estimated annual income produced by the asset.

(3) Extension of statutory ownership periods will not be granted for income purposes.

(4) Property subject to this rule shall be initially carried on the books of the credit union at the fair market value determined by independent appraisal or evaluation, unless otherwise provided, less the estimated costs to sell the property ("new basis"). This valuation shall be determined as of the date the credit union takes legal title to or physical possession of the property, whichever event occurs first. Subsequently, the carrying value shall be subject to write-down or write-up based upon the most recent appraisal or evaluation. However, the property must be carried at the lower of the current fair market value less the estimated costs to sell the property or the new basis. The new basis may be adjusted upward in the event the credit union makes any permanent capital improvements, subject to the limitations in paragraph (5), necessary to prepare the property for sale but the adjustment in the new basis shall be the lower of the increase in the fair market value of the property after the capital

improvements or the amount expended to make the capital improvements. Non-capital improvements and expenses necessary to carrying and maintaining the property (taxes, legal fees, insurance, yard maintenance, etc.) shall be expenses and not added to the carrying value. Income earned from the property, other than from conversion or sale, shall be credited to income and shall not reduce the carrying value of the property.

(5) A credit union may make permanent capital improvements to property subject to this rule if the improvements are:

(a) Reasonably calculated to reduce any shortfall between the property's fair market value and the credit union's investment in the property;

(b) Not made for the purpose of speculation; and

(c) Consistent with safe and sound banking practices.

(6) Appraisals or evaluations obtained pursuant to this rule shall be for the purpose of determining the current fair market value of the property. Appraisals found to reflect other than current fair market value or found to have been performed by persons unfamiliar with such class of property or lacking independence from the owner of such property may be rejected by the Department and new appraisals required. Evaluations found to reflect other than current fair market value or found to have been performed by persons unfamiliar with such class of property or lacking independence (where required) from the owner of such property may be rejected by the Department and new evaluations or appraisals required.

Authority: O.C.G.A. §§ 7-1-61, 7-1-663, 7-1-650.

CHAPTER 80-3

MONEY TRANSMISSION

SUBJECT 80-3-1

DISCLOSURES, LOCATIONS, AUTHORIZED AGENTS, AND CUSTOMER INFORMATION

80-3-1-.01 Definitions, Activities, and Locations

(1) For purposes of this Rule Chapter and Rule 80-5-1-.02(1), the terms that are defined in O.C.G.A. § 7-1-680 shall have the identical meaning.

(2) “Outstanding money transmission obligations” shall be established and extinguished in accordance with applicable state law and shall mean:

(a) Any payment instrument or stored value issued or sold by the licensee to a person located in the United States or reported as sold by an authorized agent of the licensee to a person that is located in the United States that has not yet been paid or refunded by or for the licensee, or escheated in accordance with applicable abandoned property laws; or

(b) Any money received for transmission by the licensee or an authorized agent in the United States from a person located in the United States that has not been received by the payee, refunded to the sender, or escheated in accordance with applicable abandoned property laws.

(c) For purposes of this term, "in the United States" shall include, to the extent applicable, a person in any state, territory, or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico; or a U.S. military installation that is located in a foreign country.

(3) O.C.G.A. § 7-1-681 provides that no person shall engage in money transmission in this state without a license unless such person is exempt from the requirements of licensure. For a transaction requested in person, "in this state" means at a physical location within this state. For a transaction requested electronically or by telephone, the provider of money transmission may determine if the person requesting the transaction is "in this state" by relying on information provided by the person regarding the location of an individual's residence or a business entity's principal place of business or other physical address location, and any records associated with the person that the provider of money transmission may have that indicate such location, including but not limited to an address associated with an account.

(4) O.C.G.A. § 7-1-691(6) provides that it is a prohibited act for a person engaged in money transmission to fail to issue a refund within ten (10) days of receipt of a customer's request for a refund except in a number of identified circumstances. For payroll processing services, in the event a customer has delivered money or monetary value to a licensee and requested that the money or monetary value be delivered in multiple distributions over multiple days to a person(s) designated by the customer, the failure of the licensee to honor a refund request made after the initial distribution by the licensee but before the final distribution by the licensee will not be deemed a prohibited act under O.C.G.A. § 7-1-691(6) so long as the licensee completes the remaining distribution(s) in compliance with the terms in the written agreement between customer and licensee.

(5) Every licensee giving notices of additional locations or changes in locations operated by the licensee shall do so via the Nationwide Multistate Licensing System and Registry. Such notices shall be uploaded as state specific documents under the document type "Additional Requirements." The file name for each document shall begin with "Georgia Notice of New Locations" but may contain additional words at the option of the licensee. The required notices must be uploaded at least five (5) days prior to the change in location or the opening of the additional location.

Authority: O.G.G.A. §§ 7-1-61, 7-1-690.

80-3-1-.02 Disclosures and Receipts

(1) Every licensee or authorized agent of a licensee, unless such authorized agent is a financial institution whose deposits are federally insured, shall display a copy of the licensee's license prominently in every physical location in this state where money transmission is conducted.

(2) Each customer shall be provided with a written receipt or other evidence of acceptance of money received for transmission showing the name of the licensee or trade name of the licensee that is registered with the Department, unique identifier of the licensee, authorized agent identifier information, the date of the receipt of money for transmission, the dollar amount of the money received for transmission, and the fee charged to the customer. The requirement to provide a receipt in this paragraph shall not apply to: money received for transmission subject to 12 C.F.R. Part 1005, Subpart B; money received for transmission that is not for personal, family, or household purposes; money received for transmission pursuant to a written agreement between the licensee and payee to process payments for goods and services provided by the payee; and payroll processing services.

(3) Every licensee or authorized agent of a licensee shall transmit money within ten (10) days of receipt unless the agreement satisfies the exception set forth in O.C.G.A. § 7-1-691(3) or the licensee or its authorized agent has a reasonable belief that the customer may be a victim of fraud or that a crime or other violation of law, rule, or regulation has occurred, is occurring, or may occur. If a licensee or its authorized agent fails to forward money received for transmission in accordance with this subsection, the licensee must respond to an inquiry by the customer with the reason for the failure unless providing such response would violate a state or federal law, rule, or regulation.

Authority: O.G.G.A. §§ 7-1-61, 7-1-690.

80-3-1-.03 Authorized Agents

(1) Licensees may designate authorized agents to engage in money transmission, and the place of business of such authorized agents will not be construed as a branch office of the licensee. The licensee must conduct a reasonable risk-based background investigation sufficient to determine whether the authorized agent has complied and likely will comply with applicable state and federal law. The licensee must establish and periodically review policies and procedures that are reasonably designed to ensure that the licensee's authorized agents comply with applicable state and federal law. The authorized agent must be bonded and the licensee made solely liable for the payment of the issued payment instruments or transmitted money upon proper presentation and demand. The licensee's blanket bond coverage shall extend to cover transactions by the authorized agent and the conveyance of the funds to the licensee or the licensee's depository financial institution. The responsibility of both the licensee and its authorized agent shall be defined in a written agreement setting forth the

duties of both parties and providing for remuneration of the authorized agent. The written agreement between the licensee and its authorized agent must include the following:

(a) An acknowledgement by the authorized agent of its receipt of the licensee's written policies and procedures set forth above;

(b) A notification that the licensee is subject to regulation by the Department and that, as part of that regulation, the Department may issue administrative action against the licensee and its authorized agent, including but not limited to rescinding the authorization to act as an authorized agent of the licensee; and,

(c) An acknowledgment by the authorized agent that it is subject to and will cooperate with any investigation or examination conducted by the Department pursuant to O.C.G.A. § 7-1-689.

(2) Licensees are required to submit authorized agent information, including notices of additional locations or changes in locations operated by an authorized agent, to the Department via the Nationwide Multistate Licensing System and Registry. The initial authorized agent list should include all authorized agents of the licensee as of the date the licensee begins business. Future reports related to authorized agents will be submitted on a quarterly basis. The initial authorized agent list as well as the subsequent quarterly reports shall be deemed to be the licensee's notice of new locations operated by authorized agents as well as the licensee's application for approval of the designated authorized agents. The notice required by this section shall also include the name and business locations of any authorized agent whose agency has been revoked, suspended, cancelled, terminated, or voluntarily closed by the licensee since the previous report. The reason for such revocation or suspension, and the amount of any outstanding claim by the licensee against the authorized agent relating to money transmission shall be provided to the Department upon request. Failure to report changes to authorized agents and/or locations in the reporting period in which the authorized agent began or ceased offering the licensee's services can result in fines, revocation, suspension, or other administrative action by the Department.

(3) Proceeds received from money transmission net of fees charged and retained by the authorized agent shall be remitted to the licensee in accordance with the terms of the contract between the licensee and the authorized agent.

Authority: O.G.G.A. §§ 7-1-61, 7-1-683.1, 7-1-690.

SUBJECT 80-3-2

FINANCIAL CONDITION, REPORTING, AND CONTROL

80-3-2-.01 Reports of Condition

Licensees are required to prepare and submit various reports of condition.

(1) Each licensee shall have an audit of its books and records performed at least annually by independent public accountants in accordance with generally accepted auditing standards. Audits will be submitted to the Department via NMLS within ninety (90) days of the end of each fiscal year.

(2) Each licensee shall submit to the Department, through NMLS, a Money Services Businesses ("MSB") Call Report on a quarterly basis in a form and manner prescribed by the Department, no later than forty-five (45) days after the end of each calendar quarter.

(3) Each licensee shall file, no later than August 14th of each year, an activity statement in a form and manner prescribed by the Department, which shall include, but not be limited to, the average daily money transmission liability in Georgia during the second calendar quarter. Licensees submitting an activity statement to the Department are certifying to the material accuracy and validity of the information as submitted.

Authority: O.G.G.A. §§ 7-1-61, 7-1-684.1, 7-1-690.

80-3-2-.02 Net Worth

(1) Every applicant for a license shall demonstrate to the Department that such applicant has sufficient financial resources in the form of working capital and tangible net worth to successfully engage in the business of money transmission. Sufficiency of financial resources shall be determined through financial analysis by the Department of pro-forma and historical financial information of the applicant, including, but not limited to, audited financial statements for the most recent fiscal year and the previous two years or, if determined to be acceptable by the Department for a more recently formed entity, certified unaudited financial statements for the most recent fiscal year or other relevant period. Each licensee shall be required to complete and attest to official questionnaires and statements of assets and liabilities when requested for examination purposes.

(2) An applicant or licensee that is unable to meet the minimum tangible net worth requirement set forth in O.C.G.A. § 7-1-683.2 may submit to the Department a written request for a waiver in a form and manner prescribed by the Department. The request should provide information pertinent to the request, including but not limited to the applicant or licensee’s financial condition, the extent to which a waiver is requested, and the specific reasons for the request. The Department shall take into consideration competitive, financial, managerial, compliance, and other concerns in evaluating any waiver request. The Department is authorized to impose conditions on the grant of any request for a waiver. Such written request shall be submitted to the Department via NMLS. Such written request shall be uploaded as a state-specific document under the document type “Additional Requirements.” The file name shall begin

with “Georgia Tangible Net Worth Waiver Request” but may contain additional words at the option of the licensee.

Authority: O.G.G.A. §§ 7-1-61, 7-1-690.

80-3-2-.03 Surety Bond

If a licensee's average daily money transmission liability, as calculated by the licensee for each calendar quarter, exceeds the amount of the licensee's surety bond by more than ten percent (10%), the licensee must promptly, which in no event shall be later than twenty (20) days after such calculation, provide additional coverage to fully account for the increase in average daily money transmission liability pursuant to O.C.G.A. § 7-1-683.2(b)(2). However, notwithstanding the above, the amount of the surety bond required by O.C.G.A. § 7-1-683.2(b)(2) shall not be required to exceed $2,000,000.00.

Authority: O.G.G.A. §§ 7-1-61, 7-1-683.2, 7-1-690.

80-3-2-.07 Permissible Investments

(1) The following investments are permissible to satisfy the requirements of O.C.G.A. § 7-1-683.2(c):

(a) Cash, including demand deposits, savings deposits, and funds in such accounts held for the benefit of the licensee's customers in a federally insured depository financial institution, and the following cash equivalents: Automated Clearing House (“ACH”) items in transit to the licensee and ACH items or international wires in transit to a payee, cash in transit via armored car, cash in smart safes, cash in licensee-owned locations under appropriate controls, debit card or credit card-funded transmission receivables owed by any federally insured depository financial institution, or money market mutual funds rated "AAA" by S&P Global Ratings (“S&P”), or the equivalent from any eligible rating service.

(b) Certificates of deposit or senior debt obligations of a financial institution whose deposits are federally insured.

(c) An obligation of the United States or a commission, agency, or instrumentality thereof; an obligation that is guaranteed fully as to principal and interest by the United States; or an obligation of a state or a governmental subdivision, agency, or instrumentality;

(d) One hundred percent of the surety bond provided for in O.C.G.A. § 7-1-683.2(b) that exceeds the amount required by the Department.

(e) Receivables that are payable to a licensee from its authorized agents in the ordinary course of business that are less than seven days old, up to 50% of the aggregate value

of the licensee's total permissible investments, with not more than 10% of the aggregate value of the licensee's total permissible investments consisting of receivables from a single authorized agent; and,

(f) The following investments are permissible up to 20% per category and combined up to 50% of the aggregate value of the licensee's total permissible investments:

(i) A short-term investment of up to six months bearing an eligible rating;

(ii) Commercial paper bearing an eligible rating;

(iii) A bill, note, bond, or debenture bearing an eligible rating;

(iv) United States tri-party repurchase agreements collateralized at 100% or more with U.S. government or agency securities, municipal bonds, or other securities bearing an eligible rating;

(v) Money market mutual funds rated less than "AAA" and equal to or higher than "A-" by S&P, or the equivalent from any other eligible rating service; and,

(vi) A mutual fund or other investment fund composed solely and exclusively of one or more permissible investments listed in subsections (a), (b), and (c) above.

(2) For purposes of this rule, these terms shall mean the following:

(a) "Eligible rating service" means any Nationally Recognized Statistical Rating Organization (NRSRO) as defined by the U.S. Securities and Exchange Commission.

(b) "Eligible rating" means a credit rating of any of the three highest rating categories provided by an eligible rating service, whereby each category may include rating category modifiers such as "plus" or "minus" for S&P or the equivalent for any other eligible rating service. Long-term credit ratings are deemed eligible if the rating is equal to A- or higher by S&P, or the equivalent from any other eligible rating service. Short-term credit ratings are deemed eligible if the rating is equal to or higher than A-2 or SP-2 by S&P, or the equivalent from any other eligible rating service. In the event that ratings differ among eligible rating services, the highest rating shall apply when determining whether a security bears an eligible rating.

Authority: O.C.G.A. §§ 7-1-61, 7-1-690.

SUBJECT 80-3-3

BOOKS AND RECORDS

80-3-3-.01 Minimum Books and Records

80-3-3-.01 Minimum Books and Records

(1) Each licensee shall make, keep, and preserve the following books, accounts, and other records:

(a) A record of each payment instrument sold;

(b) A general ledger which shall be posted at least monthly containing all assets, liabilities, capital, and income and expense accounts;

(c) Settlement sheets received from authorized agents;

(d) Bank statements and bank reconciliation records;

(e) Records of outstanding payment instruments;

(f) Records of each payment instrument paid;

(g) A list of the names and addresses of all of the licensee's authorized agents;

(h) A copy of all currency transaction reports and suspicious activity reports that are required by law to be filed by the licensee and the related work papers;

(i) Records of all money transmissions sent or received as well as all outstanding money transmissions;

(j) Supporting documentation for all reports required to be prepared or filed with the Department or the Nationwide Multistate Licensing System and Registry;

(k) Information security program materials maintained by the licensee in accordance with 16 C.F.R. Part 314, ("the Safeguards Rule") and Rule 80-3-1-.05, including, but not limited to, any risk assessment and incident response plan; and

(l) Records of written requests for and issuance of refunds.

(2) Licensees shall be prohibited from withholding, deleting, destroying, or altering information requested by an examiner of the Department or making false statements or material misrepresentations to the Department during the course of an examination or on any application or renewal form sent to the Department.

Authority: O.G.G.A. §§ 7-1-61, 7-1-689, 7-1-690.

SUBJECT 80-3-4

ADMINISTRATIVE FINES AND PENALTIES

80-3-4-.01 Administrative Fines

(1) Except as otherwise indicated, these fines and penalties apply to any person, partnership, association, corporation, or any other group of individuals, however organized, that is required to be licensed under Article 4 of Chapter 1 of Title 7. The Department, at its sole discretion, may waive or modify a fine based upon the financial resources of the person, gravity of the violation, history of previous violations, and such other facts and circumstances deemed appropriate by the department.

(2) All fines levied by the Department are due within thirty (30) days from the date of assessment and must be paid prior to renewal of the annual license, reapplication for a license, or any other activity requiring Departmental approval.

(3) In addition to any fines levied by the Department, the recipient of the fine may be subject to additional administrative actions for the same underlying activity.

(4) The Department establishes the following fines and penalties for violation of the laws and rules governing money transmitters.

(a) Books and Records. If the Department, in the course of an examination or investigation, finds that a licensee has failed to maintain its books and records according to the requirements of O.C.G.A. § 7-1-689 and Rules 80-3-1-.03, 80-3-1-.01(3), 80-3-2-.01, 80-3-1-.02(2), 80-3-3-.01, or 80-3-3-.02, such licensee shall be subject to a fine of one thousand dollars ($1,000) for each books and records violation listed in Rule 80-3-1-.03, 80-3-1-.01(3), 80-3-2-.01, 80-3-1-.02(2), 80-3-3-.01or 80-3-3-.02.

(b) Operating Without Proper License. Any person who acts as a money transmitter prior to receiving a current license required under O.C.G.A. Article 4 of Chapter 1 of Title 7, or who acquires a money transmission business without its own license, or during the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars ($1,000) per day.

(c) Felons. Any licensee that hires or retains a covered employee who is a felon as described in O.C.G.A. § 7-1-684(c), when such covered employee has not complied with the remedies provided for in O.C.G.A. § 7-1-684(c) for each conviction before such employment, shall be subject to a fine of five thousand dollars ($5,000) for each such covered employee.

(d) Locations and Authorized Agents. Any licensee that does not give timely notice to the Department of new locations or agents beyond those previously reported as required in O.C.G.A. § 7-1-686(d) and Rules 80-3-1-.03(2) and 80-3-1-.01(3), shall be subject to a fine of five hundred dollars ($500) for each location or agent not reported.

(e) Background Checks on Employees. Any licensee that does not obtain a criminal background check on each covered employee prior to the initial date of hire, retention, or transition of an existing employee to a covered employee as set forth in Rule 80-3-5-.04(1) shall be subject to a fine of one thousand dollars ($1,000) per occurrence. Proof of the required criminal background check must be retained by the licensee until five years after termination of employment by the licensee. Notwithstanding compliance with this requirement to perform a criminal background check prior to employment, failure to maintain criminal background checks as required will result in a fine of one thousand dollars ($1,000) for each covered employee for which the licensee is missing this documentation.

(f) Authorized Agents. Any licensee that does not give notice of an authorized agent whose agency certificate has been revoked, suspended, cancelled, terminated, or voluntarily closed by the licensee as required by Rule 80-3-1-.03(2), shall be subject to a fine of five thousand dollars ($5,000) for each authorized agent revocation, suspension, cancellation, termination, or voluntary closure not reported in writing to the Department.

(g) Failure to Provide Receipt. In the event a licensee or its authorized agent does not provide the customer with a written receipt or other evidence of acceptance as required in Rule 80-3-1-.02(2), it shall be subject to a fine of one thousand dollars ($1,000) per transaction where the receipt was not provided.

(h) Failure to Notify or Obtain Approval from the Department of Change in Ownership, Change in Control, or Designation of Executive Officer. Any licensee or other person who fails to obtain the Department's prior approval of a change in ultimate equitable ownership through acquisition or other change in control or change in executive officer resulting from such change in ownership or change in control of the licensee in compliance with O.C.G.A. § 7-1-688 and Rule 80-3-2-.04 shall be subject to a fine of one thousand dollars ($1,000). Any licensee or other person who fails to timely notify the Department of a change in control not requiring approval in compliance with O.C.G.A. § 7-1-687 shall be subject to a fine of one thousand dollars ($1,000). Any licensee or other person who fails to timely notify the Department of a change in executive officer not resulting from a change in control or ownership in compliance with O.C.G.A. § 7-1-687 shall be subject to a fine of one thousand dollars ($1,000).

(i) Other Business Activities. Any licensee found to have violated any law of this state by conducting any other business that is not lawful in conjunction with money transmission, shall be subject to a fine of five thousand dollars ($5,000).

(j) Failure to Report. Any licensee who fails to provide required reports as established by the Department and file the reports with the Department or the Nationwide Multistate Licensing System and Registry within the designated time periods shall be subject to a fine of one thousand dollars ($1,000) for each such occurrence.

(k) Failure to Submit to Exam. The penalty for the refusal of a licensee to permit the Department to conduct an investigation or examination of its books, accounts, and records (after a reasonable request by the Department), shall be a five thousand dollars ($5,000) fine. Refusal shall require at least two attempts by the Department to schedule an examination or investigation.

(l) Consumer Complaints. Any licensee who fails to respond to a written consumer complaint or fails to respond to the Department regarding a consumer complaint, within the time periods specified in the Department's correspondence to such licensee, shall be subject to a fine of one thousand dollars ($1,000) for each occurrence.

(m) Bank Secrecy Act. If the Department, in the course of an examination or investigation, finds that a licensee has failed to comply with the Currency and Foreign Transactions Reporting Act of 1970 and its related regulations, including those set forth at 31 CFR Chapter X (together, the "Bank Secrecy Act") or the requirements referred to in Rules 80-3-6-.01, 80-3-6-.02, and 80-3-6-.03, such licensee shall be subject to a fine of one thousand dollars ($1,000) for each instance of non-compliance.

(n) Failure to Timely Disclose Change in Affiliation of Natural Person that Executed Lawful Presence Affidavit and Submission of New Affidavit. Any licensed money transmitter that fails to disclose that the owner or executive officer that executed the lawful presence affidavit is no longer in that position with the licensee within ten (10) business days of the date of the event necessitating the disclosure, shall be subject to a fine of one thousand dollars ($1,000). Any licensed money transmitter that fails to submit a new lawful presence affidavit from a current owner or executive officer within ten (10) business days of the owner or executive officer that executed the previous lawful presence affidavit no longer being in that position with the licensee, shall be subject to a fine of one thousand dollars ($1,000) per day until the new affidavit is provided.

(o) Failure to Timely Update Information on the Nationwide Multistate Licensing System and Registry. Any licensee that fails to update its information on the Nationwide Multistate Licensing System and Registry ("NMLSR"), including, but not limited to, amendments to any response to disclosure questions, within ten (10) business days of the date of the event necessitating the change, shall be subject to a fine of one thousand dollars ($1,000) per occurrence. In addition, the failure of a control person of a licensee to update the individual's information on the NMLSR, including, but not limited to, amendments to any response to disclosure questions by the control person, within ten (10) business days of the date of the event necessitating the change, shall subject the licensee to a fine of one thousand dollars ($1,000) per occurrence.

(p) Failure to Post Required License. Any licensee that fails to post a copy of its license in any physical location in this state where money transmission is conducted shall be subject to a fine of five hundred dollars ($500) for each instance of non-compliance.

(q) Prohibited Acts. Any licensee or other person who violates the provisions of O.C.G.A. §§ 7-1-691 and 7-1-692 shall be subject to a fine of one thousand dollars ($1,000) per violation or transaction that is in violation.

(r) Unauthorized Access to Customer Information. Any licensee that fails to provide the Department with notice of unauthorized access to customer information as required by Rule 80-3-1-.04 shall be subject to a fine of one thousand dollars ($1,000) a day until the notice is provided.

(s) Failure to Timely Increase the Amount of the Surety Bond. Any licensee that fails to increase the amount of the applicable surety bond when its average daily money transmission liability, as required by Rule 80-3-2-.03, exceeds the face amount of the surety bond by ten percent (10%) or more shall be subject to a fine of one thousand dollars ($1,000) per occurrence.

(t) Failure to Provide Refund. Any licensee that fails to provide the customer with a refund as required by O.C.G.A. § 7-1-691(6) within ten (10) days of a written request shall be subject to a fine of one hundred dollars ($100) per transaction where a refund was not timely provided.

(u) Failure to Notify Authorized Agents of Termination of License. Any licensee that fails to timely provide documentation to the Department that the licensee has notified its authorized agents of the suspension, revocation, surrender, or expiration of the licensee's license as required by O.C.G.A. § 7-1-683.1(d) shall be subject to a fine of five thousand dollars ($5,000).

Authority: O.G.G.A. §§ 7-1-61, 7-1-690, 7-1-694.

SUBJECT 80-3-5

LICENSING

80-3-5-.01 Verification of Lawful Presence Citizenship Affidavit

(1) Pursuant to O.C.G.A. § 50-36-1, the Department is required to obtain an affidavit verifying the lawful presence of every natural person that submits an application for a license as a money transmitter on behalf of an individual, business, corporation, partnership, limited liability company, or any other business entity. For businesses, corporations, partnerships, limited liability companies, and other business entities (collectively "company applicant"), only an owner or executive officer that is authorized to act on behalf of the company applicant is authorized to submit the required signed and sworn affidavit.

(2) In the event the individual that executed the lawful presence affidavit on behalf of the company applicant is no longer an owner or executive officer of the licensee, the licensee must notify the Department within ten (10) business days following the date of the occurrence and provide the Department with an affidavit from a current owner or executive officer verifying his or her lawful presence on behalf of the licensee. The failure to disclose within ten (10) business days that the owner or executive officer that executed the lawful presence affidavit is no longer in that position with the licensee or to timely submit a new affidavit from a current owner or executive officer may subject the license to revocation, suspension, and other administrative action.

Authority: O.G.G.A. §§ 7-1-61, 7-1-690.

80-3-5-.02 Nationwide Multistate Licensing System and Registry

(1) License issuance and renewals.

(a) All applications for new or renewal licenses must be made through the Nationwide Multistate Licensing System and Registry ("NMLSR") unless otherwise expressly exempted from this requirement by the Department in writing. Fees for new applications include an initial Department investigation fee and the appropriate application fee. Applications for new licenses which are approved between November 1 and December 31 in any year will not be required to file a renewal application for the next calendar year. All fees are non-refundable.

(b) All licenses issued shall expire on December 31 of each year, and an application for renewal shall be made annually between November 1 and December 31 each year. Subsequent renewal applications and/or license fees must be received on or before December 1 of each year or the renewal applicant will be assessed a late fee as set forth in Rule 80-5-1-.02. A renewal application is not deemed received until all required information and corresponding fees have been provided by the licensee. A proper renewal application not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license will expire. Unless a proper renewal application has been received any license which is not renewed on or before December 31 will require the renewal applicant to file a reinstatement application in order to conduct business as a money transmitter in the State after that date.

(2) The responsibility of applicants and licensees to update information in NMLSR.

(a) It shall be the sole responsibility of each applicant for a license and each licensee to keep current at all times its information on the NMLSR. Amendments to any information on file with the NMLSR must be made by the applicant or licensee within ten (10) business days of the date of the event necessitating the change. The Department shall have no responsibility for any communication not received by an applicant or

licensee due to its failure to maintain current contact information on the NMLSR as required.

(b) Amendments to any responses to disclosure questions by an applicant for a license or a licensee must be made within ten (10) business days following the date of the event necessitating the change. Failure by an applicant for a license to timely update the applicant's responses to disclosure questions may result in the denial of the application. In the case of a licensee, failure to timely update any disclosure information may result in the revocation of its license.

(c) It shall be the responsibility of each applicant for a license and each licensee to ensure that its control persons keep current at all times their information on the NMLSR. Amendments to any information on file with the NMLSR must be made by the control person within ten (10) business days of the date of the event necessitating the change. For purposes of this Rule, control person means any individual that has the power, either directly or indirectly, to direct or cause the direction of management and policies of an applicant or licensee, whether through the ownership of voting or nonvoting securities, by contract, or otherwise.

(d) Amendments to any responses to disclosure questions by a control person must be made within ten (10) business days following the date of the event necessitating the change. Failure by a control person of an applicant for a license to timely update the control person's responses to disclosure questions may result in the denial of the application. In the case of a licensee, failure by a control person to timely update any disclosure information may result in the revocation of its license.

(3) A licensee may challenge information entered by the Department into the NMLSR. All challenges must be sent to the Department in writing addressed to the attention of the Deputy Commissioner of Non-Depository Financial Institutions. Once received, the Department shall consider the merits of the challenge raised and provide the licensee with a written reply that shall be the Department's final decision regarding the challenge.

(4) All written notices required pursuant to O.C.G.A. §§ 7-1-687(a) and 7-1-687(d) shall be submitted to the Department via NMLS. Such notices shall be uploaded as state-specific documents under the document type “Additional Requirements.” The file name for each document shall begin with “Georgia Required Written Notice” but may contain additional words at the option of the licensee.

Authority: O.G.G.A. §§ 7-1-61, 7-1-683.3, 7-1-690.

80-3-5-.04 Employee Background Checks; Covered Employees

(1) As required by O.C.G.A. § 7-1-684(f), applicants and licensees must have commercial background checks performed on all covered employees, as defined in O.C.G.A. § 7-1-680(7). Background checks on all covered employees must be completed and found

satisfactory by an applicant prior to the issuance of a license or by a licensee prior to the initial date of hire of such covered employee. In the event the job responsibilities of an employee change so that the employee satisfies the covered employee definition in O.C.G.A. § 7-1-680(7), the required background check must be completed and found satisfactory prior to the change in job responsibilities.

(2) Pursuant to O.C.G.A. § 7-1-684(f), applicants and licensees shall conduct criminal background checks by utilizing a commercial entity. The commercial entity shall be in the business of conducting criminal background checks. The criminal background checks conducted by the commercial entity must not have any time period limitations, geographic limitations, or restrictions in the search criteria, unless the time period limitation, geographic limitation, or other restriction on the background checks is required by applicable federal or state law. Any fees charged by the commercial entity for processing background checks must be paid by the applicant or licensee.

(3) Licensees may coordinate, via contract or otherwise, with authorized agents to obtain any required criminal background checks for covered employees employed by authorized agents. However, notwithstanding this coordination between the licensee and the authorized agent, the licensee remains responsible for compliance with O.C.G.A. § 7-1-684(f).

Authority: O.C.G.A. §§ 7-1-61, 7-1-684, 7-1-690.

80-3-5-.05 Transition Period

Money transmitters licensed as of July 1, 2023, shall be afforded a transition period through December 31, 2024, to demonstrate compliance with the following requirements:

(a) The content of written agreements between licensees and their authorized agents, including both new and continuing authorized agents, as required by 80-3-1-.03(1)(a) through (c).

(b) For any person previously approved as a seller of payment instruments licensee that is deemed to be a money transmitter licensee as of July 1, 2023, the license type indicated in any document produced or used by the licensee, including but not limited to the license posted in a physical location in this state where money transmission is conducted, and written agreements between the licensee and its authorized agents.

(c) The minimum tangible net worth required by O.C.G.A. § 7-1-683.2(a) or submission of a request for a waiver of the requirement pursuant to O.C.G.A. § 7-1-683.2(a) and Rule 80-3-2-.02.

Authority: O.C.G.A. §§ 7-1-61, 7-1-690.

SUBJECT 80-3-6

COMPLIANCE WITH FEDERAL REQUIREMENTS

80-3-6-.02 Reports of Large Currency Transactions, Recordkeeping, and Suspicious Activity Reporting Requirements

(1) Persons engaged in the business of transmitting money and authorized agents of money transmitters shall be subject to the filing requirements for large currency transactions as prescribed in Article 11 of Chapter 1 of Title 7, and as further directed herein.

(2) The reporting requirements contained in Article 11 of Chapter 1 of Title 7 shall be met by filing with the appropriate federal agency a copy of the form(s) filed in compliance with the Currency and Foreign Transactions Reporting Act of 1970 and its related regulations, including those set forth at 31 CFR Chapter X (together, the "Bank Secrecy Act") within the time limits set forth therein. Such forms shall include the filing of currency transaction reports and suspicious activity reports as described in the Bank Secrecy Act and accompanying regulations.

(3) Recordkeeping. Georgia law regarding such recordkeeping for money transmitters shall be satisfied by compliance with all applicable federal law. Such federal law includes, but is not limited to, the Bank Secrecy Act.

(4) Records required to be maintained under Paragraph (3) of this rule may be maintained in a photographic, electronic, or other similar form at a central location within or outside the State of Georgia provided specific records can be transmitted to a location designated by the Department within ten (10) days of the date of the Department's request.

(5) Currency transaction reporting requirements for financial institutions are contained in Chapter 80-9-1 of the Department's regulations.

Authority: O.G.G.A. §§ 7-1-61, 7-1-690.

80-3-6-.03 Reports of Apparent Criminal Irregularity by Licensees and Authorized Agents

(1) Licensees shall file with the Department the name, location, and federal tax identification number of any authorized agent within this state who has failed to remit to the licensee the proceeds received from licensee's money transmission activities in accordance with the terms of the contract between the licensee and the authorized agent or whose authorized agency status has been revoked, suspended, terminated, cancelled, or voluntarily closed due to an outstanding liability due to the licensee. The report shall state the aggregate amount of

unremitted money transmission proceeds due to the licensee and any provisions which have been made to recover same.

(2) Structuring to avoid reporting.

(a) Unless otherwise reporting to the appropriate federal agency under Rule 80-3-6-.02(2), money transmitters and authorized agents of money transmitters shall report to the Department any instance involving such money transmission where there is reasonable cause to believe that its customer has, for the purpose of evading the reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970 and its related regulations, including those set forth at 31 CFR Chapter X (together, the "Bank Secrecy Act") or Article 11 of Chapter 1 of Title 7:

1. Caused or attempted to cause a currency transaction report required under Article 11 of Chapter 1 of Title 7 or the Bank Secrecy Act not to be filed;

2. Caused or attempted to cause a currency transaction report required under Article 11 of Title 7 or the Bank Secrecy Act to be filed containing a material omission or misstatement as defined in O.C.G.A. § 7-1-912;

3. Completed a structuring (as defined in O.C.G.A. § 7-1-912), assisted in structuring, attempted a structuring, or attempted to assist in structuring any currency transaction.

(b) Authorized agents of money transmitters shall not be required to report as provided in subsection (a) where the licensee has advised the authorized agent in writing that the licensee operates a system of internal procedures designed to gather the pertinent data and file the reports required in subsection (a).

(3) Any licensed money transmitter shall notify the Department within ten (10) business days of any knowledge or discovery of any criminal act or apparent criminal act by any officer, director, or employee of such licensee or by any officer, director, or employee of an authorized agent occurring in this state and relating to the business of the licensee. Such notification shall include a full description of the acts or apparent acts believed to be in violation of the criminal laws of this state or the United States, the names of all persons believed to be involved, a statement as to action taken by the licensee in response to the discovery or suspicions, and a copy of the written notification to the licensee's fidelity insurance carrier.

(4) Licensees governed by these Rules shall be subject to amendments of the Bank Secrecy Act which may impose other reporting obligations for suspicious transactions.

Authority: O.G.G.A. §§ 7-1-61, 7-1-690.

CHAPTER 80-4

CHECK CASHERS

SUBJECT 80-4-1

BOOKS AND RECORDS; OTHER REQUIREMENTS

80-4-1-.01 Books and Records; Other Requirements

(1) For purposes of this Rules Chapter and Rule 80-5-1-.02(2), the terms that are defined in O.C.G.A. § 7-1-700 shall have the identical meaning.

(2) Every applicant for a license shall demonstrate to the Department that such applicant has sufficient financial resources in the form of working capital and tangible net worth to successfully engage in the business of cashing payment instruments. Sufficiency of financial resources shall be determined through financial analysis by the Department of pro-forma and historical financial information of the applicant. Each licensee shall be required to complete and attest to official questionnaires and statements of assets and liabilities when requested for examination purposes. Licensees shall be prohibited from withholding, deleting, destroying, or altering information requested by an examiner of the Department or making false statements or material misrepresentations to the Department during the course of an examination or on any application or renewal form sent to the Department.

(3) Every licensee shall maintain an original written authorization or other evidence of verification attesting to the fact that each specific corporation or other business association has authorized its officers and employees or specific officers or employees to present payment instruments, drawn by the corporation or other business association payable to cash or drawn by any party payable to the corporation or other business association, to a licensee for cashing. A check casher shall not cash a payment instrument payable to persons other than natural persons unless the check casher has on file such written authorization or verification indicating that the payee has authorized the presentation of such payment instruments on behalf of the payee.

(4) Every licensee shall post in prominent view of each teller window or other customer service station a copy of its license. Advertising material related to the cashing of payment instruments and distributed within this state shall contain the licensee's name, which shall conform to the name on record with the Department, and unique identifier, which shall clearly indicate that the number was issued by the Nationwide Multistate Licensing System and Registry.

(5) Minimum Books and Records.

(a) Books and records required herein shall be maintained by every licensee.

(b) A record of cashed payment instruments shall be maintained by each licensee as a log of all transactions occurring each day. The log must be maintained in chronological order based on the date of negotiation of the payment instrument.

1. For all cashed payment instruments, such record shall include:

(i) The date of negotiation of the payment instrument;

(ii) Name, address, and identifying number (social security, driver's license, passport, etc.) of the person negotiating the payment instrument;

(iii) Amount of the payment instrument; and

(iv) Amount of fee charged for cashing the payment instrument.

2. For all cashed payment instruments in an amount of one thousand dollars ($1,000) or more, such record shall also include:

(i) Date of the payment instrument;

(ii) Payment instrument number;

(iii) Name and location or routing number of the payor financial institution or, if a pre-paid card, the branded card name; and

(iv) Name of the drawer of the payment instrument.

(c) A daily cash reconcilement statement shall be maintained summarizing each day's activity and reconciling cash on hand at the opening of business to cash on hand at the close of business. Such reconcilement statement shall separately reflect cash received from money transmission (if also licensed as a money transmitter or an authorized agent of such licensee), redemption of returned items, cash withdrawals at a financial institution, cash disbursed in cashing of payment instruments, and cash deposits at a financial institution.

(d) A general ledger containing records of all assets, liabilities, capital, income and expenses shall be maintained. The general ledger shall be posted from the daily record of cashed payment instruments or other record of original entry, at least quarterly, and shall be maintained in such manner as to facilitate the preparation of an accurate trial balance of accounts in accordance with generally accepted accounting practices. A consolidated general ledger reflecting activity at two or more locations under the same license may be maintained provided books of original entry are separately maintained for each location.

(e) For all entities cashing payment instruments, each customer cashing a payment instrument shall be offered the option of receiving a receipt showing the name of the licensee or trade name of the licensee, the transaction date, the amount of the payment instrument, and the fee charged.

(f) All licensees shall maintain supporting documentation for all reports and logs required to be prepared or filed with the Department or the Nationwide Multistate Licensing System and Registry.

(g) Information security program materials maintained by the licensee in accordance with 16 C.F.R. Part 314, ("the Safeguards Rule") and Rule 80-3-1-.05, including, but not limited to, any risk assessment and incident response plan.

(6) All payment instruments drawn on a financial institution domiciled in the United States and cashed by a licensee shall be sent for deposit to the licensee's account at a financial institution authorized to do business in the State of Georgia whose deposits are federally insured or sent for collection not later than the close of business on the next business day after the date on which the payment instrument was cashed.

(7) Each licensee shall maintain a principal location at which its books and records are maintained and which is accessible to the Department for examination during normal business hours. Records required to be maintained under this rule may be maintained in a photographic, electronic, or other similar format at a central location within or outside the State of Georgia provided specific records can be transmitted to a location designated by the Department within ten (10) days of the Department's request. The Department may examine any person that purports to satisfy the exemption from licensure set forth in O.C.G.A. § 7-1-701.1 to verify that the person qualifies for the exemption from licensure. A licensee that refuses to permit an investigation or examination of books, accounts and records (after a reasonable request by the Department), that withholds material information or makes a misrepresentation shall have its license revoked.

(8) The business of the licensee may be conducted through additional outlets, including those operated as mobile facilities, provided that mobile facilities maintain a regular schedule of times and locations at which they cash payment instruments, file the schedule with the Department, and comply with local licensure requirements at each location at which business is conducted. A licensee must provide the Department with written notice at least thirty (30) days prior to it conducting business at any additional outlets.

(9) A licensee shall notify the Department in writing within fifteen (15) days of the closing of the portion of its business that cashes payments instruments and shall surrender its original license to the Department at that time.

(10) A licensee shall make a written request to the Department seeking approval for any proposed change in ultimate equitable ownership through acquisition or other change in control or change in executive officer resulting from such change in ownership or change in control of

the licensee as required by O.C.G.A. § 7-1-705.1 at least thirty (30) days prior to the proposed change.

(11) Every licensee giving notices of changes in locations operated by the licensee over those previously reported shall do so at least thirty (30) days prior to conducting business at the new location and on forms provided by the Department.

Authority: O.G.G.A. §§ 7-1-61, 7-1-702.2, 7-1-706.

80-4-1-.05 Administrative Fines and Penalties

(1) Except as otherwise indicated, these fines and penalties apply to any person, partnership, association, corporation, or any other group of individuals, however organized, that is required to be licensed under Article 4A of Chapter 1 of Title 7. The Department, at its sole discretion, may waive or modify a fine based upon the financial resources of the person, gravity of the violation, history of previous violations, and such other facts and circumstances deemed appropriate by the Department.

(2) All fines levied by the Department are due within thirty (30) days from the date of assessment and must be paid prior to renewal of the annual license, reapplication for a license, or any other activity requiring Departmental approval.

(3) In addition to any fines levied by the Department, the recipient of the fine may be subject to additional administrative actions for the same underlying activity.

(4) The Department establishes the following fines and penalties for violation of the law and rules governing check cashers.

(a) Books and Records. If the Department, in the course of an examination or investigation, finds that a licensee has failed to maintain its books and records according to the requirements of O.C.G.A. § 7-1-706(a) and Rules 80-4-1-.01(2) or 80-4-1-.01(5), such licensee shall be subject to a fine of one thousand dollars ($1,000) for each books and records violation listed in Rules 80-4-1-.01(2) or 80-4-1-.01(5).

(b) Excessive Fees. If the Department, in the course of an examination or investigation, finds that a licensee has charged fees for cashing payment instruments in excess of the amount set forth in O.C.G.A. § 7-1-707(f), such licensee shall be subject to a fine of five thousand dollars ($5,000) per occurrence.

(c) Posting of Charges. Any licensee who does not display, at all locations, a notice stating the charges/fees for cashing payment instruments in accordance with O.C.G.A. § 7-1-707.1 shall be subject to a fine of five hundred dollars ($500).

(d) Operating Without Proper License. Any person who acts as a check casher prior to receiving a current license required under Article 4A of Chapter 1 of Title 7, or who acquires a business that cashes payment instruments and operates without its own license, or during the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars ($1,000) per day.

(e) Felons. Any licensee that hires or retains a covered employee who is a felon as described in O.C.G.A. § 7-1-703(c), when such covered employee has not complied with the remedies provided for in O.C.G.A. § 7-1-703(c) for each conviction before such employment, shall be subject to a fine of five thousand dollars ($5,000) for each such covered employee.

(f) Background Checks on Employees. Any licensee that does not obtain a criminal background check on each covered employee prior to the initial date of hire, retention, or transition of an existing employee to a covered employee as set forth in Rule 80-4-1-.10(1) shall be subject to a fine of one thousand dollars ($1,000) per occurrence. Proof of the required criminal background check must be retained by the licensee until five years after termination of employment by the licensee. Notwithstanding compliance with this requirement to perform a criminal background check prior to employment, failure to maintain criminal background checks as required will result in a fine of one thousand dollars ($1,000) for each covered employee for which the licensee is missing this documentation.

(g) Deferred Payment. Any licensee that defers payment on a payment instrument pending collection and has not obtained the surety bond as required by O.C.G.A. § 7-1-707(c) shall be subject to a fine of five thousand dollars ($5,000) per occurrence.

(h) Other Business Activities. Any licensee found to have violated any law of this state by conducting any other business that is not lawful in conjunction with cashing payment instruments, shall be subject to a fine of five thousand dollars ($5,000).

(i) Corporate Checks. Any licensee that cashes a payment instrument made payable to a corporation or other business association or cashes a payment instrument drawn by the corporation or other business association and made payable to cash without the proper written authorization as required by O.C.G.A. § 7-1-707(d) and Rule 80-4-1-.01(3) shall be subject to a fine of one thousand dollars ($1,000) per occurrence.

(j) Advertising - "No Identification Required." A licensee that advertises that it will cash payment instruments with no identification required will be subject to a fine of one thousand dollars ($1,000).

(k) Identification Requirements for Cashing Payment Instruments. No licensee shall cash payment instruments without identification of the bearer of such check. Failure to comply with the requirements of O.C.G.A. § 7-1-707(e) shall subject the licensee to a fine of one thousand dollars ($1,000) per occurrence.

(l) Failure to Submit to Exam. The penalty for the refusal of a licensee to permit the Department to conduct an investigation or examination of its books, accounts, and records (after a reasonable request by the Department), shall be a five thousand dollar ($5,000) fine. Refusal shall require at least two attempts by the Department to schedule an examination or investigation.

(m) Consumer Complaints. Any licensee who fails to respond to a written consumer complaint or fails to respond to the Department regarding a consumer complaint, within the time periods specified in the Department's correspondence to such licensee, shall be subject to a fine of one thousand dollars ($1,000) for each occurrence.

(n) Failure to Notify or Obtain Approval from the Department of Change in Ownership, Change in Control, or Designation of Executive Officer. Any licensee or other person who fails to obtain the Department's prior approval of a change in ultimate equitable ownership through acquisition or other change in control or change in executive officer resulting from such change in ownership or change in control of the licensee in compliance with O.C.G.A. § 7-1-705.1 and Rule 80-4-1-.01 shall be subject to a fine of one thousand dollars ($1,000). Any licensee or other person who fails to timely notify the Department of a change in executive officer not resulting from a change in control or ownership in compliance with O.C.G.A. § 7-1-705 shall be subject to a fine of one thousand dollars ($1,000).

(o) Bank Secrecy Act. If the Department, in the course of an examination or investigation, finds that a licensee has failed to comply with the Currency and Foreign Transactions Reporting Act of 1970 and its related regulations, including those set forth at 31 CFR Chapter X (together, the "Bank Secrecy Act") or the requirements referred to in Rules 80-4-1-.02, 80-4-1-.03, and 80-4-1-.04, such licensee shall be subject to a fine of one thousand dollars ($1,000) for each instance of non-compliance.

(p) Failure to Post Required License or Failure to Include Required Legend on Advertising. Any licensee that fails to post a copy of its license in prominent view of each teller window or other customer service station, or distributes advertising in this state related to the cashing of payment instruments that fails to comply with the requirements of Rule 80-4-1-.01(4) shall be subject to a fine of five hundred dollars ($500) for each instance of non-compliance.

(q) Failure to Timely Disclose Change in Affiliation of Natural Person that Executed Lawful Presence Affidavit and Submission of New Affidavit. Any licensed check casher that fails to disclose that the owner or executive officer that executed the lawful presence affidavit is no longer in that position with the licensee within ten (10) business days of the date of the event necessitating the disclosure, shall be subject to a fine of one thousand dollars ($1,000). Any licensed check casher that fails to submit a new lawful presence affidavit from a current owner or executive officer within ten (10) business days of the owner or executive officer that executed the previous lawful presence affidavit no longer being in that position with the licensee, shall be subject to a fine of one thousand dollars ($1,000) per day until the new affidavit is provided.

(r) Failure to Timely Update Information on the Nationwide Multistate Licensing System and Registry. Any licensee that fails to update its information on the Nationwide Multistate Licensing System and Registry ("NMLSR"), including, but not limited to, amendments to any response to disclosure questions, within ten (10) business days of the date of the event necessitating the change, shall be subject to a fine of one thousand dollars ($1,000) per occurrence. In addition, the failure of a control person of a licensee to update the individual's information on the NMLSR, including, but not limited to, amendments to any response to disclosure questions by the control person, within ten (10) business days of the date of the event necessitating the change, shall subject the licensee to a fine of one thousand dollars ($1,000) per occurrence.

(s) Prohibited Acts. Any licensee or other person who violates the provisions of O.C.G.A. § 7-1-708 shall be subject to a fine of one thousand dollars ($1,000) per violation or transaction that is in violation.

(t) Unauthorized Access to Customer Information. Any licensee that fails to provide the Department with notice of unauthorized access to customer information as required by Rule 80-4-1-.08 shall be subject to a fine of one thousand dollars ($1,000) a day until the notice is provided.

Authority: O.G.G.A. §§ 7-1-61, 7-1-702.2, 7-1-708.2.

80-4-1-.10 Employee Background Checks; Covered Employees

(1) As required by O.C.G.A. § 7-1-703(f), applicants and licensees must have commercial background checks performed on all covered employees, as defined by O.C.G.A. § 7-1-700(7). Background checks on all covered employees must be completed and found satisfactory by an applicant prior to the issuance of a license or by a licensee prior to the initial date of hire of such covered employee. In the event the job responsibilities of an employee change so that the employee satisfies the covered employee definition in O.C.G.A. § 7-1-700(7), the required background check must be completed and found satisfactory prior to the change in job responsibilities.

(2) Pursuant to O.C.G.A. § 7-1-703(f), applicants and licensees shall conduct criminal background checks by utilizing a commercial entity. The commercial entity shall be in the business of conducting criminal background checks. The criminal background checks conducted by the commercial entity must not have any time period limitations, geographic limitations, or restrictions in the search criteria, unless the time period limitation, geographic limitation, or other restriction on the background checks is required by applicable federal or state law. Any fees charged by the commercial entity for processing background checks must be paid by the applicant or licensee.

Authority: O.C.G.A. §§ 7-1-61, 7-1-703.

CHAPTER 80-5

FINANCIAL INSTITUTIONS

SUBJECT 80-5-1

SUPERVISION, EXAMINATION, REGISTRATION AND INVESTIGATION FEES

ADMINISTRATIVE LATE FEES

80-5-1-.02 License and Supervision Fees for Check Cashers, Money Transmitters, Representative Offices, Mortgage Lenders, Mortgage Brokers, Mortgage Loan Originators, and Installment Lenders; Due Dates

(1) Money transmitters.

(a) The annual license fee is one thousand nine hundred dollars ($1,900) for money transmitters.

(b) The annual renewal license fee is one thousand nine hundred dollars ($1,900) money transmitters and shall be due and must be received by the Department on or before the first day of December of each year. A licensee whose renewal application and annual license renewal fee is not received by the Department on or before December 1 may be assessed a late fine of three hundred dollars ($300) and cannot be assured of renewal of its license prior to January 1.

(c) An additional non-refundable application investigation fee of two hundred fifty dollars ($250) will be assessed.

(d) Applicants for Department approval of a change in ownership, change in control, or change in executive officer as set forth in O.C.G.A. § 7-1-688, shall pay a nonrefundable investigation, application, and processing fee of five hundred dollars ($500).

(2) Check Cashers.

(a) The annual license fee is three hundred dollars ($300).

(b) The annual renewal license fee is three hundred dollars ($300).

(c) An initial investigation and supervision fee shall be five hundred fifty dollars ($550) for the first year. It is not refundable, but if the license is granted it shall satisfy the annual fee for the first license period.

(d) Initial and renewal license fees shall also include an additional thirty dollars ($30) for the second and each additional location, plus a fee in an amount as directed by the Department to cover the cost of the required number of fingerprints for each individual background check.

(e) Annual renewal license fees shall be due and must be received by the Department on or before the first day of December of each year. A licensee whose renewal application and annual renewal license fee is not received by the Department on or before the first day of December of each year may be assessed a late fine of three hundred dollars ($300) and cannot be assured of renewal of its license prior to January 1.

(f) Applicants for Department approval of a change in ownership, change in control, or change in executive officer as set forth in O.C.G.A. § 7-1-705.1 shall pay a nonrefundable investigation, application, and processing fee of five hundred dollars ($500).

(3) Registrants of Georgia state representative offices as defined in O.C.G.A. § 7-1-1100 shall pay an annual registration fee of one thousand dollars ($1,000).

(4) Mortgage licensees and registrants.

(a) Lenders. The initial and renewal application and license fee for mortgage lenders shall be nine hundred dollars ($900). The initial fee of nine hundred dollars ($900) covers the main office. Any branch offices included in the initial application shall be assessed a fee of three hundred thirty dollars ($330) each. A fee of three hundred thirty dollars ($330) will be assessed for each additional office not initially registered, if such office is located in Georgia, and if mortgage lending activity is conducted at the office. An initial investigation fee of two hundred fifty dollars ($250) per applicant shall also apply. Subsequent renewal applications and license fees must be received on or before December 1 of each year or the applicant may be assessed a late fine of three hundred dollars ($300). A renewal application and license fee not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.

(b) Brokers. The initial and renewal application and license fee for mortgage brokers shall be four hundred dollars ($400). The initial four hundred dollar ($400) fee covers the main office. Any branch offices located in Georgia shall be assessed a fee of three hundred thirty dollars ($330) each. Brokers include loan processors. Processors are defined in Rule 80-11-4-.07. Such a processor may have a separate main office and other branch offices where mortgage loan processing is done. The offices will be

treated the same as brokers' offices. An initial investigation fee of two hundred fifty dollars ($250) per applicant shall also apply. Subsequent renewal applications and license fees must be received on or before December 1 of each year or the applicant may be assessed a late fine of three hundred dollars ($300). A renewal application and license fee that is not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.

(c) Mortgage Loan Originators. The initial and renewal application and license fee for mortgage loan originators shall be two hundred dollars ($200). Subsequent renewal application fees must be received by the Department on or before December 1 of each year or the applicant may be assessed a late fine of two hundred dollars ($200). A renewal application is not deemed received until all required information, including a renewal fee in the appropriate amount and documentation showing that the requisite continuing education hours have been obtained, has been provided by the licensee. A renewal application, containing all of the required information along with the correct fees and proof of required continuing education that is not received by the Department on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct mortgage loan origination activity without a current license.

(d) Lender Registrants. The initial and renewal application and registration fee for mortgage lenders required to register but not be licensed with the Department shall be nine hundred dollars ($900), due on or before December 1 of each year. An initial investigation fee of two hundred fifty dollars ($250) per applicant shall also apply. Subsequent renewal applications and registration fees must be received on or before December 1 of each year or the applicant may be assessed a late fine of three hundred dollars ($300). A renewal application and registration fee not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.

(e) Broker Registrants. The initial and renewal application and registration fee for mortgage brokers required to register but not be licensed with the Department shall be four hundred dollars ($400), due on or before December 1 of each year. An initial investigation fee of two hundred fifty dollars ($250) per applicant shall also apply. Subsequent renewal applications and registration fees must be received on or before December 1 of each year or the applicant may be assessed a late fine of three hundred dollars ($300). A renewal application and registration fee not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.

(f) All late fees collected by the Department, net of the cost of recovery, which cost shall include any cost of hearing and discovery in preparation for hearing, shall be paid into the state treasury to the credit of the general fund or may be paid as provided in O.C.G.A. § 7-1-1018(e).

(g) Applicants for approval to acquire directly or indirectly ten percent (10%) or more of the voting shares of a corporation or ten percent (10%) or more of the ownership of any other entity licensed to conduct business as a mortgage lender and/or a mortgage broker under O.C.G.A. Article 13 (otherwise called change of control) shall pay a nonrefundable investigation, application and processing fee of five hundred dollars ($500).

(h) Application for an additional office of a licensee shall be accompanied by a nonrefundable fee of three hundred thirty dollars ($330), as provided in O.C.G.A. § 7-1-1006.

(5) Installment Lenders.

(a) The annual license fee is five hundred dollars ($500).

(b) The annual license renewal fee is five hundred dollars ($500) and must be received by the Department on or before the first day of December of each year. A licensee whose renewal application and annual license renewal fee is not received by the Department on or before December 1 may be assessed a late fine of three hundred dollars ($300) and cannot be assured of renewal of its license prior to January 1.

(c) An additional nonrefundable initial application investigation fee of two hundred fifty dollars ($250) will be assessed.

(d) Applicants for Department approval of a change in ownership, change in control, or change in executive officer as set forth in O.C.G.A. § 7-3-32 shall pay a nonrefundable investigation, application, and processing fee of five hundred dollars ($500).

(e) An application for an additional location of a licensee shall be accompanied by a nonrefundable fee of three hundred dollars ($300). An annual renewal fee of three hundred dollars ($300) per each approved additional location shall be due and must be received by the Department on or before the first day of December of each year.

(6) The Department may discount or surcharge all supervision or license fees herein provided to assure funding of annual appropriations by the General Assembly.

(7) Any fees or charges imposed by the Nationwide Multistate Licensing System and Registry ("NMLSR") shall be independent of any fees charged by the Department. Applicants, licensees, and registrants will be responsible for any and all fees or charges imposed by NMLSR.

(8) All license, investigation, and supervision fees, late fees, fines, taxes owed to the Department, and assessed civil penalties must be paid prior to renewal, reinstatement, or reapplication for a license or any other approval from the Department.

Authority: O.C.G.A. §§ 7-1-41, 7-1-61, 7-1-683, 7-1-685, 7-1-702, 7-1-704, 7-1-716, 7-1-721, 7-1-1004, 7-1-1005, 7-3-20, 7-3-32.

80-5-1-.03 Examination, Supervision, Registration, Application and Other Fees for Financial Institutions and Nonbank Subsidiaries of Banks or Holding Companies

(1) Examinations. That portion of annual appropriations allocable to regular examination and supervision activities shall be assessed in accordance with the following scale for depository financial institutions:

(a) If the amount of Total Assets is:

If the amount of Total Assets is:		Assessment will be:		
Over	But Not Over	This Amount	Plus	Of Excess Over
0	1,700,000	0	0.001800	*0
1,700,000	15,000,000	3,060	0.000230	1,700,000
15,000,000	85,000,000	6,119	0.000190	15,000,000
85,000,000	185,000,000	19,419	0.000100	85,000,000
185,000,000	915,000,000	29,419	0.000095	185,000,000
915,000,000	1,825,000,000	98,769	0.000085	915,000,000
1,825,000,000	5,470,000,000	176,119	0.000072	1,825,000,000
5,470,000,000	18,240,000,000	438,559	0.000056	5,470,000,000
18,240,000,000	36,485,000,000	1,153,679	0.000050	18,240,000,000
36,485,000,000	45,000,000,000	2,065,929	0.000040	36,485,000,000
45,000,000,000	57,000,000,000	2,406,529	0.000035	45,000,000,000
57,000,000,000	92,000,000,000	2,826,529	0.000030	57,000,000,000
92,000,000,000	130,000,000,000	3,876,529	0.000025	92,000,000,000
130,000,000,000	180,000,000,000	4,826,529	0.000023	130,000,000,000
180,000,000,000		5,976,529	0.000020	180,000,000,000

* Minimum assessment is $350.

Note: Total Assets and resultant may be rounded to the nearest dollar.

(b) Except as provided in paragraph (4), all other financial institutions, including credit card banks, bankers banks, corporate credit unions, and related corporations not

covered elsewhere in this Section, licensees under Article 4 (Money Transmitters) and 4A (Check Cashers) of Chapter 1 of Title 7, licensees and registrants under Article 13 of Chapter 1 of Title 7 (Georgia Residential Mortgage Act), licensees under Chapter 3 of Title 7 (Georgia Installment Loan Act), Georgia state representative offices as defined in O.C.G.A. § 7-1-1100, trust departments, holding companies and financial service providers shall pay an examination fee at the rate of $65 per examiner-hour but not less than $500 unless such examination is conducted in conjunction with another ongoing examination in which case there shall be no minimum charge. The above per hour charge shall be compensation for the work of Department examiners as well as any necessary, qualified outside assistance. The examination fee shall be due and payable immediately upon receipt of documentation from the Department setting forth the total amount of the fee. The $500 minimum charge may be waived by the Commissioner or his/her designee when such charge clearly exceeds the hours spent on an examination.

(c) Notwithstanding the provisions of subsection (b) above, licensees under Article 13 of Chapter 1 of Title 7 shall pay the actual cost incurred by the Department in the conduct of an out of state examination, including personnel costs, transportation costs, meals, lodging and other incidental expenses, in addition to $65 per examiner hour spent on the examination.

(d) The Department may discount or surcharge all examination and supervision fees herein provided to assure that anticipated revenues of the Department will fund the annual appropriation by the General Assembly.

(e) The Department may also require reimbursement for direct expenses, such as transportation costs, meals, lodging, etc. associated with out-of-state examinations or supervisory visits for any regulated entity, including money services businesses.

(2) Banking applications:

(a) Applicants for new branch offices or relocations of branches shall pay an investigation fee of $1,250 for each application that is processed as a regular application. Applicants for new branch offices or relocations of branches are not required to pay an investigation fee for each application that is processed as an expedited application. A simple redesignation of an existing bank location, which does not entail the closure or opening of a location, only requires a written application but does not require a fee.

(b) Applicants for approval of new bank, trust company, state savings or mutual savings bank, or savings and loan associations charters shall pay an investigation fee of $20,000 for each application. Bank charter applications qualifying for expedited processing will be assessed an investigation fee of $10,000. Applicants for approval of a new credit card bank or a special purpose bank shall pay an investigation fee of $25,000. Prior to commencing business, successful applicants shall pay a supervisory and examination fee covering the preopening organizational supervision and initial operating supervision of the new institution in the amount of $5,000.

(c) Applicants for approval for a company to become a bank holding company, other than for a de novo bank, may receive regular or expedited processing. Regular processing is $3,500; expedited processing is $2,500. Formation of a holding company simultaneously with formation of a de novo bank requires a regular processing fee of $3,500, which, if applicable, is reduced by the fee for a new state charter.

(d) Applicants for a bank holding company to acquire five (5) percent or more but less than twenty-five (25) percent of the outstanding voting stock of a financial institution, or for review of a change of control shall pay an investigation fee of $3,500 for each such application, provided, however, the Commissioner may waive or reduce such investigation fee in the case of a merger under emergency conditions as determined by the Department or in the case of interstate transactions where a comparable fee has already been paid for an earlier, related transaction among the same entities.

(e) Applicants for a bank holding company to acquire twenty-five (25) percent or more of the outstanding voting stock of a financial institution, shall pay an investigation fee of $6,000. Expedited processing for these acquisitions is $4,500. The fee for an intrastate and a covered interstate merger of banks or bank holding companies is $4,500, reduced by a Department fee for a simultaneous acquisition if it has been paid. The Commissioner, however, may waive or reduce such investigation fee in the case of a merger under emergency conditions as determined by the Department or, in the case of interstate transactions where a comparable fee has already been paid for an earlier, related transaction among the same entities.

(f) Applicants for license to operate a Georgia state branch, a Georgia state agency, or domestic international banking facility shall pay an investigation fee of $5,000. In the event the application for a domestic international banking facility is denied, $2,000 representing the applicant's initial license fee shall be refunded. Domestic international banking facilities shall pay an annual license or registration fee of $2,000, on the first day of April of each year. Renewal licenses for domestic international banking facilities shall be issued for a twelve month period.

(g) Depository financial institutions, except credit card banks, bankers banks, and corporate credit unions shall pay an annual supervision fee as part of the examination fee prescribed in Rule 80-5-1-.03.

(h) All other financial institutions supervised by the Department who are not already covered by this chapter shall pay an annual supervision fee of $500, due on or before January 31 of each year.

(i) The investigation fee for conversion to a state bank is $20,000.

(j) If a bank satisfies the banking factors set out in the Department's Statement of Policies, the fee to exercise a single trust power is $250 and the processing is expedited to 7 days. A completed letter form application to exercise limited trust powers will be

reviewed in 15 days; the fee is $750. A bank that desires to exercise full trust powers files a regular application including a copy of the FDIC application. A complete application will be reviewed in 30 days; the fee is $1,250.

(k) Regular applications to establish or acquire a subsidiary of a bank shall require a fee of $500. Banks qualified to file expedited applications according to the criteria in DBF Rule 80-1-1-.10 are not subject to a fee.

(3) General rules for fees; holding companies with subsidiaries in Georgia.

(a) Each bank holding company supervised by the Department shall pay on or before September 15 an annual supervision fee of $1,000. Each Georgia bank holding company or a holding company that owns a Georgia bank shall pay each year on or before the date the holding company supervision fee is due an additional $500 for each Georgia non-bank subsidiary corporation of the bank holding company, excluding subsidiaries assessed pursuant to Rule 80-5-1-.03(1)(a) and subsidiaries paying an annual license or registration fee pursuant to Rule 80-5-1-.02(4), as of June 30 preceding the supervision fee due date.

(b) Applications covering more than one transaction (branch, acquisition, merger, etc.), which require the Department to separately analyze each application shall pay the applicable fee for each transaction.

(c) The annual assessment rates included in subparagraph (1)(a) above will normally be used in connection with any annual assessment of depository financial institutions having banking offices in more than one state including Georgia. The Commissioner, however, will have the discretion to deviate from the rates included in the assessment schedule and other rates and charges including application fees in order to facilitate or implement interstate efforts to regulate and supervise multi-state banks or for parity reasons.

(4) (a) Each Georgia state branch or Georgia state agency as those terms are defined by O.C.G.A. § 7-1-1100 shall pay an annual assessment fee allocable to regular examination and supervision activities which shall be assessed in accordance with the following scale for depository financial institutions:

If the Georgia state branch or Georgia state agency's total assets are:

Over Million	But Not Over Million	This Amount (Base Assessment)	Plus (Assessment Rate)	Of Excess Over Million
$0.00	$35.00	$0.00	0.00013	0
35.00	100.00	4,550.00	0.000104	35
100.00	500.00	11,310.00	0.00008	100
500.00	1,000.00	42,990.00	0.000056	500
1,000.00	2,500.00	70,670.00	0.000032	1,000
2,500.00	5,000.00	119,310.00	0.000008	2,500
5,000.00	7,500.00	139,310.00	0.000004	5,000

7,500.00	10,000.00	149,310.00	0.0000016	7,500
10,000.00		153,310.00	0.0000008	10,000

Regardless of the rates above, the annual assessment must equal at least $2,000.

(c) Annual assessments are for the Department's fiscal year, July 1 through June 30. Assessments are based upon the total assets of the Georgia state branch or Georgia state agency as indicated in the periodic Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks ("report") preceding the assessment date filed by the Georgia state branch or Georgia state agency. All financial institutions will be assessed, either for a full year or for a partial year, as appropriate. Annual assessments for Georgia state branches and Georgia state agencies existing on July 1, will be based on June 30 reports, should be delivered on or about September 10, and are due and payable no later than September 30. A late payment penalty may be assessed for the full year billing at any time after the due date. Assessments related to a conversion to a Georgia state branch or Georgia state agency or to a license issuance after July 1 will be prorated for the number of full and partial months as a Georgia state branch or Georgia state agency and will be delivered as soon as practical and shall be due and payable upon receipt. A late payment penalty may be assessed for the partial year billing fourteen days after bill issuance. Under no circumstances shall any portion of any annual assessment paid to the Department be refunded.

Authority: O.C.G.A. §§ 7-1-41, 7-1-61.

CHAPTER 80-8

AGENCY ORGANIZATION AND PRCEDURES

SUBJECT 8-8-1

AGENCY ORGANIZATION AND PROCEDURES

80-8-1-.01 Organization

80-8-1-.01 Organization

(1) The Department is organized pursuant to the provisions of O.C.G.A. § 7-1-30 and is charged with the responsibility of supervising the activities of depository financial institutions and certain other financial entities operating pursuant to the provisions of Title 7.

(2) The administration of the Department is under the direction of the Commissioner of Banking and Finance. The Commissioner is assisted by a Senior Deputy and Divisional Deputies in the areas of Administration, Legal Affairs, Non-Depository Financial Institutions, and Financial Institution Supervision. The Financial Institutions Supervision Division administers laws, regulations and supervisory matters relating to credit unions, banks, domestic international banking facilities, foreign bank offices (Georgia state

branches, Georgia state agencies, and Georgia state representative offices), trust companies, holding companies, merchant acquirer limited purpose banks, and state savings and loan associations; and processes applications for such entities. The state is geographically divided into districts or divisions, each of which is administered by a District Director. Legal Affairs is responsible for legal matters. Non-Depository Financial Institutions is responsible for regulation and supervision of mortgage lenders, mortgage brokers, and mortgage loan originators under the Georgia Residential Mortgage Act; the regulation and supervision of money service businesses, including check cashers and money transmitters; and the regulation of installment lenders. Administration is responsible for personnel and all budgetary matters.

(3) The Department is funded entirely from the examination, supervision, licensing and other fees paid by supervised financial institutions and other entities under its jurisdiction, and operates under the budgetary system of the state of Georgia.

Authority: O.C.G.A. § 7-1-61.

CHAPTER 80-11

RESIDENTIAL MORTGAGE BROKERS, LENDERS AND ORIGINATORS

SUBJECT 80-11-1

DISCLOSURE, ADVERTISING AND OTHER REQUIREMENTS

Rule 80-11-1-.04 Branch Managers

(1) A "branch manager" shall mean an individual who supervises daily activities in Georgia of a licensee, whether at a main or branch location, and regardless of job title. Branch manager shall include an independent contractor of a mortgage broker as contemplated under O.C.G.A. § 7-1-1001(a)(17) if such independent contractor works from a branch under 80-11-1-.03(3)(e).

(2) In order to be approved as a branch manager, an individual must be licensed by the Department as a mortgage loan originator.

(3) No individual shall be permitted to manage a location in Georgia without being approved by the Department as a branch manager. A branch manager may be put in place subject to departmental approval, but the Department must receive a complete application for approval within 15 calendar days of the placement. No individual may serve as the branch manager of more than one location of a licensee unless the licensee can demonstrate that the proposed branch manager will be able to effectively manage these locations to ensure that they operate in compliance with state and federal law, and that the manager can adequately supervise the daily functions performed by the employees at the locations. In order to qualify for the

employee exemption, an employee must be supervised on a daily basis by the licensee. Considerations by the Department in determining whether a branch manager may supervise more than one location will include: proximity of branches to each other, volume of business at each, experience level of proposed manager and plans to handle the supervision.

(4) The Department shall conduct a background check, obtain a credit report, and require a financial statement and such other pertinent information as it may require to satisfy itself that the location will be operated by the branch manager responsibly and in compliance with the laws and rules of this state.

Authority: O.C.G.A. §§ 7-1-61, 7-1-1006, 7-1-1012.

Rule 80-11-1-.05. Employee Background Checks; Covered Employees

(1) As required by O.C.G.A. § 7-1-1004(l), applicants and licensees must complete background checks on all covered employees as defined in O.C.G.A. § 7-1-1000(5.1). Background checks on all covered employees must be completed and found satisfactory by an applicant prior to the issuance of a license and by a licensee prior to the initial date of l hire of such covered employee. In the event the job responsibilities of an employee change so that the employee satisfies the covered employee definition in O.C.G.A. § 7-1-1000(5.1), the required background check must be completed and found satisfactory prior to the change in job responsibilities.

(2) The term "access to residential mortgage loan origination, processing, or underwriting information" in O.C.G.A. § 7-1-1000(5.1), shall mean any prospective borrower's personal electronic or printed information and documents, including but not limited to bank statements, W-2 forms, income tax returns, employment records, and other personal financial information required to be submitted in the course of making an application for a mortgage loan. It also includes access to documents maintained and generated by the licensee in the course of the application and administration of the mortgage loan, including but not limited to electronic or printed/written information on the mortgagor and their loan, including personal and loan database information, payments and payment history information, past due reports and schedules, coupon books, information generated for tax purposes, including escrow information, and any other information generated which would include the financial and loan history of the mortgagor. Documents would also include computer displays of personal and mortgage loan information on an individual borrower or client which may be disseminated by the licensee's personnel in the course of verifying information for customers and other business related inquiries.

(3) Pursuant to O.C.G.A. § 7-1-1004(l), applicants and licensees shall conduct criminal background checks by utilizing a commercial entity. The commercial entity shall be in the business of conducting criminal background checks. The criminal background checks conducted by the commercial entity must not have any time period limitations, geographic limitations, or other restrictions in the search criteria, unless the time period limitation, geographic limitation, or other restriction on the background checks is required by applicable

federal or state law. Any fees charged by the commercial entity for conducting background checks must be paid by the applicant or licensee.

Authority: O.C.G.A. §§ 7-1-61, 7-1-1004, 7-1-1012.

80-11-1-.09. Electronic Service of Notice of Intent to Deny, Revoke, or Suspend License or Registration

Any notice served by the Department pursuant to O.C.G.A. § 7-1-1017 shall first be sent by email to the email address of record that the applicant, licensee, or registrant has designated as their email address for regulatory contact on file with the Nationwide Multistate Licensing System and Registry. Any notice sent by email shall be deemed delivered once the Department receives a non-automated affirmative response from the intended recipient of such notice and no further service will be thereafter attempted by the Department in relation to that notice. If the Department does not receive an affirmative response from the intended recipient within five business days of emailing the notice to the email address of record, the Department shall then attempt to deliver the notice via registered or certified mail or statutory overnight delivery to the principal place of business of such applicant, licensee, or registrant. In the event the above methods of service are unsuccessful, the Department may attempt to deliver the notice under any other method of lawful service.

Authority: O.C.G.A. §§ 7-1-61, 7-1-1012, 7-1-1017.

SUBJECT 80-11-2

BOOKS AND RECORDS

80-11-2-.01 Mortgage Broker and Lender Location Requirement and Minimum Retention Period

(1) Any mortgage broker or lender required to be licensed or registered under Article 13 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated ("licensee" or "registrant") must maintain required books, accounts and records at the principal place of business. Should a licensee or registrant wish to maintain such records elsewhere, it must notify the department in writing via the Nationwide Multistate Licensing System and Registry prior to said books, accounts, and records being maintained in any place other than the designated principal place of business.

(2) Books, accounts and records maintained at a location other than the principal place of business shall be made available to the department within five (5) business days from the

date of written request by the department and at a reasonable and convenient location acceptable to the department.

(3) "Principal place of business" means the location designated as the main office by the licensee or registrant in the initial written application for licensure or registration or as amended thereafter in writing to the department.

(4) All books, records and accounts required by Rule 80-11-2-.02(1)(b), (c), (d), (e), (f), (g), (h), (j), and (m) and Rule 80-11-2-.03 must be maintained for a period of five (5) years. All books, records and accounts required by Rule 80-11-2-.02(1)(a), (i), (k) and (l) and by Rule 80-11-2-.04 must be maintained and kept complete for a period of five (5) years from the final disposition of the loan application to which the records relate (e.g. five (5) years from date application denied or cancelled or five years from date mortgage loan closed). All books, records, and accounts required by Rule 80-11-2-.02(1)(n) must be maintained for a period of five (5) years from the date of the employee no longer working for the licensee.

(5) Any books, accounts or records required to be maintained by Chapter 80-11-2 of the Rules of the Department of Banking and Finance may be maintained in their original form, on microfiche or other electronic media, provided:

(a) that the records shall be made available to the department as provided in this Rule; and

(b) at the request of the department, the records shall be printed on paper for inspection or examination.

(6) (a) The penalty for maintaining books, accounts and records at a location other than the principal place of business without written notification to the department may be suspension of the license or registration, other appropriate administrative action or fine.

(b) The penalty for refusal to permit an investigation or examination of books, accounts and records (after a reasonable request by the department) shall be revocation of the license or registration.

Authority: O.C.G.A. §§ 7-1-61, 7-1-1009, 7-1-1012.

80-11-2-.03 Mortgage Loan Transaction Journal

(1) Any person who is acting as a mortgage broker and who is required to be licensed under Article 13 of Title 7, whether as a broker or a lender ("licensee"), shall maintain a journal of mortgage loan transactions which shall include, at a minimum, the following information:

(a) Full name of proposed borrower and all co-borrowers, and the last four digits of their social security number(s);

(b) Date customer applied for the mortgage loan;

(c) Name and Nationwide Mortgage Licensing System and Registry (NMLSR) unique identifier of the loan officer responsible for the loan application whose name also appears on the application;

(d) Disposition of the mortgage loan application and date of disposition. The journal shall indicate the result of the loan transaction. The disposition of the application shall be categorized as one of the following: loan closed, loan denied, application withdrawn, application in process or other (explanation); and

(e) The journal shall clearly identify if the mortgage loan originator utilized temporary authority to operate at any point in the application or loan process. For such mortgage loan originators that utilize temporary authority, the journal should also identify the final status of the mortgage loan originator's Georgia license application as one of the following: approved, withdrawn, or denied.

(2) A complete mortgage loan transaction journal shall be maintained in the principal place of business. The journal shall be kept current. Records may be kept at a branch but the principal place of business must have a current journal updated no less frequently than every seven (7) days. The failure to initiate an entry to the journal within seven (7) business days from the date of the occurrence of the event required to be recorded in the journal shall be deemed a failure to keep the journal current.

(3) Failure to maintain the mortgage loan journal or to keep the journal current (incidental and isolated clerical errors or omissions shall not be considered a violation) may be grounds for suspension or revocation of the license or other appropriate administrative action and will subject the licensee to fines in accordance with regulations prescribed by the department.

(4) Loan processors who are required to be licensed shall be required to keep a mortgage loan transaction journal to the extent they receive information that is required by law or rule to be in the journal. Such journal shall at a minimum include for each loan the full name of the borrower(s), the name and NMLSR unique identifier of the mortgage broker or lender for whom the processing was performed; the name and the NMLSR unique identifier of the mortgage loan originator for whom the processing was performed, and the dates the loan application was received and returned to such lender or broker. If a processor performs other duties of a broker aside from processing the loan, the processor/broker shall be responsible for keeping the same information as a broker, as provided in subsection (1) of this rule.

Authority: O.C.G.A. §§ 7-1-61, 7-1-1009, 7-1-1012.

SUBJECT 80-11-3

ADMINISTRATIVE FINES AND PENALTIES

80-11-3-.01 Administrative Fines

80-11-3-.01. Administrative Fines

(1) The Department establishes the following fines and penalties for violation of the Georgia Residential Mortgage Act ("GRMA") or its rules. Except as otherwise indicated, these fines and penalties apply to any person who is acting as a mortgage lender or broker and who is required to be licensed or registered under Article 13 of Chapter 1 of Title 7 ("licensee" or "registrant"). The Department, at its sole discretion, may waive or modify a fine based upon the financial resources of the person, gravity of the violation, history of previous violations, and such other facts and circumstances deemed appropriate by the Department.

(2) All fines levied by the Department are due within thirty (30) days from date of assessment and must be paid prior to renewal of the annual license or registration, reinstatement of a license or registration, or reapplication for a license or registration, or any other activity requiring Departmental approval.

(3) Dealing with Unlicensed Persons. Any licensee or registrant or any employee of either who purchases, sells, places for processing or transfers (or performs activities which are the equivalent thereof) a mortgage loan or loan application to or from a person who is required to be but is not duly licensed under the GRMA shall be subject to a fine of one thousand dollars ($1,000) per transaction and the licensee or registrant shall be subject to suspension or revocation. Licensees are responsible for the actions of their employees.

(4) Permitting unlicensed persons to engage in mortgage loan originator activities. Any licensee or registrant who employs a person who does not hold a mortgage loan originator's license or does not satisfy the temporary authority to operate requirements set forth in 12 U.S.C. § 5117 but engages in licensed mortgage loan originator activities as set forth in O.C.G.A. § 7-1-1000(22) shall be subject to a fine of one thousand dollars ($1,000) per occurrence and the licensee or registrant shall be subject to suspension or revocation. Licensees are responsible for the actions of their employees.

(5) Relocation of Office. Any mortgage broker or mortgage lender licensee who relocates their main office or any additional office and does not notify the Department within thirty (30) days of the relocation in accordance with O.C.G.A. § 7-1-1006(e) shall be subject to a fine of five hundred dollars ($500).

(6) Unapproved Offices. In addition to the application, fee and approval requirements of O.C.G.A. § 7-1-1006(f), any licensee who operates an unapproved branch office shall be subject to a fine of five hundred dollars ($500) per unapproved branch office operated and their license will be subject to revocation or suspension.

(7) Change in Ownership. Any person who acquires ten percent (10%) or more of the capital stock or a ten percent (10%) or more ownership of a mortgage broker or mortgage lender licensee without the prior approval of the Department in violation of O.C.G.A. § 7-1-1008 shall be subject to a fine of one thousand dollars ($1,000) and their license or registration will be subject to revocation or suspension.

(8) Doing Business Without a License or in Violation of Administrative Order. Any person who acts as a mortgage broker or mortgage lender prior to receiving a current license or registration required under O.C.G.A. Title 7, Chapter 1, Article 13, or during the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars ($1,000) per transaction and their mortgage lender or broker application will be subject to denial or their license or registration will be subject to revocation or suspension.

(9) Hiring a Felon. Any mortgage broker or mortgage lender licensee or registrant who hires or retains a covered employee as defined in O.C.G.A. § 7-1-1000(5.1) who is a felon as described in O.C.G.A. § 7-1-1004(i), which covered employee has not complied with the remedies provided for in O.C.G.A. § 7-1-1004(i), may be fined five thousand dollars ($5,000) per covered employee found to be in violation of such provision and their license or registration will be subject to revocation or suspension.

(10) Hiring Persons Otherwise Disqualified from Conducting a Mortgage Business. Any mortgage broker or mortgage lender licensee or registrant who employs any person against whom a final cease and desist order has been issued for a violation that occurred within the preceding five (5) years, if such order was based on a violation of O.C.G.A. § 7-1-1013 or based on the conducting of a mortgage business without a required license or exemption, or whose license was revoked within five (5) years of the date such person was hired pursuant to O.C.G.A. § 7-1-1004(p) shall be subject to a fine of five thousand dollars ($5,000) per such employee and its license or registration will be subject to revocation or suspension.

(11) Books and Records Violations. If the Department, in the course of an examination or investigation, finds that a licensee or registrant has failed to maintain their books and records according to the requirements of O.C.G.A. § 7-1-1009 and Rule Chapter 80-11-2, such licensee or registrant may be subject to a fine of one thousand dollars ($1,000) for each violation of a books and records requirement listed in Rule Chapter 80-11-2.

(12) (a) Maintenance of Loan Files. Any person who is required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage broker or any lender acting as a broker who fails to maintain a loan file for each mortgage loan transaction as required by Rule 80-11-2-.04 or who fails to have all required documents in such file shall be subject to a fine of one thousand dollars ($1,000) per file not maintained or not accessible, or per file not containing required documentation.

(b) Maintenance of Service Files. Any person who is required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage lender who fails to maintain a servicer file for each mortgage loans it services, as required by Rule 80-11-6-.04(1)(b), or who fails to have all required documents in such file shall be subject to a fine of one thousand dollars ($1,000) per file not maintained or not accessible, or per file not containing required documentation.

(13) Payment of $10.00 fees and filing of fee statement. Pursuant to Rule 80-5-1-.04 and O.C.G.A. § 7-1-1011, any person who is the collecting agent at a closing of a

mortgage loan transaction, is liable for payment of the $10.00 fee to the Department. The remittance of any $10.00 fees required to be collected after the date on which they are due shall subject the collecting agent to a late payment fee of one hundred dollars ($100) for each due date missed. If the Department finds that the collecting agent has not, through negligence or otherwise, submitted $10.00 fees within six months of the due date, the collecting agent will be subject to an additional fine of twenty (20) percent of the total amount of $10.00 fees required to be collected for the applicable period. Repeated failures to submit $10.00 fees may be grounds for revocation of license.

(14) Failure to Maintain Documentation for Securitization Transfer Exemption. Any licensee who sells or otherwise transfers closed mortgage loans to an unlicensed person who purports to be exempt from licensure pursuant to O.C.G.A. § 7-1-1001(a)(19) and fails to maintain documentation showing the purpose of the transfer and applicable time limitation as required by Rule 80-11-2-.02(1)(p) shall be subject to a fine of one thousand dollars ($1,000) per loan transferred to the unlicensed entity.

(15) Failure to Timely Report Certain Events. Any person required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage lender or broker, who fails to report any of the events enumerated in O.C.G.A. § 7-1-1007(d), shall be subject to a fine of one thousand dollars ($1,000) per act not reported in writing to the Department within 10 days of knowledge of such act.

(16) Prohibited Acts. Any person who is required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage broker or mortgage lender who violates the provisions of O.C.G.A. § 7-1-1013 shall be subject to a fine of one thousand dollars ($1,000) per violation or transaction that is in violation and his or her license shall be subject to suspension or revocation. Misrepresentations also subject the person making them to a fine. Misrepresentations include but are not limited to the following:

(a) inaccurate or false identification of applicant's employer;

(b) significant discrepancy between applicant's stated income and actual income;

(c) omission of a loan to applicant, listed on loan application, which was closed through same lender or broker;

(d) false or materially overstated information regarding depository accounts;

(e) false or altered credit report; and

(f) any fraudulent or unauthorized document used in the loan process.

A fine of one thousand dollars ($1,000) shall be assessed for any other violation of O.C.G.A. § 7-1-1013. The Department shall upon written request provide evidence of the violation.

(17) Branch Manager Approval. Any person who is required to be licensed or registered as a mortgage broker or mortgage lender shall be subject to a fine of five hundred dollars ($500) for operation of a branch with an unapproved branch manager and the license will be subject

to revocation or suspension. No such fine shall be levied while Department approval is pending if timely application for approval is made pursuant to Rule 80-11-1-.04.

(18) Unauthorized Access to Customer Information. Any mortgage broker or mortgage lender licensee that fails to provide the Department with notice of unauthorized access to customer information as required by Rule 80-11-1-.07 shall be subject to a fine of one thousand dollars ($1,000) a day until the notice is provided.

(19) Failure to Fund. O.C.G.A. § 7-1-1013(3) prohibits failure "to disburse funds in accordance with a written commitment or agreement to make a mortgage loan." If the Department finds, either through a consumer complaint or otherwise, that a lender or a broker acting as a lender has failed to disburse funds in accordance with closing documents, which include legally binding executed agreements indicating a promise to pay and a creation of a security interest, a fine of five thousand dollars ($5,000) per transaction may be imposed and its license or registration may be subject to revocation or suspension.

(20) Advertising. Any person who is required to be licensed or registered as a mortgage broker or mortgage lender who violates the regulations relative to advertising contained in O.C.G.A. § 7-1-1004.3 and § 7-1-1016 or the advertising requirements of Rule 80-11-1-.02 shall be subject to a fine of five hundred dollars ($500) for each violation of law or rule.

(21) Failure to Submit to Examination or Investigation. The penalty for refusal to permit an investigation or examination of books, accounts and records (after a reasonable request by the Department) shall be revocation of the license or registration and a five thousand dollar ($5,000) fine. Refusal shall require at least two attempts by the Department to schedule an examination or investigation.

(22) Failure to Review Public Records Prior to Hiring. Any licensee who fails to examine the Department's public records on NMLS Consumer Access to determine if a job applicant is subject to an order set forth in O.C.G.A. § 7-1-1004(p) prior to hiring such individual shall be subject to a fine of one thousand dollars ($1,000) for each employee on whom the public records were not timely examined.

(23) Background Checks. Any licensee that does not obtain a criminal background check on each covered employee prior to the initial date of hire, retention, or transition of an existing employee to a covered employee as set forth in Rule 80-11-1-.05(1) shall be subject to a fine of one thousand dollars ($1,000) per occurrence.

(24) Change in Executive Officers. Any licensee who fails to notify the Department of a change in executive officers of the company in violation of O.C.G.A. § 7-1-1006(e) shall be subject to a fine of five hundred dollars ($500).

(25) Georgia Fair Lending Act. Any person who is required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage broker or mortgage lender who violates any provision of Chapter 6A of Article 13, the Georgia Fair Lending Act, shall be subject to a fine of one thousand dollars ($1,000) per violation or transaction that is in violation and their license will be subject to revocation or suspension.

(26) Consumer Complaints. Any licensee or registrant who fails to respond to a consumer complaint or fails to respond to the Department within the time periods specified in the Department's correspondence to such person shall be subject to a fine of one thousand dollars ($1,000) for each occurrence. Repeated failure to properly respond to consumer complaints may result in revocation of license.

(27) Reserved.

(28) Failure to File Timely or Accurate Call Reports. Any licensee or registrant who fails to file a timely Call Report as required through the Nationwide Multistate Licensing System and Registry or fails to file an accurate Call Report shall be subject to a fine of one hundred dollars ($100) per occurrence. Repeated failure to file timely or accurate Call Reports may subject the license or registration to revocation or suspension.

(29) Failure to Timely Disclose Change in Affiliation of Natural Person that Executed Lawful Presence Affidavit and Submission of New Affidavit. Any licensed mortgage lender, mortgage broker, or registrant that fails to disclose that the owner or executive officer that executed the lawful presence affidavit is no longer in that position with the licensee or registrant within ten (10) business days of the date of the event necessitating the disclosure, shall be subject to a fine of one thousand dollars ($1,000). Any licensed mortgage broker, mortgage lender, or registrant that fails to submit a new lawful presence affidavit from a current owner or executive officer within ten (10) business days of the owner or executive officer that executed the previous lawful presence affidavit no longer being in that position with the licensee or registrant, shall be subject to a fine of one thousand dollars ($1,000) per day until the new affidavit is provided.

(30) Failure to Timely Update Information on the Nationwide Multistate Licensing System and Registry. Any licensed mortgage broker, mortgage lender, or registrant that fails to update its information on the Nationwide Multistate Licensing System and Registry ("NMLSR"), including, but not limited to, amendments to any response to disclosure questions on an application or a licensee's or registrant's NMSLR MU-1, within ten (10) business days of the date of the event necessitating the change, shall be subject to a fine of one thousand dollars ($1,000) per occurrence. In addition, the failure of a control person of a licensed mortgage broker, mortgage lender, or registrant to update the individual's information on the NMLSR, including, but not limited to, amendments to any response to disclosure questions on the control person's NMSLR MU-2, within ten (10) business days of the date of the event necessitating the change, shall subject the licensed mortgage broker, mortgage lender, or registrant to a fine of one thousand dollars ($1,000) per occurrence.

(31) Bank Secrecy Act. If the Department in the course of an examination or investigation, finds that a licensee that satisfies the definition of loan or finance company has failed to comply with the Currency and Foreign Transactions Reporting Act of 1970 and its related regulations, including those set forth at 31 CFR Chapter X (together, the "Bank Secrecy Act") or the requirements referred to in Rule 80-11-1-.06, such licensee shall be subject to a fine of one thousand dollars ($1,000) for each instance of non-compliance.

Authority: O.C.G.A. §§ 7-1-61, 7-1-1004, 7-1-1012, 7-1-1014, 7-1-7017, 7-1-1018.

SUBJECT 80-11-5

MORTGAGE LOAN ORIGINATOR LICENSURE AND OTHER REQUIREMENTS

80-11-5-.04 Renewals

(1) Mortgage loan originator licenses shall expire on December 31st of each calendar year. A mortgage loan originator must meet the following requirements in order to have his or her license renewed:

(a) A mortgage loan originator must continue to meet the minimum standards for license issuance.

(b) Timely submission of a complete renewal application and corresponding fee.

(c) A mortgage loan originator must satisfy the continuing education requirements of O.C.G.A. § 7-1-1004(h). The applicant must obtain on an annual basis eight (8) hours of approved continuing education in mortgage courses from an NMLSR approved provider. Of these eight (8) hours, seven (7) hours must be obtained in course work addressing the subjects identified in O.C.G.A. § 7-1-1004(h)(1), and at least one (1) hour of continuing education must be obtained in coursework addressing the Georgia Residential Mortgage Act, specifically any changes made to the statute and its corresponding regulations.

(d) Courses taken to meet the approved continuing education requirements of the NMLSR for any state shall be accepted as credit towards continuing education requirements in Georgia, with the exception that one (1) hour of the required courses must cover laws and regulations related to Georgia mortgage licensure, not that of another state.

(e) Continuing education credits are only valid in the calendar year in which the courses are taken. Credits earned during November 1 through December 31 will be excluded from consideration for continuing education credit hours earned for the subsequent renewal period. When continuing education hours are obtained by a mortgage loan originator, only credit hours obtained from January 1 to October 31 shall be considered for purposes of meeting the eight (8) hours of continuing education required in the subsequent renewal period.

(f) 1. Upon submitting an application to renew a license, failure to document to the Department's satisfaction proof of completion of eight (8) continuing education hours by October 31 may subject the licensee to a fine. The failure to document proof of completion of these hours and to pay any assessed fine by December 31

shall result in the expiration of the mortgage loan originator's license without notice or hearing.

2. A mortgage loan originator whose license has been inactive for less than three (3) years shall provide proof of completion of the continuing education requirements for the last year in which the license was held in order to reinstate it. Should reinstatement of an expired license be sought for a license that has been inactive for five (5) years or more, such reinstatement application will require that the applicant again meet the testing requirements set forth in O.C.G.A. § 7-1-1004(g). If a person has worked as a registered loan originator at any time during the lapsed license period, the period of time the registered mortgage loan officer was employed in this capacity shall not count toward the calculation of the time period for the continuing education and testing requirements of this paragraph.

3. In the following circumstances the prelicensing education course will expire, which shall require the individual to complete an additional 20 hours of prelicensing education in order to be eligible for a mortgage loan originator license. An individual's prelicensing education shall expire if he/she:

   (i) fails to acquire a valid license or work as a registered loan originator within three years from the date of initial completion of any approved prelicensing education course; or

   (ii) has obtained a license or worked as a registered loan originator but subsequently did not maintain an active license or work as a registered loan originator for three years or more.

Authority: O.C.G.A. §§ 7-1-1004(f)(4), 7-1-1004.2, 7-1-1005.

Rule 80-11-5-.09. Temporary Authority to Operate

(1) A mortgage loan originator purporting to operate under the temporary authority requirements set forth in 12 U.S.C. § 5117 is jointly responsible with the mortgage loan originator's sponsor for ensuring that the required disclosure under Rule 80-11-1-.01(11) is provided. Nothing herein shall be construed as requiring a mortgage loan originator and the mortgage loan originator's sponsor to provide a duplicate of the required disclosure under Rule 80-11-1-.01(11).

(2) A mortgage loan originator purporting to operate under the temporary authority requirements set forth in 12 U.S.C. § 5117 must indicate "TAO," "temporary authority to operate," or a substantially similar designation next to the signature line on any document, application, or disclosure signed by the mortgage loan originator in connection with any residential mortgage loan application, including but not limited to the negotiation of terms or the offering of a loan.

(3) Unless the following requirements have been satisfied, any mortgage loan originator who qualifies to operate under the temporary authority provisions of 12 U.S.C. § 5117 must submit proof to the Department of enrollment in a class to satisfy the education requirements set forth in O.C.G.A. § 7-1-1004(f) as well as registering to take the test as required by O.C.G.A. § 7-1-1004(g). Such proof shall be submitted to the Department within thirty (30) days of receipt of the mortgage loan originator's application.

Authority: O.C.G.A. §§ 7-1-1001.1, 7-1-1012.

CHAPTER 80-13

TRUST COMPANIES

SUBJECT 80-13-1

TRUST COMPANIES

80-13-1-.01 Definitions

(1) As used in Chapters 80-13-1, the terms that are defined in O.C.G.A. § 7-1-4 shall have the identical meaning.

(2) As used in Chapters 80-13-1, the below terms shall be defined as follows unless the term is otherwise defined in a specific rule:

(a) "External auditor" means an outside compensated, Certified Public Accountant (CPA) that is independent or works for an entity that is independent of the institution being audited.

(b) "Fiduciary account" means an account administered by a trust company when it is acting in a fiduciary capacity including, but not limited to, a trustee, executor, administrator, registrar of stocks and bonds, transfer agent, guardian, receiver, custodian under a uniform gifts to minor act, investment advisor if the trust company receives a fee for the investment advice, any capacity in which the trust company possess investment discretion on behalf of another, or any other similar capacity designated as such by the Department.

(c) "Independent" means an auditor must be personally and financially independent from the trust company's employees, members of the board of directors, and members of their immediate families.

(d) "Investment discretion" means, with respect to an account, the sole or shared authority (whether or not that authority is exercised) to determine what securities or other assets to purchase or sell on behalf of the account.

(e) "Service Contract" shall mean a contract executed by a trust company and a third party service provider to provide financial services, whether direct or indirect, to the trust company.

(f) "Third party service provider" shall mean any provider of financial services to a trust company as authorized by O.C.G.A. § 7-1-72.

Authority: O.C.G.A. § 7-1-61.

80-13-1-.10 Collective Investment Funds

A trust company administering a collective investment fund authorized under O.C.G.A. § 7-1-313 shall comply with the following requirements:

(1) The trust company shall develop, and the Board of Directors must approve, a collective investment fund plan that must contain appropriate provisions, not inconsistent with this part, regarding the manner in which the trust company will operate the fund, including provisions relating to:

(a) Investment powers and policies with respect to the fund;

(b) Allocation of income, profits, and losses;

(c) Fees and expenses that will be charged to the fund and to participating accounts;

(d) Terms and conditions governing the admission and withdrawal of participating accounts;

(e) Audits of participating accounts;

(f) Basis and method of valuing assets in the fund;

(g) Expected frequency for income distribution to participating accounts;

(h) Minimum frequency for valuation of fund assets;

(i) Amount of time following a valuation date during which the valuation must be made;

(j) Bases upon which the trust company may terminate the fund; and

(k) Any other matters necessary to define clearly the rights of participating accounts.

(2) A trust company administering a collective investment fund shall have exclusive management thereof, except as a prudent person might delegate responsibilities to others.

(2.1) Each participating account in a collective investment fund must have a proportionate interest in all the fund's assets.

(3) (a) A trust company administering a collective investment fund shall determine the value of the fund's readily marketable assets at least once every three months. A trust company shall determine the value of the fund's assets that are not readily marketable at least once a year.

(b) Except for short-term investment funds ("STIFs"), a trust company shall value each fund asset at mark-to-market value as of the date set for valuation, unless the trust company cannot readily ascertain mark-to-market value, in which case the trust company shall use a fair value determined in good faith. STIFs shall be valued as set forth in 12 C.F.R. § 9.18.

(4) (a) At least once during each 12-month period, a trust company administering a collective investment fund shall arrange for an audit of the collective investment fund by auditors responsible to both the audit committee and the Board of Directors of the trust company.

(b) At least once during each 12-month period, a trust company administering a collective investment fund shall prepare a financial report of the fund based on the audit required by paragraph (4)(a) of this section. The report must disclose the fund's fees and expenses in a manner consistent with applicable law in the state in which the trust company maintains the fund. This report must contain a list of investments in the fund showing the cost and current market value of each investment, and a statement covering the period after the previous report showing the following (organized by type of investment):

1. A summary of purchases (with costs);

2. A summary of sales (with profit or loss and any other investment changes);

3. Income and disbursements; and

4. An appropriate notation of any investments in default.

(c) A trust company may include in the financial report a description of the fund's value on previous dates, as well as its income and disbursements during previous accounting periods. A trust company may not publish in the financial report any predictions or representations as to future performance.

(d) A trust company administering a collective investment fund shall provide a copy of the financial report, or shall provide notice that a copy of the report is available upon request without charge, to each person who ordinarily would receive a regular periodic accounting with respect to each participating account. The trust company may provide

a copy of the financial report to prospective customers. In addition, the trust company may provide a copy of the report upon request to any person for a reasonable charge.

(5) A trust company administering a collective investment fund may charge a reasonable fund management fee only if:

(a) The fee is permitted under applicable law (and complies with fee disclosure requirements, if any); and

(b) The amount of the fee does not exceed an amount commensurate with the value of legitimate services of tangible benefit to the participating fiduciary accounts that would not have been provided to the accounts were they not invested in the fund.

(6) A trust company administering a collective investment fund may charge reasonable expenses incurred in operating the collective investment fund, to the extent not prohibited by applicable law in the state in which the trust company maintains the fund. However, a trust company shall absorb the expenses of establishing or reorganizing a collective investment fund.

(7) The Department will not deem a trust company's mistake made in good faith and in the exercise of due care in connection with the administration of a collective investment fund to be a violation of this rule if, promptly after the discovery of the mistake, the trust company takes whatever action is practicable under the circumstances to remedy the mistake.

Authority: O.C.G.A. §§ 7-1-61, 7-1-313.

80-13-1-.14 Service Contracts

(1) A state-chartered trust company may contract with another financial institution or a third party service provider to provide certain services in a principal-agent relationship, provided both parties comply with the applicable rules and regulations of the Department.

(2) Agency relationships shall comport with safety and soundness principles to protect the financial integrity of the trust company and the accounts of its customers.

(3) A state-chartered trust company entering into a service contract with a third party service provider must maintain the following information on file at the trust company and shall not execute a contract with a third party service provider unless this information has been obtained:

(a) A copy of the contract under which the services are provided;

(b) A schedule of fees to be charged for each type of service to be performed;

(c) Written assurance from the third party service provider that:

1. The records of the trust company for which the services are to be performed will be subject to examination and regulation by the department as if the records were maintained by the trust company on its own premises;

2. The records of the trust company in the service provider's possession shall be available to examiners promptly upon receipt of notice;

3. The department shall have the authority to periodically review the internal routine and controls of the service provider to ascertain that the operations are being conducted in a sound manner in keeping with generally accepted trust company procedures and industry standards;

(d) A listing of all reports and printouts which the third party service provider is offering the trust company and the time required, after receipt of notice of examination, to provide those reports in readable form to the examiners; and

(e) Evidence of financial stability to include a copy of the third party service provider's most recent audit and financial statement, both of which should be aged no more than 18 months. This is a continuous requirement.

(4) A state-chartered trust company contracting with a third party service provider must employ good faith efforts to monitor the financial condition of the service provider and must notify the department immediately when it discovers or suspects that the service provider is insolvent or has suffered significant financial losses that threaten the continuing viability of the third party service provider.

(5) If a state-chartered trust company is required to disclose a service contract to a federal regulator, a duplicate of such disclosure will simultaneously be submitted to the Department.

(6) This rule is not intended to apply to non-fiduciary or non-representative capacity related operational or administrative functions which do not tend to impact the safety and soundness of the trust company or the accessibility to the Department of records.

Authority: O.C.G.A. § 7-1-61.

80-13-1-.15 Service Contracts: Requirements of Third Party Service Providers

(1) Each third party service provider that enters into a service contract with a state-chartered trust company shall be subject to examination and regulation by the department as if the entity were a state financial institution, as authorized by O.C.G.A. § 7-1-72.

(2) In the event that a third party service provider has been examined by a federal agency that is a member of the Federal Financial Institutions Examination Council ("FFIEC"), or any successor entity, in the previous twenty-four (24) months and the department is provided a copy of the examination, the department shall accept the results of such examination in lieu of conducting its own examination. However, nothing contained herein, shall be construed as limiting or otherwise restricting the department from participating in such examination.

Authority: O.C.G.A. § 7-1-61.

CHAPTER 80-14

INSTALLMENT LOANS

SUBJECT 80-14-1

PLACE OF BUSINESS, ADVERTISING, AND OTHER REQUIREMENTS

80-14-1-.02 Location Managers

(1) A "location manager" shall mean an individual who supervises daily activities in Georgia of a licensee, whether at a main office or branch as defined in Rule 80-14-1-1.01, and regardless of job title.

(2) No individual shall be permitted to manage a location in Georgia without being approved by the Department as a location manager. A location manager may be put in place subject to Departmental approval, but the Department must receive a complete application for approval within 15 calendar days of the placement. No individual may serve as the location manager of more than one location of a licensee.

(3) The Department shall conduct a criminal background check and require such other pertinent information to satisfy itself that the location manager will operate the location responsibly and in compliance with the laws and rules of this state.

(4) Notwithstanding any approval of the location manager by the Department, the licensee has full and direct financial responsibility for the lending activities of each location manager and full and direct responsibility for the training and supervision of the location manager. The licensee will supervise the location and location manager on an ongoing and regular basis and shall be accountable for the lending activities of the location and location manager. Any violation of the Georgia Installment Loan Act or the rules and regulations of the Department by a location manager shall be deemed to be a violation by both the licensee and the location manager.

Authority: O.C.G.A. §§ 7-3-32, 7-3-51.

80-14-1-.03 Employee Background Checks; Covered Employees

(1) As required by O.C.G.A. § 7-3-42(e), applicants and licensees must have commercial background checks performed on all covered employees, as defined in O.C.G.A. § 7-3-3(2). Employees of an applicant or licensee who are not engaged in the installment loan business are not covered employees. Background checks on all covered employees must be completed and found satisfactory by an applicant prior to the issuance of a license or by a licensee prior to the initial date of hire of such covered employee. In the event the job responsibilities of an employee change so that the employee satisfies the covered employee definition in O.C.G.A. § 7-3-3(2), the required background check must be completed and found satisfactory prior to the change in job responsibilities.

(2) For purposes of O.C.G.A. § 7-3-42, an employee of a licensee is engaged in the installment loan business if he or she performs any of the following duties for a Georgia consumer:

(a) taking a loan application or offering or negotiating terms of an installment loan;

(b) entering, deleting, or verifying any information on an installment loan related document; or,

(c) communicating with a consumer regarding a specific installment loan, excluding communication by a third party for purposes of debt collection.

(3) Pursuant to O.C.G.A. § 7-3-42(e), applicants and licensees shall conduct criminal background checks by utilizing a commercial entity. The commercial entity shall be in the business of conducting criminal background checks. The criminal background checks conducted by the commercial entity must not have any time period limitations, geographic limitations, or restrictions in the search criteria, unless the time period limitation, geographic limitation, or other restriction on the background checks is required by applicable federal or state law. Any fees charged by the commercial entity for processing background checks must be paid by the applicant or licensee.

Authority: O.C.G.A. §§ 7-3-3, 7-3-42, 7-3-51.

SUBJECT 80-14-3

ADMINISTRATIVE FINES AND PENALTIES

80-14-3-.01 Administrative Fines

80-14-3-.01 Administrative Fines

(1) The Department establishes the following fines for violation of the Georgia Installment Loan Act ("Act") or its rules. Except as otherwise indicated, these fines apply to any person who is acting as an installment lender and any licensee under the Act. The Department, at its sole discretion, may waive or reduce a fine based upon the financial resources of the person, gravity of the violation, history of previous violations, and such other facts and circumstances deemed appropriate by the Department.

(2) All fines levied by the Department are due within thirty (30) days from the date of assessment and must be paid prior to renewal of the annual license, reapplication for a license, or any other activity requiring Departmental approval.

(3) In addition to any fines levied by the Department, the recipient of the fine may be subject to additional administrative actions for the same underlying activity.

(4) Operating Without Proper License. Any person who acts as an installment lender prior to receiving a current license required under the Act, or who acquires an unlicensed installment loan business, or during the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars ($1,000) per day.

(5) Failure to Obtain Approval from the Department of Change in Ownership or Change in Control. Any licensee or other person who fails to obtain the Department's prior written approval of a change in ownership through acquisition or other change in control or change in executive officer resulting from such change in ownership or change in control of the licensee in compliance with O.C.G.A. § 7-3-32 shall be subject to a fine of one thousand dollars ($1,000).

(6) Failure to Notify of Change in Executive Officers. Any licensee or other person who fails to timely notify the Department of a change in executive officer not resulting from a change in control or ownership in compliance with O.C.G.A. § 7-3-32 and shall be subject to a fine of one thousand dollars ($1,000).

(7) Unapproved Locations. In addition to the application, fee, and approval requirements of O.C.G.A. § 7-3-32(a), any licensee who operates an unapproved branch office shall be subject to a fine of five hundred dollars ($500) per unapproved branch office operated.

(8) Location Manager Approval. Any licensee shall be subject to a fine of five hundred dollars ($500) for operation of a location with an unapproved location manager. No such fine shall be levied while Department approval is pending if timely application for approval is made pursuant to Rule 80-14-1-.02.

(9) Felons. Any licensee that hires or retains a covered employee who is a felon as described in O.C.G.A. § 7-3-42(a), when such covered employee has not complied with the remedies provided for in O.C.G.A. § 7-3-42(a) for each conviction before such employment, shall be subject to a fine of five thousand dollars ($5,000) for each such covered employee.

(10) Background Checks on Employees. Any licensee that does not obtain a criminal background check on each covered employee prior to the initial date of hire, retention, or transition of an existing employee to a covered employee as set forth in Rule 80-14-1-.03(1) shall be subject to a fine of one thousand dollars ($1,000) per occurrence. Proof of the required criminal background check must be retained by the licensee until five years after termination of employment by the licensee. Notwithstanding compliance with this requirement to perform a criminal background check prior to employment, failure to maintain criminal background checks as required will result in a fine of one thousand dollars ($1,000) for each covered employee for which the licensee is missing this documentation.

(11) Disqualified Persons. Any licensee who employs any person subject to a final cease and desist order or license revocation within five (5) years of the date such person was hired pursuant to O.C.G.A. § 7-3-43(d) and (e) shall be subject to a fine of five thousand dollars ($5,000) per such employee.

(12) Failure to Review Public Records Prior to Hiring. Any licensee who fails to examine the Department's public records on NMLS Consumer Access to determine if a job applicant is subject to an order set forth in O.C.G.A. § 7-3-43(d) or (e) prior to hiring such individual shall be subject to a fine of one thousand dollars ($1,000) for each employee on whom the public records were not timely examined.

(13) Prohibited Acts. Any licensee who violates the provisions of O.C.G.A. § 7-3-43 shall be subject to a fine of one thousand dollars ($1,000) per violation or transaction that is in violation of O.C.G.A. § 7-3-43.

(14) Failure to Timely Report Certain Events. Any licensee who fails to report any of the events enumerated in O.C.G.A. § 7-3-31(a), shall be subject to a fine of one thousand dollars ($1,000) per act not reported in writing to the Department within 10 days of knowledge of such act.

(15) Failure to Report. Any licensee who fails to provide required reports as established by the Department and file the reports with the Department or the Nationwide Multistate Licensing System and Registry as specified by the Department within the designated time periods shall be subject to a fine of one hundred dollars ($100) for each such occurrence.

(16) Failure to Timely Disclose Change in Affiliation of Natural Person that Executed Lawful Presence Affidavit and Submission of New Affidavit. Any licensee that fails to disclose that the owner or executive officer that executed the lawful presence affidavit is no longer in that position with the licensee within ten (10) business days of the date of the event necessitating the disclosure, shall be subject to a fine of one thousand dollars ($1,000). Any licensee that fails to submit a new lawful presence affidavit from a current owner or executive officer within ten (10) business days of the owner or executive officer that executed the previous lawful presence affidavit no longer being in that position with the licensee, shall be subject to a fine of one thousand dollars ($1,000) per day until the new affidavit is provided.

(17) Failure to Timely Update Information on the Nationwide Multistate Licensing System and Registry. Any licensee that fails to update its information on the Nationwide Multistate Licensing System and Registry ("NMLSR"), including, but not limited to, amendments to any response to disclosure questions, within ten (10) business days of the date of the event necessitating the change, shall be subject to a fine of one thousand dollars ($1,000) per occurrence. In addition, the failure of a control person of a licensee to update the individual's information on the NMLSR, including, but not limited to, amendments to any response to disclosure questions by the control person, within ten (10) business days of the date of the event necessitating the change, shall subject the licensee to a fine of one thousand dollars ($1,000) per occurrence.

(18) Failure to Submit to Examination or Investigation. Any licensee that refuses to permit an investigation or examination of books, accounts, and records after a reasonable request by the Department shall be subject to a fine of five thousand dollars ($5,000). Refusal shall require at least two attempts by the Department to schedule an examination or investigation.

(19) Books and Records. If the Department, in the course of an examination or investigation, finds that a licensee has failed to maintain its books and records according to the requirements of O.C.G.A. § 7-3-30 and Rule Chapter 80-14-2, such licensee shall be subject to a fine of one thousand dollars ($1,000) for each violation of a books and records requirement listed in Rule Chapter 80-14-2.

(20) Maintenance of Loan Files. Any licensee who fails to maintain a loan file for each installment loan borrower as required by Rule 80-14-2-.04 or who fails to have all required documents in such file shall be subject to a fine of one thousand dollars ($1,000) per file not maintained or not accessible, or per file not containing required documentation.

(21) Failure to Provide Loan Contract or Loan Contract that Does Not Comply with Applicable Laws and Rules. In the event a licensee does not provide a consumer with a copy of the loan contract or written itemized statement as required by O.C.G.A. § 7-3-15 and Rule 80-14-5-.01 or a copy of a loan contract or written itemized statement that satisfies the requirements of O.C.G.A. § 7-3-15 and Rule 80-14-5-.01, the licensee shall be subject to a fine of one thousand dollars ($1,000) per transaction where either a loan contract or itemized statement was not provided or a loan contract or itemized statement that satisfies the requirements of O.C.G.A. § 7-3-15 and Rule 80-14-5-.01 was not provided.

(22) Failure to Provide Receipt. In the event a licensee does not provide a consumer with a written receipt as required in Rule 80-14-5-.01(7), the licensee shall be subject to a fine of one hundred dollars ($100) per payment for which the receipt was not provided.

(23) Failure to Post Required License. Any licensee that fails to post a copy of its license in each location where an installment loan business is conducted shall be subject to a fine of five hundred dollars ($500) for each instance of non-compliance.

(24) Advertising. Any licensee who violates the advertising requirements in O.C.G.A. § 7-3-10 or Rule 80-14-1-.04 shall be subject to a fine of five hundred dollars ($500) for each violation of law or rule.

(25) Unsolicited Live Checks. Any licensee who offers an unsolicited live check in a manner that violates any of the conditions of Rule 80-14-5-.04 shall be subject to a fine of one thousand dollars ($1,000) for each occurrence, which in no event shall exceed fifty thousand dollars ($50,000).

(26) Debt Collection Practices. In the event any licensee, or employee or agent thereof, willfully uses any unreasonable collection tactics in violation of O.C.G.A. § 7-3-33 or Rule 80-14-5-.05(2), such licensee shall be subject to a fine of five hundred dollars ($500) per occurrence.

(27) Consumer Complaints. Any licensee who fails to respond to a written consumer complaint or fails to respond to the Department regarding a consumer complaint, within the time periods specified in the Department's correspondence to such licensee, shall be subject to a fine of one thousand dollars ($1,000) for each occurrence.

(28) Unauthorized Access to Customer Information. Any licensee that fails to provide the Department with notice of unauthorized access to customer information as required by Rule 80-14-1-.05 shall be subject to a fine of one thousand dollars ($1,000) a day until such notice is provided.

(29) Maintenance of Service Files. Any licensee who acts as an installment loan servicer as defined at Rule 80-14-6-.01(2) who fails to maintain a servicer file for each installment loans it services, as required by Rule 80-14-6-.03(1)(a), or who fails to have all required documents in such file shall be subject to a fine of one thousand dollars ($1,000) per file not maintained or not accessible, or per file not containing required documentation.

(30) Failure to Adhere to Loan Servicing Standards. Any licensee who acts an installment loan servicer as defined at Rule 80-14-6-.01(2) who fails to adhere to the installment loan servicing standards, as required by Rule 80-14-6-.02, shall be subject to a fine of one thousand dollars ($1,000) per occurrence.

Authority: O.C.G.A. §§ 7-3-44, 7-3-46, 7-3-51.

SUBJECT 80-14-4

LICENSING

80-14-4-.05 Determining Location of Loan

O.C.G.A. § 7-3-4 provides that no person shall make installment loans in this state without a license unless such person is exempt from the requirements of licensure. For a transaction

requested in person, “in this state” means at a physical location within this state. For a transaction requested electronically or by telephone, the installment lender may determine if the person requesting the transaction is “in this state” by relying on information provided by the person regarding the location of an individual's residence, and any records associated with the person that the installment lender may have that indicate such location, including but not limited to an address associated with an account.

Authority: O.C.G.A. §§ 7-3-4, 7-3-51.

SUBJECT 80-14-6

INSTALLMENT LOAN SERVICING

80-14-6-.01 Definitions

(1) As used in Chapter 80-14-6, the terms that are defined in O.C.G.A. §§ 7-1-4 and 7-3-3 shall have the identical meaning.

(2) As used in Chapter 80-14-6, the below terms shall be defined as follows unless the term is otherwise defined in a specific rule:

(a) “Installment loan servicer” means any person that services installment loans made by others.

(b) "Notice of error" means any written notice from the borrower that asserts an error and that includes the name of the borrower, information that enables the installment loan servicer to identify the borrower's loan account, and the error the borrower believes has occurred. A notice on a payment coupon or other payment form supplied by the installment loan servicer need not be treated by the installment loan servicer as a notice of error.

(c) “Service an installment loan” means the collection or remittance or the right to collect or remit payments of principal, interest, trust items such as insurance and taxes, and any other payments pursuant to the terms of an installment loan.

Authority: O.C.G.A. § 7-3-51.

80-14-6-.02 Installment Loan Servicing Standards

(1) The standards set forth in this Rule apply only to persons licensed or required to be licensed under Chapter 3 of Title 7 of the Official Code of Georgia Annotated as installment lenders that act as installment loan servicers.

(2) Any person who acts as an installment loan servicer:

(a) Shall act with reasonable skill, care, and diligence;

(b) Shall not charge fees for:

1. Handling borrower disputes;

2. Facilitating routine borrower collections;

3. Arranging repayment plans;

4. Sending borrowers notice of nonpayment; and

5. Updating records to reinstate an installment loan.

(c) Shall have an error resolution process for all borrowers, which must, at a minimum:

1. Acknowledge receipt of a borrower's notice of error within 10 business days of receipt;

2. Conduct a reasonable investigation; and

3. Within 45 days, provide a borrower with a written notification of:

(i) the correction of error; or

(ii) the installment loan servicer's determination that no error occurred and the reason for such determination.

(4) Each installment loan servicer shall, at the time the installment loan servicer acquires the right to service the installment loan, make the following initial disclosures in writing to borrowers:

(a) A complete and current schedule of fees;

(b) The name, address, and an email address or toll-free telephone number for an employee or department of the installment loan servicer that can be contacted by the borrower regarding servicing; and

(c) A statement of the installment loan servicer standards set forth in Paragraph (2) of this Rule including a description of the installment loan servicer's error resolution process as required by Paragraph (2)(c).

(5) If an installment loan servicer discovers a violation of these standards, the installment loan servicer:

(a) Has a duty to mitigate the harm to the borrower; and

(b) Shall maintain a record of such violation in accordance with Rule 80-14-6-.03(1)(b).

(6) Loans that a licensee has purchased or otherwise acquired through one of the methods provided at O.C.G.A. § 7-3-32(f), or by way of acquisition of a branch office that has been approved by the Department pursuant to O.C.G.A. § 7-3-32(c), are exempt from the requirements of this Rule so long as such acquired loans are serviced according to their underlying terms.

(7) Failure to adhere to these standards may result in revocation of the license and will subject the licensee to fines in accordance with regulations prescribed by the Department, including Rule Chapter 80-14-3.

Authority: O.C.G.A. § 7-3-51.

80-14-6-.03 Minimum Requirements for Books and Records

(1) Irrespective of the requirements set forth at Rule 80-14-2-.02, each installment loan servicer must maintain the following books, accounts, and records:

(a) Servicer file for each installment loan that it services. The servicer file must contain the following:

1. the name of each borrower;

2. copies of all loan agreements, contracts, deeds, assignments, letters, notes, and memos regarding the borrower;

3. documents related to assignment, sale, or transfer of installment loan servicing;

4. copies of all disclosures or notices provided to the borrower by the installment loan servicer as required by law, including Rule 80-14-6-.02;

5. copies of all written requests for information received from the borrower and the installment loan servicer's response to such requests as required by law;

6. full payment history that identifies and itemizes all payments made by or on behalf of the borrower and which contains the following:

(i) date each payment was made;

(ii) amount of each payment made;

(iii) remaining balance on account;

(iv) any late charge collected with the date on which the late charge was collected.

7. If the installment loan servicer defers installment loans, the deferred loan monthly journal required by O.C.G.A. § 7-3-11(6)(G);

8. a communications log, which documents all verbal communication with the borrower or the borrower's representative;

9. records regarding the final disposition of the installment loan including a copy of any collateral release document, records of servicing transfers, or charge-off information; and

10. an electronic system of record that can generate a report of every receipt or disbursement of funds for a requested period of time. All such entries shall be made on the exact date on which they occur. This system shall be balanced daily.

(b) A list of all the installment loan servicer's violations, if any, of the installment loan servicer standards set forth in Rule 80-14-6-.02.

(2) Loans that a licensee has purchased or otherwise acquired through one of the methods provided at O.C.G.A. § 7-3-32(f), or by way of acquisition of a branch office that has been approved by the Department pursuant to O.C.G.A. § 7-3-32(c), are exempt from the requirements of Paragraph (1) of this Rule so long as any such acquired loans are reported on the licensee's loan transaction journal pursuant to Rule 80-14-2-.03.

(3) Failure to maintain the books, accounts, and records required under Paragraph (1) of this Rule may result in revocation of the license or other appropriate administrative action and will subject the licensee to fines in accordance with regulations prescribed by the Department.

Authority: O.C.G.A. § 7-3-51.

80-14-6-.04 Reports of Condition

(1) Each installment loan servicer shall submit to the Nationwide Multistate Licensing System and Registry or through other means specified by the Department timely reports of condition in accordance with O.C.G.A. § 7-3-30 and Rule 80-14-4-.04(4) containing information detailing the installment loan servicer's activities, including, but not limited to:

(a) The number of installment loans serviced;

(b) Delinquency status of installment loans serviced; and

(c) The number of installment loan modifications.

(2) Failure to submit the timely reports of condition required under Paragraph (1) of this Rule may result in revocation of the license or other appropriate administrative action and will subject the licensee to fines in accordance with regulations prescribed by the Department.

Authority: O.C.G.A. § 7-3-51.