

This rule was filed as 12 NMAC 20.3.4.

TITLE 12 TRADE, COMMERCE AND BANKING
CHAPTER 20 SAVINGS AND LOAN ASSOCIATIONS
PART 34 CONSUMER LOANS, CORPORATE INVESTMENTS AND NOW ACCOUNTS

12.20.34.1 ISSUING AGENCY: Financial Institutions Division of the Regulation and Licensing Department, 725 St. Michael's Drive, Santa Fe, New Mexico 87504. Telephone No. (505) 827-7100.
[12/31/80; 9/15/97; Recompiled 10/15/01]

12.20.34.2 SCOPE: All savings and loan associations chartered by the state of New Mexico.
[9/15/97; Recompiled 10/15/01]

12.20.34.3 STATUTORY AUTHORITY: Sections 58-10-72 and 58-10-83 NMSA 1978.
[9/15/97; Recompiled 10/15/01]

12.20.34.4 DURATION: Permanent.
[9/15/97; Recompiled 10/15/01]

12.20.34.5 EFFECTIVE DATE: December 31, 1980, unless a later date is cited at the end of a section or paragraph. Reformatted in NMAC format effective September 15, 1997.
[12/31/80; 9/15/97; Recompiled 10/15/01]
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

12.20.34.6 OBJECTIVE: The objective of this sub-part [now part] is to define and set limits and requirements for selected assets for state-chartered savings and loans associations.
[9/15/97; Recompiled 10/15/01]

12.20.34.7 DEFINITIONS:

A. "Consumer loan": A secured or unsecured loan to a natural person for personal, family or household purposes; including loans secured by liens on real estate and by chattel liens on personal property; provided the association relies substantially upon other factors such as the general credit standing of the borrower. Included within this definition are educational loans; loans in the nature of overdraft protection; and credit extended in connection with credit cards.

B. "Loans": Obligations and extensions or advances of credit, including an interest in such a loan.

C. "Commercial paper": Any note, draft or bill of exchange which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which has a maturity at the time of issuance not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited.

D. "Corporate debt security": A marketable obligation, evidencing the indebtedness of any corporation in the form of a bond, and/or debenture which is commonly regarded as a debt security and is not speculative in nature. A security is marketable if it may be sold with reasonable promptness at a price which corresponds reasonably to its value as shown on the books of the association.

[12/31/80; 9/15/97; Recompiled 10/15/01]

12.20.34.8 OPERATIONS:

A. Consumer loans:

(1) General: An association may make direct or indirect consumer loans; provided that (1) at any one time the total investment made under this sub-part [now part] and Subsection 8.2 [now Subsection B of 12.20.34.8 NMAC] of this regulation, in the aggregate, shall not exceed 20 percent of the association's assets; and (2) that before indirect loans are made through a dealer, the dealer is approved by the association's board of directors. The authority to make a consumer loan includes the authority to originate, purchase, sell, service and participate in such loans; provided, that such loans conform to the provisions of this regulation and the association's written underwriting standards.

[Compiler's note: Section 2.1 (a) of Regulation 80-5 S&LB, now Paragraph (1) of Subsection A of 12.20.34.8 NMAC was rescinded by Subsection 8.4 of 12 NMAC 20.4.9, now Subsection D of 12.20.49.8 NMAC.]

(2) Relationship to other provisions: If a loan that may be made under this regulation is also authorized to be made under another regulation or statutory provision, which may have different percentage-of-assets and other limitations or requirements, an association shall have the option of choosing under which applicable provision the loan shall be made.

(3) Limitation of unsecured loans to one borrower: The total balances of all outstanding unsecured loans to one borrower, or on which any one person may become obligated directly or indirectly, is limited to the lesser of .25 percent of an association's assets, or 5 percent of its net worth.

(4) Treatment of delinquent items: Consumer credit extended under this regulation which becomes "delinquent" as that term is used in OTS Regulations, Section 561.13 shall be accorded the same accounting treatment, including charge-off, as prescribed by said OTS Regulations.

B. Commercial paper and corporate debt securities:

(1) General: An association may invest in, sell or hold commercial paper and corporate debt securities, including corporate debt securities convertible into stock, subject to the limitations set forth in paragraph 8.1.2 of this sub-part [now Paragraph (2) of Subsection A of 12.20.34.8 NMAC]; provided that at any one time the total investment under this section and Subsection 8.1 [now Subsection A of 12.20.34.8 NMAC], in the aggregate, shall not exceed 20 percent of the association's assets. An investment under this section includes the investing in, redeeming or holding of shares in any open-end management investment company which is registered with the securities and exchange commission under the Investment Company Act of 1940, and with the New Mexico securities division of the regulation and licensing department, and whose portfolio is restricted by such management company's investment policy, changeable only if authorized by shareholder vote, solely to the investments that an association is authorized to invest in under this regulation and other regulations or law.

(2) Limitations:

(a) As of the date of purchase, as shown by the most recently published rating made of such investments by at least one nationally recognized investment rating service, the commercial paper must be rated in either one of the two highest grades and the corporate debt securities must be rated in one of the four highest grades.

(b) The commercial paper or corporate debt securities shall be denominated in dollars and the issuer shall be domiciled in the United States.

(c) At any one time, an association's total investment in the commercial paper and corporate debt securities of any one issuer, or issued by any person or entity affiliated with such issuer, shall not exceed one percent of the association's assets, provided that this provision shall not apply to investments in the shares of an open-end management investment company. In such cases, an association's total investment in the shares of any one such company shall not exceed five percent of the association's assets.

(d) Investments in corporate debt securities convertible into stock are subject to the following additional limitations:

(i) purchase of securities convertible into stock at the option of the issuer is prohibited;

(ii) at the time of purchase, the cost of such securities must be written down to an amount which represents the investment value of the securities considered independently of the conversion feature;

(iii) such securities must be traded on a national securities exchange; and

(iv) associations are prohibited from exercising the conversion feature.

(e) At any one time, the average maturity of an association's portfolio of corporate debt securities may not exceed six years.

(f) An association shall maintain information in its files adequate to demonstrate that it has exercised prudent judgment in making investments under this regulation.

[12/31/80; 9/15/97; Recompiled 10/15/01]

HISTORY OF 12.20.34 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center under:

FID 81-2, Regulation 80-5 S&LB, Consumer Loans, Corporate Investments and NOW Accounts, filed 1/8/81.

History of Repealed Material: [RESERVED]