STATE OF OHIO

DEPARTMENT OF COMMERCE · DIVISION OF SECURITIES

180 East Broad Street
Columbus, Ohio 43215

ohio securities bulletin

JAMES A. RHODES
Governor

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September 30, 1975

COMMISSIONER'S COMMENTS

With this issue the Division of Securities reinstitutes its Bulletin which will be published on a quarterly basis. It will be provided to interested persons without charge, though the possibility exists that a minimal charge may be requested in the future.

The purpose of the Bulletin will be to inform the general public of what has occurred during the previous three months, provide notice of proposed Rules and provide the means by which publication will be made of the Policy Statements of the Division. These Policy Statements will be attached to but not a part of the Bulletin. They will provide the means by which the Division will express its interpretation of the various statutes it administers and the Rules promulgated under Chapter 119 of the Ohio Revised Code. Therefore it is suggested that the readers of the Bulletin detach the Policy Statements and preserve them for future reference.

The Division is presently reviewing the Bulletins published in 1973 and 1974. Future issues of the Bulletin will inform the readers of those portions of 1973 and 1974 Bulletins which are to be preserved in the form of Rules or Policy Statements.

The Division is currently undergoing the extensive task of reviewing the existing Division of Securities Rules for the purpose of making substantial amendments and also reorganizing them structurally so they will be easily identified with the statute of the Ohio Revised Code to which they refer (example: R. C. 1707.041 will be COs-2-041). It is anticipated that many of the Rules which deal with the internal operation of the Division will be repealed and later put into effect as Regulations of the Division. Further, the present Administrative Rulings will be either promulgated into Rules or expressed as Policy Statements.

This is a substantial undertaking, but it is hoped that within the not too distant future the statutory interpretations and policies of the Division will be fully expressed through promulgated Rules or Policy Statements. These will be directly tied to governing statutes, so that members of the public can be fully informed of the law and policy governing them in each area of Division responsibility.

James S. Reece
Commissioner of Securities

REAL ESTATE PROGRAMS

The Ohio Division of Securities presently intends to adopt through The Administrative Procedure Act (Chapter 119, ORC) the Statement of Policy regarding Real Estate Programs adopted by the Midwest Securities Commissioners Association on February 28, 1973, amended February 26, 1974, and July 22, 1975.

The Division invites comment or suggestions for amendments or changes from interested practitioners and members of the industry.

Please address all correspondence to:

James S. Reece
Commissioner of Securities
180 East Broad Street
Columbus, Ohio 43215

SECTIONS

REGISTRATION

I. *Periods of Effectiveness – Registrations by Description and Qualification.*

Division policy (August, 1973, Bulletin) restricting period of effectiveness to one year for registrations by description (Form 6), one year for registrations by qualification (Forms 9 and 33); and two years (Form 9) as to open-end investment companies, is hereby rescinded.

In the absence of a statutory amendment to terminate Forms 6 and 9 as to periods of effectiveness, the Division has no authority to impose a one year termination on Forms 6 and 9, or a two year termination on Form 9 for mutual funds.

II. *Registration by Description.*

Accelerated registration procedure as set forth and detailed in May, 1973, Bulletin is hereby rescinded.

The Division will seek a statutory amendment to eliminate automatic effectiveness upon receipt as provided in Section 1707.08, O.R.C.

All applicants for registration by description are cautioned to seek or await notice of deficiency or effectiveness and not to proceed or take shelter under 1707.08.

It will be Division policy to continue prompt review, notification as to deficiencies, and issuance of certificates of acknowledgement.

The Division announces statements of registration policy on "cursory review", and the lending of mutual fund portfolio securities. These policy statements are attached to this issue of the Bulletin, and are referenced as 75-2-R and 75-3-R.

G. A. Ward
Deputy Commissioner

BROKER-DEALER

On Septembe 22, 1975, a hearing was held in accordance with the A inistrative Procedures Act, Chapter 119, O.R.C. and tain changes in the Broker-Dealer Rules were effected.

The filing e for renewal applications has been advanced to Novem 15, due to the requirements of the data processing system.

The fees, as prescribed in Section 1707.17 remain unchanged.

Rules COs-3-01(B) and COs-3-01(O), formerly DS-2 and DS-15, have been amended to permit the Division to accept forms other than Form 15 and Form 16. The SEC has formulated the U-3, a uniform application for a dealer's license, and Form U-4, a uniform application for a salesman's license. Forms 15 and 16 are still acceptable to the Division.

The securities industry has recognized the need for uniform forms for a number of years. On April 16, 1975 the Securities and Exchange Commission adopted Form U-3 and Form U-4.

The Division will cooperate and accept these forms. However, due to procedural technicalities in the Ohio Securities Act regarding the issuance of license, it will be necessary that a supplementary form be included with all such forms sent to us for processing. The Securities and Exchange Commission has undertaken to print Form U-3 (BD) and Form U-4, and distribute them to all applicants without charge. In addition, the SEC has agreed to distribute the supplemental sheet with these forms. Rules governing the proof of publication, financials, references, and the other exhibits required of Ohio license applicants are still in effect.

Should the U-3 or U-4 forms be received without their Ohio Supplemental Sheets, please duplicate and use the forms attached to this Bulletin as a part of Policy Statement No. 75-1 BD.

If difficulty is encountered in securing copies of these forms inquiries should be addressed to the attention of:

Securities and Exchange Commission
Office of Reports and Information Services
500 North Capitol Street
Washington, D. C. 20549

Gordon A. Stott
Supervisor, Broker-Dealer Section

CONSUMER FINANCE
Joint Credit Life Disclosure

Our Examination Section has recently brought to my attention several examples which I believe could lead to problems wherein a registrant under the Mortgage Loan Act furnishes joint credit life insurance to its borrowers.

In a number of cases the registrants had obtained only one of the borrower's signatures under their previous single coverage disclosure and no mention of joint credit life made. The only way we could assume that joint credit life had been written was that the charge was 175 percent of the single premium. A few companies have changed the language in their insurance disclosures to include the provision for joint credit life, but the office detail has been remiss in that signatures were missing or appropriate boxes not checked.

As previously adivsed, documentation of borrower-requested credit insurance is stressed in order to prove the insurance was not required or "packaged" by the registrant. Section 1321.58(A), Ohio Revised Code, of the Mortgage Loan Act, which requires certain written disclosures to the borrower by the registrant at the time a loan is made, states at sub-paragraph (8): "A description of insurance required by the lender or purchased by the borrower in connection with the loan."

Federal Reserve Board Regulation Z, part 226, "Truth-in-Lending", exempts the inclusion of credit insurance in annual percentage rate disclosure under Section 226.4(5) which states: "(i) The insurance coverage is not required by the creditor and this fact is clearly and conspicuously disclosed in writing to the customer; and (ii) any customer desiring such insurance coverage gives specific dated and separately signed affirmative written indication of such desire after receiving written disclosure to him of the cost of such insurance."

Consequently, the Division should expect a clear and conspicuous disclosure of the type and cost of the insurance and a separately signed and separately dated written request for such insurance. In the case of joint credit life, the request should be signed and dated by both insureds.

First Payment Extensions

The Small Loan Act under Section 1321.13(A)(3), O.R.C., provides for an extension of the first installment period beyond one month by as much as fifteen days and provides for an additional charge for each day exceeding one month of "one-thirtieth of the charge which would be earned for a first installment period may be added to the first installment."

Compliance examinations of many branches disclose that many licensees have a preponderance of their loans written which include the full fifteen days and the question arises as to whether the first installment date was negotiated for a specific number of days such as three, nine, twelve, etc. or whether the loan counselor is submitting any extension request to the full fifteen day extension resulting in an unnecessary charge to the borrower. An example of this would be a loan closed on the 27th day of a month to be repaid from an income received around the first of the month. Borrower requests a first payment extension and is extended fully to the 12th of the following month when an extension of eight days to the 5th would have been sufficient. Consequently, an examiner who finds a preponderance of full fifteen day extensions in the small loan portfolio of a licensee will check the actual repayment dates of those loans and if a significant number are paying in advance of the extended fifteen days, the question of an unconscionable charge could be raised.

The Mortgage Loan Act does not contain a provision for a first payment extension specifically. Section 1321.57(A), O.R.C., states that a registrant may: ". . . contract for and add to the original principal amount of any loan which is repayable in substantially equal installments over a period not exceeding 60 months, a maximum charge which shall include interest not exceeding eight dollars per one hundred dollars per year. Such charge shall be computed on the original principal amount of the loan, excluding such charge, for the full term of the loan contract without regard to the requirement for installment payments; et seq."

Obviously, a loan written for the full sixty month period could not incorporate an additional fifteen days without exceeding the restricted maturity. Conversely, a loan with a term of less than sixty months would not exceed the restricted maturity. Since the charge would be written on ". . . the full term of the loan contract without regard to the requirement for installment payments", a contract could be executed for say forty-two months and ten days. The charge for the ten days would be 10/30ths of 1/12th of the dollar add-on charge per year as computed on the principal balance. This charge would be deemed earned at the end of the ten day period and would be added to the first payment which would not result in a payment that would be substantially unequal. This charge should be separately identifiable and the extended due date would then be used as the applicable date to compute a rebate of unearned charges by the formula set forth in Section 1321.57(A), O.R.C.

Robert P. Fickell
Supervisor - Consumer Finance

CREDIT UNIONS

During the first nine months of 1975 the Division has taken the time to thoroughly review its position and attitude toward credit unions. Naturally credit unions may and should anticipate variations from the practices and policies of the past. In this connection we are currently reviewing existing laws, rules and policies and you may therefore expect modifications to be forthcoming in the near future.

To improve supervision of credit unions in this state we are adopting a five phase program. (1) Our first phase was discussed above; however, we will not proceed into this area without input from the industry. Credit unions themselves should have a voice in structuring the laws and rules that will govern their industry.

(2) While we are not adopting a "get tough" policy *in toto* we are reviewing each examination report thoroughly. While we realize that credit unions have certain problems that are indigenous to no other financial institution, we must first meet our responsibility to the public.

(3) As you are aware the Ohio General Assembly passed into law a mandatory insurance amendment to the Ohio Credit Union Act. Part of that bill requires that all state chartered credit unions make application for share insurance

no later than June of 1976. The Division will actively participate with the credit union insuring organizations in a program that will speed up the process of application. Credit unions who do not comply with the law in this instance will necessarily be subject to administrative censure. We urge all credit unions not to wait until the last minute to submit their applications.

(4) The Division intends to draft a series of Supervisory and Advisory Manuals for the audit and credit committees, the board of directors and the executive committee. We are, at this time, in the process of printing a "Merger Procedure Manual" which should make the merger process less complex and more expeditious. Additionally, we hope to provide manuals dealing with liquidation, accounting, and other types of acquisitions.

(5) Finally, and perhaps the most important phase, the Division will develop an outline that may be used by credit unions as an "early warning test". If a credit union finds potential problems developing, e.g. inability to pay dividends, impairment, share runs, etc. . . . . we urge that the particular organization notify the Division immediately so that we may dispatch a field examiner to your office and render "preventive medicine" assistance. Hopefully, we will be available to work with credit unions to avoid serious situations.

Sam Rizzo
Supervisor - Credit Unions

ADMINISTRATIVE ACTIONS

Summary of Enforcement Activity for July, August, and September, 1975

July, 1975

Inquiries Received	39
Complaints Received	2
Complaints Closed	16
Broker-Dealer Suspensions	0
Salesman Suspensions	0
Salesman License Revocations	0
Salesman License Refusals	0
Registration Suspensions	0
Hearings Held	0
Court Actions	0
Prosecutions Recommended	0
In-Depth Investigative Interviews	28
Subpoenas Issued	2
Matters Referred to Atty. General	1
Matters Referred to SEC	0

August, 1975

Inquiries Received	85
Complaints Received	9
Complaints Closed	12
Broker-Dealer Suspensions	0
Salesman Suspensions	0
Salesman License Revocations	4
Salesman License Refusals	0
Registration Suspensions	0
Hearings Held	0
Court Actions	0
Prosecutions Recommended	0
In-Depth Investigative Interviews	45
Subpoenas Issued	0
Matters Referred to Atty. General	0
Matters Referred to SEC	2

September, 1975

Inquiries Received	44
Complaints Received	4
Complaints Closed	3
Broker-Dealer Suspensions	0
Salesman Suspensions	0
Salesman License Revocations	1
Salesman License Refusals	0
Registration Suspensions	0
Hearings Held	1
Court Actions	4
Prosecutions Recommended	0
In-Depth Investivative Interviews	12
Subpoenas	2
Matters Referred to Atty. General	3
Matters Referred to SEC	0

Summary of Credit Union Activity for months of July, August, and September, 1975

July, 1975

Suspensions	6
Hearings	1
Mergers	0
New Charters Granted	0

August, 1975

Suspensions	1
Hearings	3
Mergers	0
New Charters Granted	0

September, 1975

Suspensions	0
Hearings	1
Mergers	0
New Charters Granted	0

Summary of Consumer Finance Activity for months of July, August, and September, 1975

July, 1975

	Issued	Cancelled	Suspended
Small Loan Licenses	10	6	0
Second Mortgage Licenses	7	1	0
Premium Finance Licenses	1	0	0
Pawnbroker Licenses	1	1	0

Financial Examinations Made: 26
Compliance Examinations Made: 205