CHAPTER 80-1

BANKS

SUBJECT 80-1-3

BOOKS AND RECORDS

80-1-3-.05 Minimum Requirements for Fidelity Coverage

Rule 80-1-3-.05 Minimum Requirements for Fidelity Coverage

(1) The Board of Directors of each bank shall review the fidelity insurance coverage annually in order to ascertain its adequacy in relation to the exposure to theft, defalcation, or other similar actions by officers, directors, and employees and to any minimum requirements that may be fixed from time to time by the Commissioner. In evaluating the adequacy and scope of the fidelity coverage, the Board of Directors shall consider whether the coverage should include agents and independent contractors of the bank.

(2) Every bank shall obtain fidelity coverage, such as a fidelity bond, to provide protection against the potential risks facing the bank as prescribed in the bank's bylaws, applicable statutes, and rules and regulations of the Department.

(3) The Commissioner may require additional coverage for any bank when, in his or her opinion, the fidelity coverage in force is insufficient to provide adequate fidelity coverage, and the bank shall obtain such additional coverage within thirty (30) days after the date of written notice from the Commissioner of the requirement to obtain such additional coverage. If the bank is unable to obtain such additional coverage within the thirty (30) day timeframe, the bank shall provide the Department with detailed information documenting the commercially reasonable efforts undertaken by the bank during the timeframe and the Department shall determine the amount of additional time needed for the bank to obtain the required coverage.

Authority: O.C.G.A. §§ 7-1-61, 7-1-489.

SUBJECT 80-1-4

INVESTMENT SECURITIES

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

Rule 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. Other 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 securities 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) Type IV securities as defined by 12 CFR § 1.2 subject to the limitations and restrictions set forth in federal law including, but not limited to, 12 CFR §§ 1.2 and 1.3; or

(c) Other private label securities 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 registered with the Securities and Exchange Commission;

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 asset backed securities under subsection (c) 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 and obtain a third-party pricing analysis that is independent of the seller or counter-party. 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) Investments Authorized for National Banks.

If an investment is not otherwise authorized by this Rule, a bank may invest in such investment securities as may be authorized for a national bank subject to the Department's prior approval which may be subject to conditions or limitations. Any such investment shall not exceed fifteen (15) percent of the bank's statutory capital base or such greater amount as approved by the Department in writing, which shall in no event exceed the amount authorized for a national bank.

(11) 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.

(12) 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 80-1-14

AUDITS

80-1-14-.02 Internal Audit Program

Rule 80-1-14-.02 Internal Audit Program

(1) An institution shall have an internal audit program that is appropriate to the size of the institution and the nature and scope of its activities. An appropriate internal audit program consists of qualified persons and provides for effective:

(a) Monitoring and reporting on the system of internal controls;

(b) Testing and review of controls over information systems;

(c) Documenting of testing activities, findings, and corrective actions;

(d) Verifying and reviewing of management actions to address material weaknesses; and

(e) Engagement and oversight by the institution's Board of Directors.

(2) The Board of Directors shall name an internal auditor or designate an employee, which includes an officer, or independent director to act as a liaison with third parties engaged to perform the internal audit program.

(3) The Board of Directors shall review and approve the scope of the internal audit program to include the operational areas targeted for review, the proposed timeline of reviews, testing procedures to be used, the qualifications of personnel for the subject matter to be reviewed, and the independence of personnel from operational responsibilities over areas to be reviewed. Alternatively, a committee formed in compliance with O.C.G.A. § 7-1-483(b)(2), is authorized to act in lieu of the Board of Directors. The scope of the internal audit will be documented - via an engagement letter when third parties are engaged - and provided to the Department upon request.

(4) The internal auditor or designated liaison shall:

(a) Implement or oversee implementation of the institution's internal audit program;

(b) Monitor the implementation of corrective actions; and

(c) Report to the Board of Directors at least annually on the status of the internal audit program to include audit activities, findings, and corrective actions.

(5) The internal audit shall be appropriate to the size of the institution and the nature and scope of its activities. In determining the nature and scope of the internal audit, the financial institution shall take into consideration the auditing standards formulated by The Auditing Standards Board of the AICPA, the Public Company Accounting Oversight Board ("PCAOB"), and/or the Institute for Internal Auditors. Internal audit reports shall be sent directly from the internal auditor to all independent directors of the Board of Directors, all independent directors of the audit committee, or an independent director that acts as chair of the Board of Directors or audit committee.

(6) Unless pre-approved by the Department in writing, the external audit obtained pursuant to O.C.G.A. § 7-1-487 and Rule 80-1-14-.01 will not satisfy the internal audit program requirement.

(7) In the event the Department determines that an internal audit program is deficient, the Department may require the institution to:

(a) Replace the internal auditor with an individual acceptable to the Department;

(b) Perform additional reviews by personnel acceptable to the Department with subject matter expertise on, and independence from, the areas targeted for review; and

(c) Engage a third-party acceptable to the Department to perform a comprehensive review of the adequacy of the institution's internal control environment in accordance with a standard acceptable to the Department.

Authority: O.C.G.A. § 7-1-61.

CHAPTER 80-2

CREDIT UNIONS

SUBJECT 80-2-5

SURETY BOND COVERAGE

80-2-5-.01 Minimum Requirements for Fidelity Coverage

Rule 80-2-5-.01 Minimum Requirements for Fidelity Coverage

(1) The Board of Directors of each credit union shall review the fidelity insurance coverage annually in order to ascertain its adequacy in relation to the exposure to theft, defalcation, or other similar actions by officers, directors, and employees and to any minimum

requirements that may be fixed from time to time by the Commissioner. In evaluating the adequacy and scope of the fidelity coverage, the Board of Directors shall consider whether the coverage should include agents and independent contractors of the credit union.

(2) Every credit union shall obtain fidelity coverage, such as a fidelity bond, to provide protection against the potential risks facing the credit union as prescribed in the credit union's bylaws, applicable statutes, and rules and regulations of the Department.

(3) It shall be the duty of the Board of Directors of the credit union to provide adequate fidelity coverage.

(4) The Commissioner may require additional coverage for any credit union when, in his or her opinion, the fidelity coverage in force is insufficient to provide adequate fidelity coverage, and it shall be the duty of the Board of Directors of the credit union to obtain such additional coverage within thirty (30) days after the date of written notice from the Commissioner of the requirement to obtain such additional coverage. If the credit union is unable to obtain such additional coverage within the thirty (30) day timeframe, the credit union shall provide the Department with detailed information documenting the commercially reasonable efforts undertaken by the credit union during the timeframe and the Department shall determine the amount of additional time needed for the credit union to obtain the required coverage.

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

SUBJECT 80-2-6

SUPERVISORY AUDITS

80-2-6-.05 Internal Audit Program

Rule 80-2-6-.05 Internal Audit Program

(1) An institution shall have an internal audit program that is appropriate to the size of the institution and the nature and scope of its activities. An appropriate internal audit program consists of qualified persons and provides for effective:

(a) Monitoring and reporting on the system of internal controls;

(b) Testing and review of controls over information systems;

(c) Documenting of testing activities, findings, and corrective actions;

(d) Verifying and reviewing of management actions to address material weaknesses; and

(e) Engagement and oversight by the institution's Board of Directors.

(2) The Board of Directors shall name an internal auditor or designate an employee, which includes an officer, or independent director to act as a liaison with third parties engaged to perform the internal audit program.

(3) The Board of Directors shall review and approve the scope of the internal audit program to include the operational areas targeted for review, the proposed timeline of reviews, testing procedures to be used, the qualifications of personnel for the subject matter to be reviewed, and the independence of personnel from operational responsibilities over areas to be reviewed. Alternatively, an audit committee formed in compliance with O.C.G.A. § 7-1-656(b)(2), is authorized to act in lieu of the Board of Directors. The scope of the internal audit will be documented - via an engagement letter when third parties are engaged - and provided to the Department upon request.

(4) The internal auditor or designated liaison shall:

(a) Implement or oversee implementation of the institution's internal audit program;

(b) Monitor the implementation of corrective actions; and

(c) Report to the Board of Directors at least annually on the status of the internal audit program to include audit activities, findings, and corrective actions.

(5) The internal audit shall be appropriate to the size of the institution and the nature and scope of its activities. In determining the nature and scope of the internal audit, the financial institution shall take into consideration the auditing standards formulated by The Auditing Standards Board of the AICPA, and/or the Institute for Internal Auditors. Internal audit reports shall be sent directly from the internal auditor to all independent directors of the Board of Directors, all independent directors of the audit committee, or an independent director that acts as chair of the Board of Directors or audit committee.

(6) Unless pre-approved by the Department in writing, the external audit obtained pursuant to O.C.G.A. § 7-1-657 and Rule 80-2-6-.01 will not satisfy the internal audit program requirement.

(7) In the event the Department determines that an internal audit program is deficient, the Department may require the institution to:

(a) Replace the internal auditor with an individual acceptable to the Department;

(b) Perform additional reviews by personnel acceptable to the Department with subject matter expertise on, and independence from, the areas targeted for review; and

(c) Engage a third-party acceptable to the Department to perform a comprehensive review of the adequacy of the institution's internal control environment in accordance with a standard acceptable to the Department.

Authority: O.C.G.A. § 7-1-61.

SUBJECT 80-2-9

INVESTMENT SECURITIES

80-2-9-.01 Investment Securities

Rule 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 the following:

(a) Governmentally sponsored securities 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 label securities 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.

CHAPTER 80-3

MONEY TRANSMISSION

SUBJECT 80-3-1

DISCLOSURES, LOCATIONS, AUTHORIZED AGENTS, AND CUSTOMER INFORMATION

80-3-1-.06 Material Service Providers

Rule 80-3-1-.06 Material Service Providers

(1)

(a) Pursuant to O.C.G.A. § 7-1-72, licensed money transmitters may enter into contracts with third party service providers or affiliates of the licensee, as defined by O.C.G.A. § 7-1-4, to perform material services ("material service provider"), including, but not limited to, business and consumer financial record keeping, data processing, transmission file processing, consumer account management and services, and information security services related to the transmission of money performed for a licensed money transmitter (together, "material services").

(b) For avoidance of doubt, material services include any services that: (1) require access to consumer funds, consumer account data, or personally identifiable information of consumers; or (2) grant the service provider rights, abilities, or other access to modify, create, delete, or otherwise alter such data or information, regardless whether such rights are limited, restricted, monitored, or otherwise controlled by the licensed money transmitter.

(c) Conversely, services that would not be deemed material services unless such services meet the requirements of subsections (a) and (b) include, but are not limited to: (1) administrative services; (2) human resources management; (3) facilities management; (4) legal services; and (5) compliance functions; provided that all persons that make material decisions with respect to the creation of compliance policies and the enforcement of the same are employees of the licensee or of an affiliate acting as a material service provider.

(d) Material service providers may not (1) engage in money transmission as defined by O.C.G.A. § 7-1-680 on behalf of a licensee; (2) hold themselves out to be engaging in money transmission; or (3) maintain custody or control of funds related to money transmission obligations of the licensee. This prohibition does not apply to a material service provider that is a licensed money transmitter or otherwise permitted to perform such activities pursuant to an exemption set forth in O.C.G.A. § 7-1-682.

(e) The provisions of this rule are not applicable to:

1. any state or federally chartered bank, trust company, credit union, savings and loan association, savings bank, or industrial bank, provided that every such bank, trust company, credit union, savings and loan association, savings bank, or industrial bank has deposits that are federally insured, or

2. an authorized agent as defined by O.C.G.A. § 7-1-680.

(2) Natural persons performing material services must be employees of the licensed money transmitter, an authorized agent or an entity acting as a material service provider.

(3) A licensed money transmitter is responsible for satisfying outstanding money transmission obligations even if material services are provided by a material service provider.

(4) A licensed money transmitter entering into a contract with a material service provider must maintain the following information on file and shall not execute a contract with a material service provider unless this information has been obtained:

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

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

(c) Written assurance from the material service provider that:

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

2. The records of the licensed money transmitter in the material 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 material service providers to ascertain that the operations are being conducted in a sound manner.

(d) A listing of all reports, and other records which the material service provider is offering the licensed money transmitter and the time required, after receipt of notice

of examination, to provide those reports or information in readable form to the examiners; and

(e) Evidence of financial stability, which may include the material service provider's most recent audited financial statements, most recent financial statements, or other financial records reasonably sufficient to demonstrate the material service provider's ability to perform the contracted services.

(5) A licensed money transmitter contracting with a material service provider must employ good faith efforts to monitor the financial condition of the material service provider and must notify the Department immediately when it discovers or suspects that the material service provider is insolvent or has suffered significant financial losses that threaten the continuing viability of the material service provider.

(6) As set forth in O.C.G.A. § 7-1-72, each material service provider that enters into a contract with a licensed money transmitter to provide material services shall be subject to examination and regulation by the Department to the same extent as if the services were performed by the licensed money transmitter.

Authority: O.C.G.A. § 7-1-61.

SUBJECT 80-3-2

FINANCIAL CONDITION, REPORTING, AND CONTROL

80-3-2-.01 Reports of Condition

Rule 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.

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

SUBJECT 80-3-4

ADMINISTRATIVE FINES AND PENALTIES

80-3-4-.01 Administrative Fines

Rule 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-.01, or 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 File Timely or Accurate Call Reports. Any licensee who fails to file a timely Call Report as required through the Nationwide Multistate Licensing System and Registry within the designated time period or fails to file an accurate Call Report shall be subject to a fine of one thousand dollars ($1,000) per 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).

(v) Money Transmission Service Provider Contracts. A licensee that fails to enter into a contract for material services where required or enters into a contract with a material service provider but fails to obtain the information required by Rule 80-3-1-.06 shall be subject to a fine of one thousand dollars ($1,000) per day.

(w) Failure to maintain tangible net worth. A licensee that fails to satisfy the net worth requirement in O.C.G.A. § 7-1-683.2 shall be subject to a fine of one thousand dollars ($1,000) per day that the net worth is not compliant with O.C.G.A. § 7-1-683.2.

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

CHAPTER 80-5

FINANCIAL INSTITUTIONS

SUBJECT 80-5-1

SUPERVISION, EXAMINATION, REGISTRATION AND INVESTMENT FEES AND ADMINISTRATIVE LATE FEES

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

Rule 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, as those terms are defined in O.C.G.A. §§ 7-1-731 or 7-1-1100, 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.

(l) Applicants to establish a Georgia state representative office as defined by O.C.G.A. § 7-1-1100 shall pay an application fee of $5,000. The annual registration fee of a Georgia state representative office is set forth in Rule 80-5-1-.02.

(m) Applicants for conversion from a federal or state branch or agency to a Georgia state branch or Georgia state agency, as those terms are defined in O.C.G.A. § 7-1-1100, shall pay an investigation fee of $5,000 for each application that is processed as a regular application. Applicants for conversion from a federal or state branch or agency to a Georgia state branch or Georgia state agency, as those terms are defined in O.C.G.A. § 7-1-1100, shall pay an investigation fee of $2,500 for each application that is processed as an expedited application.

(n) Applicants for an additional Georgia state branch location or Georgia state agency location, as those terms are defined in O.C.G.A. § 7-1-1100, shall pay an investigation fee of $1,250 for each application that is processed as a regular application. Applicants for an additional Georgia state branch location or Georgia state agency location, as those terms are defined in O.C.G.A. § 7-1-1100, are not required to pay an investigation fee for each application that is processed as an expedited application.

(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 80-6

HOLDING COMPANIES

SUBJECT 80-6-1

APPLICATIONS AND ACQUISITIONS

80-6-1-.12 Amended or Restated Articles of Incorporation

Rule 80-6-1-.12 Amended or Restated Articles of Incorporation

Within five days of filing with the Secretary of State an amendment of its articles of incorporation under O.C.G.A. § 14-2-1106 or a restatement of its articles of incorporation under O.C.G.A. § 14-2-1107, a holding company shall provide the Department with a duplicate copy of such filing.

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-.02 Advertising Requirements

Any advertisement of a mortgage loan that is subject to regulation under O.C.G.A. Title 7, Chapter 1, Article 13 and that is made, published, disseminated or circulated in this state shall comply with the requirements set forth below.

(a) Advertisements for mortgage loans shall not be false, misleading, or deceptive.

(b) Advertisements for mortgage loans shall not indicate in any manner that the interest rates or charges for loans are in any way recommended, approved, set or established by the state or by any law of the state.

(c) All solicitations or advertisements, including business cards and websites, for mortgage loans disseminated in this state by persons required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 shall contain the name and unique identifier of the licensee or registrant advertising the mortgage loan, which name and unique identifier shall conform with the name and unique identifier on record with the Department of Banking and Finance.

(d) Reserved.

(e) All advertisements for mortgage loans shall comply with all applicable federal and state laws.

(f) For purposes of this Rule, "advertisement" means material used or intended to be used to induce the public to apply for a mortgage loan. Such term shall include any printed or published material, audio or visual material, website, or descriptive literature concerning a mortgage loan subject to regulation under O.C.G.A. Title 7, Chapter 1, Article 13 whether disseminated by direct mail, newspaper, magazine, radio or television broadcast, electronic, billboard or similar display. The term advertisement shall not include promotional materials containing fifteen words or fewer relating to the mortgage business of the entity which material does not contain references to a specific rate or product, such as balloons, hats, pencils or pens, and calendars.

(g) Every mortgage broker or mortgage lender required to be licensed or registered shall maintain a record of samples of its advertisements (including commercial scripts of all radio and television broadcasts) for examination by the Department of Banking and Finance.

(h) An advertisement shall not include an individual's loan number, loan amount, or other publicly available information unless it is clearly and conspicuously stated in bold-faced type at the beginning of the advertisement that the person disseminating it is not authorized by, acting on behalf of, or otherwise affiliated with the individual's lender. Such an advertisement shall also state that the loan information contained therein was not provided by the recipient's lender.

(i) In the event that a mortgage broker or lender sponsors a mortgage loan originator purporting to operate under the temporary authority requirements set forth in 12 U.S.C. § 5117, any advertisement by the mortgage broker or lender that mentions such mortgage loan originator's ability to act as mortgage loan originator in Georgia shall clearly and conspicuously indicate that the individual has temporary authority to operate in Georgia. Any such advertisement must also clearly and conspicuously indicate that the individual is unlicensed, has submitted a license application to the Department, and the Department may grant or deny the license application.

Authority: O.C.G.A. §§ 7-1-61; 7-1-1001.1; 7-1-1004.3; 7-1-1012; 7-1-1016.

SUBJECT 80-11-2

BOOKS AND RECORDS

Rule 80-11-2-.02 Minimum Requirements for Books and Records

(1) Any mortgage broker or lender required to be licensed under Article 13 of Chapter 1 of Title 7 ("licensee") must maintain the following books, accounts and records:

(a) Copies of all disclosure documents required by Rule 80-11-1-.01;

(b) Samples of advertisements as required by Rule 80-11-1-.02;

(c) Copies of all written complaints by customers and written records of disposition;

(d) Copies of examination reports prepared by any agency, division or corporate instrumentality of the United States, the State of Georgia or any other state, which reports pertain to the mortgage brokerage and/or lending business of the licensee and are not prohibited from being disclosed to the Department of Banking and Finance by state or federal law;

(e) Copies of reports required to be prepared and/or submitted by the licensee to any agency, division, or corporate instrumentality of the United States, the State of Georgia or any other state, which reports pertain to the mortgage brokerage and/or lending business of the licensee and are not prohibited from being disclosed to the Department of Banking and Finance by state or federal law;

(f) Copies of all payroll records, including federal and state withholding tax forms, W-2's, and 1099 forms filed with the Internal Revenue Service by the licensee, or its

agent on behalf of individuals employed by the licensee or on behalf of individuals acting as independent contractors in the mortgage brokerage and/or lending business of the licensee;

(g) A general ledger and subsidiary records sufficient to produce, when requested by the Department, an accurate monthly statement of assets and liabilities and a cumulative profit and loss statement for the current operating year;

(h) All checkbooks, bank statements, deposit slips and canceled checks which pertain to the mortgage brokerage and/or lending business of the licensee;

(i) Supporting documentation for all expenses and fees paid by the mortgage broker on behalf of the customer, which documentation indicates the amount paid and the date paid;

(j) Copies of all credit report bills received from all credit reporting agencies for the most recent five year period;

(k) Documentation to indicate a consumer had a choice of attorney, if attorneys' fees are intended to be excluded from a points and fees calculation under the Georgia Fair Lending Act;

(l) An indication of whether each loan has points and fees of 5% or more, as calculated under the Georgia Fair Lending Act;

(m) Documentation to support the source and purpose for each receipt of monies in any form in an amount greater than $100 and documentation to identify the recipient and purpose of each payment of monies in any form in an amount greater than $100 by the licensee in its mortgage brokerage and/or lending business in order that the receipts may be reconciled to bank deposits and to books of the licensee;

(n) Employee file for each employee. The employee file must contain all documents related to hiring the employee, including criminal background check, date employment began, and a print out or screenshot confirming that the Department's public records were reviewed on NMLS Consumer Access to verify eligibility for employment with such review taking place prior to the date of hire;

(o) Copies of all submitted mortgage call reports, including any amended reports, for the previous five (5) years and all related work papers and supporting documentation that support the accuracy of the information contained in the mortgage call reports;

(p) Documentation showing that a sale or other transfer to and purchase or other transfer of closed mortgage loans by an unlicensed entity who is not otherwise exempt from licensure is for the sole purpose of securitization of the loans in the secondary market and that the historical practices and documented intent of the unlicensed entity is to hold such loans for fourteen (14) days or less and that the loans are serviced by a

person licensed as a mortgage lender or exempt from the licensing requirements of Article 13 of Chapter 1 of Title 7 as required by O.C.G.A. § 7-1-1001(a)(19). Examples of such documentation showing the sale or transfer to and purchase or transfer of mortgage loans was for the sole purpose of securitization of the loans in the secondary market may include, but are not limited to, a copy of the mortgage loan purchase agreement, evidence of the securitization into a secondary market, the dates of purchase and securitization, and a sworn document executed at or before purchase by an executive officer of the loan purchaser to the effect that the sole purpose of the loan purchase is securitization of the loan in the secondary market and the purchaser will not hold the loan for more than fourteen (14) days or service the loan;

(q) 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;

(r) Documentation showing that a sale or other transfer to and purchase or other transfer of closed mortgage loans by an unlicensed entity who is not otherwise exempt from licensure is for the sole purpose of securitization of the loans or otherwise transferring the loans into a secondary market, that the unlicensed entity is a trust, that the trustee is a bank that satisfies the exemption from licensure set forth at O.C.G.A. § 7-1-1001(a)(1), and that the loans held in the trust are serviced by a person licensed as a mortgage lender or exempt from the licensing requirements of Article 13 of Chapter 1 of Title 7 as required by O.C.G.A. § 7-1-1001(a)(20). Examples of such documentation showing the sale or transfer to and purchase or transfer of mortgage loans was for the sole purpose of securitization or transferring the loans into a secondary market may include, but are not limited to, a copy of the mortgage loan purchase agreement, evidence of the securitization into a secondary market, the dates of purchase and securitization, and a sworn document executed at or before purchase by an executive officer of the loan purchaser to the effect that the sole purpose of the loan purchase is securitization of the loan or transfer of the loan into the secondary market;

(s) Copies of the licensee's written policies and procedures implementing the applicable capital and liquidity requirements of O.C.G.A. § 7-1-1022, including a sustainable written methodology for satisfying the requirements of O.C.G.A. § 7-1-1022(d);

(t) Copies of the licensee's written corporate governance framework required by O.C.G.A. § 7-1-1023;

(u) Copies of the licensee's internal audit requirements required by O.C.G.A. § 7-1-1023;

(v) Copies of the results of the licensee's internal audits;

(w) Copies of the licensee's risk management program required by O.C.G.A. § 7-1-1023; and

(x) Copies of the results of the risk management assessment required by O.C.G.A. § 7-1-1023.

(2) Failure to maintain the books, accounts and records required under paragraph (1) above may result in suspension 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. §§ 7-1-61, 7-1-1009, 7-1-1012.

Rule 80-11-2-.05 Audits and Financial Statements

(1) The audited or unaudited financial statement for mortgage brokers will be submitted to the Department via NMLS within (90) days of the end of such mortgage brokers' fiscal year. The financial statements shall be prepared in compliance with generally accepted accounting principles.

(2) The external audit for mortgage lenders that are not covered servicers will be submitted to the Department via NMLS within ninety (90) days of the end of such mortgage lenders' fiscal year. The external audit shall be performed in compliance with generally accepted accounting principles.

(3) The external audit for covered servicers will be submitted to the Department via NMLS within ninety (90) days of the end of the covered servicers' fiscal year. The audit shall include at a minimum:

  (a) Annual financial statements including a balance sheet, income statement, and cash flows, including notes and supplemental schedules prepared in accordance with generally accepted accounting principles;

  (b) Assessment of the internal control structure;

  (c) Computation of net worth for covered servicers;

  (d) Validation of mortgage servicing rights valuation and reserve methodology, if applicable;

  (e) Verification of adequate fidelity and errors and omissions (E&O) insurance for covered servicers; and

  (f) Testing of controls related to risk management activities, including compliance and stress testing, where applicable for covered servicers.

Authority: O.C.G.A. § 7-1-61.

Rule 80-11-2-.06 Risk Management Program

The Risk Management Program for mortgage lenders and mortgage brokers required by O.C.G.A. § 7-1-1023 must be scaled to the complexity of the organization, but be sufficiently robust to manage risks in several areas, including, but not limited to:

(1) Credit risk: The potential that a borrower or counterparty will fail to perform on an obligation;

(2) Liquidity risk: The potential that the mortgage lender or mortgage broker will be unable to meet its obligations as they come due because of an inability to liquidate assets or obtain adequate funding or that it cannot easily unwind or offset specific exposures;

(3) Operational risk: The risk resulting from inadequate or failed internal processes, people, and systems or from external events;

(4) Market risk: The risk to the mortgage lender or mortgage broker's condition resulting from adverse movements in market rates or prices;

(5) Compliance risk: The risk of regulatory sanctions, fines, penalties, or losses resulting from failure to comply with laws, rules, regulations, or other supervisory requirements applicable to the mortgage lender or mortgage broker; and

(6) Legal risk: The potential that actions against the mortgage lender or mortgage broker that result in unenforceable contracts, lawsuits, legal sanctions, or adverse judgments can disrupt or otherwise negatively affect the operations or condition of the licensee.

Authority: O.C.G.A. § 7-1-61.

SUBJECT 80-11-3

ADMINISTRATIVE FINES AND PENALTIES

80-11-3-.01 Administrative Fines

Rule 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 under Article 13 of Chapter 1 of Title 7 ("licensee"). 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, reinstatement of a license, or reapplication for a license, or any other activity requiring Departmental approval. 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.

(3) Dealing with Unlicensed Persons. Any licensee or any employee of a licensee 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. Licensees are responsible for the actions of their employees.

(4) Permitting unlicensed persons to engage in mortgage loan originator activities. Any licensee 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. 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 thousand dollars ($5,000) per unapproved branch office operated.

(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 five thousand dollars ($5,000).

(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 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.

(9) Hiring a Felon. Any mortgage broker or mortgage lender licensee who hires or retains a covered employee as defined in O.C.G.A. § 7-1-1000(5.2) 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.

(10) Hiring Persons Otherwise Disqualified from Conducting a Mortgage Business. Any mortgage broker or mortgage lender licensee 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.

(11) Books and Records Violations. If the Department, in the course of an examination or investigation, finds that a licensee 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 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 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 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.

(14) Failure to Maintain Documentation for Securitization Transfer Exemption in O.C.G.A. § 7-1-1001(a)(19). 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, that the loans are being serviced by a person licensed as a mortgage lender or exempt from the licensing requirements of Article 13 of Chapter 1 of Title 7, 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 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 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. 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 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. 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.

(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 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.

(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 one thousand dollars ($1,000).

(25) Georgia Fair Lending Act. Any person who is required to be licensed 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.

(26) Consumer Complaints. Any licensee 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.

(27) Failure to Maintain Documentation for Transfer Exemption in O.C.G.A. § 7-1-1001(a)(20). Any licensee who sells or otherwise transfers closed mortgage loans to an unlicensed trust that purports to be exempt from licensure pursuant to O.C.G.A. § 7-1-1001(a)(20) and fails to maintain documentation showing the purpose of the transfer, that the unlicensed entity is a trust, that the trustee satisfies the exemption from licensure set forth at O.C.G.A. § 7-1-1001(a)(1), and that the loans are being serviced by a person licensed as a mortgage lender or exempt from the licensing requirements of Article 13 of Chapter 1 of Title 7, shall be subject to a fine of one thousand dollars ($1,000) per loan transferred to the unlicensed entity.

(28) Failure to File Timely or Accurate Call Reports. Any licensee 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 thousand dollars ($1,000) per occurrence.

(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 or mortgage broker 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 mortgage broker or mortgage lender 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.

(30) Failure to Timely Update Information on the Nationwide Multistate Licensing System and Registry. Any licensed mortgage broker or mortgage lender 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 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 or mortgage lender 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.

(32) Failure to maintain required net worth, capital, or liquidity. Any licensed mortgage broker or mortgage lender that fails to satisfy the net worth, capital, or liquidity requirement as required by O.C.G.A. § 7-1-1022 shall be subject to a fine of one thousand dollars ($1,000) per day until the net worth, capital, or liquidity of the mortgage lender or mortgage broker is in compliance with O.C.G.A. § 7-1-1022.

Authority: O.C.G.A. §§ 7-1-61, 7-1-1004, 7-1-1012, 7-1-1014, 7-1-1017, 7-1-1018.

SUBJECT 80-11-4

LICENSING

Rule 80-11-4-.01 Sufficiency of Financial Resources

Every applicant for a license shall demonstrate to the Department that such applicant has sufficient financial resources in the form of capital, net worth, and liquidity to satisfy the requirements of O.C.G.A. § 7-1-1022. 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, financial statements, as required by O.C.G.A. § 7-1-1010, 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.

Authority: O.C.G.A. §§ 7-1-61, , 7-1-1010, 7-1-1012, 7-1-1022.

Rule 80-11-4-.08 Restrictions on Employment and Licensing

(1) No person who has been an officer, director, partner or ultimate equitable owner of a licensee that has had its license revoked, denied or suspended, may perform any of those roles at another licensee for five years from the date of the final order.

(2) Felony convictions; restrictions on the employee and the licensee:

(a) Licensees are responsible for ensuring that no covered employees or individuals that direct the affairs of their business have been convicted of a felony as set forth in O.C.G.A. § 7-1-1004.

(b) O.C.G.A. § 7-1-1004 provides for remedies to "cure" a felony conviction. These remedies must be completed and in place prior to employment. Hiring or continuing to employ a covered employee with an unremedied felony conviction subjects a licensee to revocation of its license.

(c) If a licensee discovers that a covered employee or director/officer is a felon at the time of hire or subsequently becomes a felon and has not satisfactorily "cured" the conviction, the violation of O.C.G.A. § 7-1-1004 must be immediately corrected or the license will be subject to revocation. Such individuals with felony convictions are ineligible for an employee exemption and are in violation of O.C.G.A. § 7-1-1019, also a felony, and O.C.G.A. §§ 7-1-1004 and 7-1-1002. The licensee employer is in violation of O.C.G.A. §§ 7-1-1004 and 7-1-1002.

(d) A cease and desist order to a person for failure to meet the employee exemption due to a violation of the felony provisions of O.C.G.A. § 7-1-1004 shall become final in 30 days without a hearing. Such a person must show within those 30 days, by certified court documents that the record is erroneous, or, that the "cure" provisions in O.C.G.A. § 7-1-1004 were completed prior to employment, in order to stop the order from becoming final. In the event such proof is provided, the order will be rescinded.

(3) Cease and desist orders may be issued against persons required to be licensees or against employees of licensees. All of the provisions of O.C.G.A. § 7-1-1018, including injunction, apply to actions against all such persons.

(4) The Department may regularly publish information identifying persons and natural persons to whom final administrative actions have been issued.

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

SUBJECT 80-11-5

MORTGAGE LOAN ORIGINATOR LICENSURE AND OTHER REQUIREMENTS

Rule 80-11-5-.01 Mortgage Loan Originator Licensure Requirements

(1) A mortgage loan originator may not engage in the business of mortgage loan origination for a licensed residential mortgage broker or lender without first obtaining and maintaining a current Georgia mortgage loan originator license issued by the Department through the Nationwide Multistate Licensing System and Registry ("NMLSR") or unless qualified to operate under the temporary authority provisions of 12 U.S.C. § 5117.

(2) An applicant for a mortgage loan originator license must have a sponsor at and during the time his or her application is being considered for approval or renewal by the Department. Failure to have a sponsor at the time application for licensure is made on the NMLSR or while it is pending shall result in the application being administratively withdrawn by the Department, except that an applicant qualified to operate under the temporary authority provisions of 12 U.S.C. § 5117 shall be subject to administrative action to deny the license application. In the event the applicant wishes to submit a new application after the application has been administratively withdrawn or denied, then the applicant shall be required to submit a new application as well as pay all associated fees. For purposes of this Rule Chapter, "sponsorship" means the authorization for a properly licensed mortgage loan originator to conduct business as an employee under and on behalf of a specific mortgage

broker or mortgage lender's license. Sponsorship must be initiated and maintained by the licensed mortgage broker or mortgage lender employing a mortgage loan originator.

(3)

(a) As a continuing requirement of licensure, a mortgage loan originator must at all times have proper sponsorship on record with the NMLSR by a licensed Georgia mortgage broker or mortgage lender.

(b) Sponsorship must be applied for and accepted by the Department. Once established, sponsorship can be removed by the employing licensee. It shall be the responsibility of every mortgage loan originator applicant and licensee to ensure that his or her sponsorship is correctly reflected at all times on the NMLSR.

(4) A mortgage loan originator shall have coverage under the surety bond of his or her licensed mortgage broker or mortgage lender employer.

(5) An applicant for a mortgage loan originator license will not be approved for licensure if he or she has pleaded guilty to, been found guilty of, or entered a first offender or nolo plea for a felony as set forth in O.C.G.A. § 7-1-1004. A mortgage loan originator license applicant will not be approved for licensure or reinstatement of licensure if he or she has been convicted of a felony as set forth in O.C.G.A. § 7-1-1004 in an instance in which a restoration of rights subsequently was issued by a state or federal pardoning authority empowered to dispense this relief.

(6) A mortgage loan originator must immediately surrender his or her license to the Department through the NMLSR once he or she leaves the employ of a licensed broker or lender and begins working as a loan officer for an exempt entity identified in O.C.G.A. § 7-1-1001.

(7) An application for a mortgage loan originator license, which is missing material information, shall be held in an incomplete status for a period of five (5) business days after the issuance of written notice by the Department or NMLSR specifying the identified deficiency. If any such deficiency remains outstanding for more than five (5) business days, the Department is authorized to issue a notice of administrative withdrawal to the applicant indicating that the applicant has thirty (30) days to provide the missing information. In the event the missing information is not provided within (30) days, the license application will be considered abandoned by the applicant and will be administratively withdrawn by the Department. Notwithstanding the foregoing, an applicant qualified to operate under the temporary authority provisions of 12 U.S.C. § 5117, or who purports to be so qualified, shall be subject to administrative action to deny the license application at any time. In the event the applicant wishes to submit a new application after it has been administratively withdrawn or denied, then the applicant shall be required to submit a new application as well as pay all associated fees.

Authority: O.C.G.A. §§ 7-1-1001.1, 7-1-1002, 7-1-1003.2, 7-1-1004.

Rule 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 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-.05 Administrative Fines

(1) The Department establishes the following fines and penalties for violation by mortgage loan originators of the Georgia Residential Mortgage Act ("GRMA") or its rules. The Department, in its sole discretion, may waive or modify any fine based upon the gravity of the violation, history of previous violations, and such other facts and circumstances as have contributed to the violation.

(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, reinstatement of a license, or reapplication for a license, or any other activity requiring Departmental approval. 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.

(3) All fines collected by the Department shall be paid into the state treasury to the credit of the general fund.

(4) The following fines shall be assessed for violations of GRMA and Department rules:

   (a) Dealing with Unlicensed Persons. A mortgage loan originator that 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 GRMA shall be subject to a fine of one thousand dollars ($ 1,000) per transaction.

(b) Unapproved Location. A mortgage loan originator that operates from a location in Georgia other than a required approved location on record with the Department shall be subject to a fine of five hundred dollars ($ 500) per unapproved location operated.

(c) Doing Business Without a License or in Violation of Administrative Order. Any person who acts as a mortgage loan originator prior to receiving a current license required under GRMA, unless such person satisfies the temporary authority to operate requirements in 12 U.S.C. § 5117, 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.

(d) Books and Records Violations. If the Department, in the course of an examination or investigation, finds that a mortgage loan originator licensee has failed to maintain his or her books and records according to the requirements of Rule 80-11-5-.02, such licensee may be subject to a fine of one thousand dollars ($ 1,000) for each violation of a books and records found to occur.

(e) Prohibited Acts. Any person who is required to be licensed under O.C.G.A. Title 7, Article 13 as a mortgage loan originator 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.

(f) Education Requirements. A mortgage loan originator who fails to meet the requirement that he or she timely obtain the type and number of continuing education hours each year as required shall be fined one hundred dollars ($ 100).

(g) Advertising. A mortgage loan originator that is required to be licensed 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 the Department shall be subject to a fine of five hundred dollars ($ 500) for each violation of law or rule.

(h) 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 subject to a fine of five thousand dollars ($ 5,000) fine. Refusal shall be determined according to Department examination policies and procedures, but shall require at least two attempts to schedule an examination or investigation.

(i) Permitting an unlicensed person to use a licensed mortgage loan originator license and identity. Any licensed mortgage loan originator who permits an unlicensed person to use that licensee's name, Nationwide Mortgage Licensing System and Registry Number or other identifying information for the purpose of submitting loan documents to lenders shall be subject to a fine of one thousand dollars ($ 1,000) per occurrence.

(j) Failure to Timely Update Information on the Nationwide Mortgage Licensing System and Registry. Any licensed mortgage loan originator that fails to update his or her information on the Nationwide Mortgage Licensing System Registry ("NMLSR") including, but not limited to, amendments to any responses to disclosure questions on an application or a licensee's NMLSR MU-4, 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.

(k) Failure to Timely Report Certain Events. Any licensed mortgage loan originator that fails to report any of the events enumerated in O.C.G.A. § 7-1-1007(d) within ten (10) days of obtaining knowledge about the underlying events, shall be subject to a fine of one thousand dollars ($1,000) per occurrence.

Authority: O.C.G.A. §§ 7-1-1001.1, 7-1-1012, 7-1-1018.

Rule 80-11-5-.07 Information on the Nationwide Multistate Licensing System and Registry

(1) It shall be the sole responsibility of each mortgage loan originator applicant and licensee to keep current at all times his or her information on the Nationwide Multistate Licensing System and Registry ("NMLSR"), including, but not limited to, his or her employment history, e-mail address, telephone numbers, facsimile number, and residential history. 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 his or her failure to maintain current contact information on the Nationwide Multistate Licensing System and Registry as required.

(2) Amendments to any responses to disclosure questions on a mortgage loan originator applicant or licensee's NMLSR MU-4 must be made within ten (10) business days following the date of the event necessitating the change. Failure by an applicant for a mortgage loan originator license to timely update the applicant's MU-4 may result in the denial or administrative withdrawal of his or her license application. In the case of a licensed mortgage loan originator, failure to timely update any disclosure information on the NMLSR MU-4 may result in the revocation of his or her license.

Authority: O.C.G.A. §§ 7-1-61,7-1-1003, 7-1-1004.

SUBJECT 80-11-6

MORTGAGE SERVICING

Rule 80-11-6-.04 Minimum Requirements for Books and Records

(1) Each servicer must maintain the following books, accounts, and records:

(a) Copies of all documents required by Rule Chapter 80-11-2;

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

1. the name of each borrower;
2. copies of all contracts, deeds, assignments, letters, notes, and memos regarding the borrower;
3. documents related to assignment, sale, or transfer of mortgage loan servicing;
4. copies of all disclosures or notices provided to the borrower by the servicer as required by law, including Rules 80-11-1-.01 and 80-11-6-.02;
5. copies of all written requests for information received from the borrower and the servicer's response to such requests as required by law;
6. full payment history that identifies and itemizes payments made by or on behalf of the borrower, all fees and charges assessed under the mortgage loan transaction, and escrow account activity;
7. a copy of any bankruptcy plan approved in a proceeding filed by the borrower or a co-owner of the property subject to the mortgage loan;
8. a communications log, which documents all verbal communication with the borrower or the borrower's representative;
9. a record of all efforts by the servicer to comply with the duties required under Rule 80-11-6-.02(2)(d), including all information utilized in the servicer's determination regarding loss mitigation proposals offered to the borrower;
10. a copy of all notices sent to the borrower related to any foreclosure proceeding filed against the encumbered property;
11. records regarding the final disposition of the mortgage loan including a copy of any collateral release document, records of servicing transfers, charge-off information, or REO disposition; and
12. documentation showing that the entity holding the loan is either appropriately licensed as a mortgage lender in Georgia or is exempt from licensure pursuant to O.C.G.A. § 7-1-1001. Examples of such documentation include a copy of the holder of the loan's Georgia license or a written statement from the holder of the loan that identifies the applicable exemption and provides a reasonable analysis of its qualification for the identified exemption.

(c) A list of all servicer's violations, if any, of the mortgage servicer standards set forth in Rule 80-11-6-.02.

(2) Failure to maintain the books, accounts, and records required under paragraph (1) above may result in suspension 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. §§ 7-1-61, 7-1-1012.

CHAPTER 80-12

MERCHANT ACQUIRER LIMITED PURPOSE BANKS

SUBJECT 80-12-2

APPLICATION PROCESS

Rule 80-12-2-.03 MALPB Applications

(1) Prior to submitting an MALPB charter application, an organizing group must schedule an initial meeting with the Department to discuss the charter proposal and the chartering process.

(2) The requirements for an MALPB charter application submission and documentation include, but are not limited to, the following items:

(a) A completed application form and package for chartering an MALPB;

(b) The applicant's articles of incorporation that satisfies the requirements of O.C.G.A. § 7-9-5. The suffix "MALPB" must follow the legal name of the MALPB applicant and, in the event a charter is issued, the suffix "MALPB" must be at all times utilized in the legal name of the MALPB;

(c) After receipt of the completed application form and package, any additional information requested by the Department in order to fully evaluate the application for a charter;

(d) A certificate from the Secretary of State showing that the proposed name of the applicant has been reserved pursuant to O.C.G.A. § 7-1-131. The name can be reserved by filing with the Department a form application to reserve a specified name. If the Department concludes that the use of a proposed name complies with O.C.G.A. § 7-1-130, is consistent with the purposes of the Act, and is distinguishable upon the records of the Secretary of State from the name of any other corporation, it shall approve the name and notify the Secretary of State to issue such name reservation;

(e) All applicable fees established by the Department in Rule 80-12-12-.02 or set forth in the Guidelines for Chartering a Merchant Acquirer Limited Purpose Bank of the Department to defray the expense of the investigation of the application. Such fees shall be remitted to the Department in accordance with the Department’s instructions; and

(f) A copy of the application for Federal Deposit Insurance, if the applicant has filed such an application.

Authority: O.C.G.A. §§ 7-9-3, 7-9-4, 7-9-6, 7-9-12, 7-9-13.

Rule 80-12-2-.10 Approval of Executive Officers, Directors, Principal Shareholders, and Control Persons of MALPB Applicant and Proposed Holding Company of Applicant

(1) As part of the MALPB charter application process, the Department must approve the ownership and/or control of the applicant and the character and fitness of the directors and proposed executive officers, which includes, but is not limited to, the required positions of chief executive officer, chief information officer, and chief risk officer of the applicant. In order to make these determinations, the executive officers, directors, principal shareholders, and control persons of the MALPB will provide the Department any information or documents requested by the Department including, but not limited to: an independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. Section 1681a(f); any information necessary for submission to the Federal Bureau of Investigation, the Georgia Crime Information Center, and/or any other government agency or entity authorized to receive such information in order to perform a criminal history background check along with the applicable fees and any other required information in order that the Department may obtain the results of such criminal background checks; personal financial statements; and filed state, federal, and, if applicable, international income tax returns, including any amendments, for the previous two completed taxable years.

(2) As part of the MALPB charter application process, the Department must approve the ownership and/or control of the holding company and the character and fitness of the directors and proposed executive officers of the holding company. In order to make these determinations, the principal shareholders, executive officers, directors, and control persons of the MALPB's holding company, if any, will provide the Department any information or documents requested by the Department including, but not limited to, an independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. Section 1681a(f).

(3) The requirements of Paragraph 2 of this Rule shall not apply to the principal shareholders, executive officers, directors, and control persons of a holding company that is a public company.

Authority: O.C.G.A. §§ 7-9-3, 7-9-6, 7-9-7, 7-9-13.

SUBJECT 80-12-4

OPERATIONS OF MALPB

80-12-4-.05 Restrictions on Employment and Ownership

Rule 80-12-4-.05 Restrictions on Employment and Ownership

(1) An MALPB shall not employ an individual that has been convicted of a felony in any jurisdiction. An MALPB shall not have a director, executive officer, or control person that has been convicted of a felony in any jurisdiction.

(2) An MALPB shall not knowingly have a principal shareholder that has been convicted of a felony in any jurisdiction that involves a financial crime. A holding company of an MALPB or an affiliate of an MALPB shall not knowingly have an executive officer, director, control person, or principal shareholder that has been convicted of a felony in any jurisdiction that involves a financial crime.

(3) As required by O.C.G.A. § 7-9-7(e), every applicant and MALPB must have commercial background checks performed on all employees. Background checks on all employees must be completed and found satisfactory by the applicant or MALPB prior to the initial date of hire. This provision does not apply to officers, directors, and control persons of applicants or MALPBs whose background has been investigated through the Department and approved by the Department before taking office, beginning employment, or securing ownership.

(4) Pursuant to O.C.G.A. § 7-9-7(e), applicants and MALPBs shall conduct criminal background checks by utilizing a commercial entity 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 MALPB.

Authority: O.C.G.A. §§ 7-9-3, 7-9-13.

Rule 80-12-4-.09 Sharing Confidential Supervisory Information

(1) When necessary or appropriate for business purposes, an MALPB, or any director, officer, or employee thereof, may disclose information contained in, or related to, reports of examination issued by the Department, to a person or organization officially connected with the MALPB as officer, director, or employee or as an external accountant, attorney, or consultant. An MALPB or a director, officer, or employee may make such disclosure if the external accountant, attorney, or consultant is under a written contract to provide services to the MALPB and the external accountant, attorney, or consultant has a written agreement with the MALPB in which the external accountant, attorney, or consultant:

(a) States its awareness of, and agreement to maintain the confidentiality of the disclosed information as required by O.C.G.A. §§ 7-1-67 and 7-1-70; and

(b) Agrees not to use the disclosed information for any purpose other than as provided under its contract to provide services to the MALPB.

(2) The requirements for written contractual acknowledgements and agreements shall not apply if the recipient of the disclosed information is subject to independent ethical standards to maintain the confidentiality of such information.

Authority: O.C.G.A. §§ 7-1-70, 7-9-13.

SUBJECT 80-12-5

BOOKS AND RECORDS

80-12-5-.05 Minimum Requirements for Books and Records

Rule 80-12-5-.05 Minimum Requirements for Books and Records

An MALPB must maintain the following books and records:

(a) All records required to be maintained by federal, state or, if applicable, international law, rules, or regulations, including, but not limited to, the rules enacted by the Department to carry out the provisions of the Act;

(b) All records required to be maintained by the applicable payment card networks;

(c) All contracts related to the MALPB's provision of merchant acquiring activities, including, but not limited to, contracts with payment card networks, merchants, affiliates, subsidiaries, eligible organizations, and support organizations;

(d) All records related to compliance with payment card network data security standards, such as Payment Card Industry Data Security Standard ("PCI DSS"), including, but not limited to, records indicating data security deficiencies by the MALPB, affiliates, subsidiaries, eligible organizations, support organizations, and merchants;

(e) All records related to the clearing and settlement of transactions through the payment card networks including, but not limited to, remittances to payment card networks;

(f) All reports or other compilation of data provided to payment card networks and/or merchants related to transactions;

(g) All records related to chargebacks, and business format change;

(h) Daily account of merchant funds broken down by merchant;

(i) Copies of all trust or custodial account agreements;

(j) Records of all complaints and records of disposition;

(k) Copies of examination reports prepared by any agency, division, or instrumentality of the United States, the State of Georgia or any other state, or any foreign country which report relates to the merchant acquiring activities of the MALPB;

(l) Copies of reports required to be prepared or submitted by the MALPB to any agency, division, or instrumentality of the United States, the State of Georgia or any other state, or any foreign country which report relates to the merchant acquiring activities of the MALPB;

(m) Copies of documents related to any adverse action taken by any agency, division, or instrumentality of the United States, the State of Georgia or any other state, or any foreign country, including, but not limited to, a revocation or suspension of a license or charter or the imposition of a fine or civil monetary penalties;

(n) Copies of all payroll records, including, but not limited to, federal and state withholding tax forms such as W-2s filed with the Internal Revenue Service by the MALPB on behalf of individuals employed by the MALPB;

(o) Employee files for all employees which shall include a criminal background check performed by a commercial entity as required by O.C.G.A. § 7-9-7 and Rule 80-12-4-.05;

(p) Subject to the limitations in O.C.G.A. § 7-9-12, a deposit record which contains a continuing itemized record of all activity in the deposit account;

(q) An income and expense register and all of the supporting documentation related to income and expenses;

(r) A daily statement for each business day properly supported by a general ledger showing daily activity to each asset, liability, and capital account;

(s) Minutes from all meetings of the MALPB's Board of Directors and the committees of the Board of Directors;

(t) A shareholder list;

(u) An investment register and investment safekeeping report; and

(v) Information on transactions with holding companies, affiliates, and subsidiaries with respect to the terms and circumstances of such transactions and the basis of fees or other charges in order to determine compliance with Rules 80-12-9-.01 and 80-12-9-.02.

Authority: O.C.G.A. §§ 7-9-3, 7-9-13.

SUBJECT 80-12-7

SOLVENCY AND SAFEGUARDS

80-12-7-.02 Safeguarding Requirements

Rule 80-12-7-.02 Safeguarding Requirements

(1) All merchant funds shall be deposited immediately and shall remain in an account at a financial institution that is federally insured and authorized to do business in this State until paid over to the individual merchant; provided, however, that nothing herein shall preclude an MALPB from making appropriate deductions for chargebacks, fees, reserves, and other costs related to providing authorized merchant acquiring services owed by the individual merchant prior to remitting the net amount to the individual merchant. At the time of deposit into the account, the funds of the individual merchant in the account shall be deemed to be the property of the individual merchant. The MALPB shall maintain or cause to be maintained in good faith and in the ordinary course of business records with respect to the account that shall identify individual merchants in order that the total amount held in the account for each individual merchant can be readily ascertained.

(2) The agreement and related records for the account required to be maintained by Paragraph 1 of this Rule shall expressly provide that the account is maintained for the benefit of the MALPB's individual merchants.

(3) An MALPB and its officers shall have a fiduciary duty to preserve and account for proceeds ultimately payable to a merchant and shall be liable for all such proceeds.

(4) An MALPB shall not pledge or otherwise grant a security interest in funds that are ultimately payable to a merchant.

Authority: O.C.G.A. §§ 7-9-3, 7-9-13.

SUBJECT 80-12-10

CONTROL OVER MALPB

80-12-10-.01 Change in Director, Executive Officer, Principal Shareholder, or Control Person of MALPB

Rule 80-12-10-.01 Change in Director, Executive Officer, Principal Shareholder, or Control Person of MALPB

(1) The MALPB must provide the Department with written notice of any new director, control person, principal shareholder, or executive officer, which includes, but is not limited to a chief executive officer, a chief information officer, and a chief risk officer, prior to any such appointment or change taking effect, so that the Department can consider the character and fitness of such person. After receipt of the notice, the proposed executive officers, directors, principal shareholders, and control persons will provide the Department with any information or documents the Department may request including, but not limited to: an independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. Section 1681a(f); any information necessary for submission to the Federal Bureau of Investigation, the Georgia Crime Information Center, and/or any other government agency or entity authorized to receive such information in order to perform a criminal history background check along with the applicable fees and any other required information in order that the Department may obtain the results of such criminal background checks; personal financial statements; and filed state, federal, and, if applicable, international income tax returns, including any amendments, for the previous two (2) completed taxable years.

(2) The Department shall be given at least sixty (60) days written notice prior to the proposed appointment or change of director, executive officer, principal shareholder, or control person taking effect. If the Department does not issue a notice disapproving such person within sixty (60) days after receipt of the required written notice or extend the period during which a disapproval may be issued for another thirty (30) days, the proposed appointment or change of such person shall take effect. The period for disapproval may be further extended if the Department determines that the MALPB or proposed director, executive officer, principal shareholder, or control person has not furnished all the information required by this Rule or, in the Department's judgment, inaccurate information has been submitted. An appointment or proposed change may be made prior to expiration of the disapproval period if the Department issues a written notice of its intent not to disapprove the proposed director, executive officer, principal shareholder, or control person.

(3) The requirements of this Rule shall not apply to an entity that satisfies the definition of control person as a result of ownership of a holding company that is a public company.

Authority: O.C.G.A. §§ 7-9-3, 7-9-13.

SUBJECT 80-12-12

FINES AND FEES

80-12-12-.01 Administrative Fines and Penalties

Rule 80-12-12-.01 Administrative Fines and Penalties

(1) In addition to all other enforcement actions available to it, the Department establishes the following fines and penalties for violation of the Act or its rules:

(a) Deposit taking. An MALPB that takes or holds a deposit from an individual or entity other than a corporation that owns a majority of the shares of the MALPB in violation of O.C.G.A. § 7-9-12 shall be subject to a fine of $10,000 for each day that a prohibited deposit is held.

(b) Unapproved incidental activities. An MALPB that engages in incidental activities without prior written approval from the Department in violation of Rule 80-12-4-.01(2) shall be subject to a fine of $5,000 for each day the unapproved incidental activity is engaged in by the MALPB.

(c) Unauthorized activities. An MALPB that engages in unauthorized activities in violation of Rule 80-12-4-.01(3) or 80-12-4-.01(4) shall be subject to a fine of $10,000 for each individual occasion the MALPB engaged in the unauthorized activity.

(d) Self-acquiring activities. An MALPB that engages in self-acquiring activities in violation of O.C.G.A. § 7-9-12 or Rule 80-12-4-.02(1) shall be subject to a fine of $1,000 for each impermissible transaction.

(e) Control by a merchant. An MALPB or MALPB holding company that is controlled by a merchant in violation of Rule 80-12-4-.02 shall be subject to a fine of $10,000 per day until the merchant no longer exercises control over the MALPB or the MALPB holding company.

(f) Minimum number of employees. An MALPB that fails to continuously employee the number of required employees that reside in Georgia within the first year of beginning operations in violation of Rule 80-12-4-.04 shall be subject to a fine of $10,000 per day that the MALPB fails to satisfy this requirement.

(g) Hiring a felon. An MALPB that hires or retains an employee that has been convicted of a felony shall be subject to a fine of $10,000 per employee or former employee found to be convicted of a felony.

(h) Advertising. An MALPB that fails to comply with the advertising limitations in violation of Rule 80-12-4-.06 shall be subject to a fine of $1,000 for each violation.

(i) Untimely SRRs. An MALPB that fails to make or file its SRRs within the appropriate period of time in violation of Rule 80-12-5-.04 shall be subject to a fine of $1,000 per day that each SRR is not filed.

(j) Untimely reports. An MALPB that fails to make or file a report within the appropriate period of time in violation of Rule 80-12-5-.04, other than an SRR, shall be subject to a fine of $500 per day that the report is not filed.

(k) Books and records violations. If the Department finds that an MALPB has failed to maintain its books and records as required by Rules 80-12-5-.05 or Rules 80-12-5-.06, the MALPB shall be subject to a fine of $5,000 for each violation of the books and records requirements set forth in the Department's rules.

(l) Relocation of main office. An MALPB that relocates its main office without the Department's prior written approval in violation of Rule 80-12-6-.01 shall be subject to a fine of $5,000.

(m) Unapproved office. An MALPB that operates an unapproved location in violation of Rule 80-12-6-.02 shall be subject to a fine of $5,000 per unapproved location.

(n) Refusal to submit to examination. An MALPB that refuses to permit an investigation or examination of its books and records by the Department or a third-party expert designated by the Department pursuant to Rule 80-12-2-.09 or Rule 80-12-6-.03 shall be subject to a fine of $20,000 for each day the refusal continues.

(o) False statements. An MALPB that makes false statements or material misrepresentations to the Department or any of its agents, including, but not limited to any third-party expert retained to assist the Department, in connection with any examination, investigation, or records or reports made available to the Department shall be subject to a fine of $10,000 for each false statement or material misrepresentation.

(p) Minimum capital requirements. An MALPB that fails to continuously maintain the minimum leverage capital ratio, PV capital, risk capital, or statutory capital requirement in violation of Rule 80-12-7-.01 shall be subject to a fine of $10,000 for each day it is below the minimum capital requirement.

(q) Reserved.

(r) Eligible organization or support organization. An MALPB that enters into a contract or amends a contract with an eligible organization or support organization and fails to provide the Department with timely notice in violation of Rule 80-12-8-.02 shall be subject to a fine of $5,000.

(s) Intercompany dealings. An MALPB that engages in unauthorized intercompany dealings in violation of Rule 80-12-9-.01 shall be subject to a fine of $5,000 per each unauthorized transaction.

(t) Control person and principal shareholders of MALPB. An MALPB that has a new control person or principal shareholder without complying with the notice provisions set forth in Rules 80-12-10-.01 or 80-12-11-.02, shall be subject to a fine of $25,000.

(u) Directors and executive officers of MALPB. An MALPB that appoints a new director or employs a new executive officer without complying with the notice provisions set forth in Rule 80-12-10-.01, shall be subject to a fine of $5,000.

(v) Directors and principal shareholders of holding company. An MALPB holding company that appoints a new director or has a new principal shareholder without complying with the notice provisions set forth in Rule 80-12-11-.02 shall be subject to a fine of $5,000.

(w) Acquisition. An MALPB that is acquired without first obtaining the Department's prior written approval in violation of Rules 80-12-10-.02 or 80-12-11-.03 shall be subject to a fine of $100,000 each day until the transaction is unwound.

(x) Unapproved activities. Unless otherwise addressed in this regulation, an MALPB that takes any action that requires Department approval without first obtaining the Department's prior written approval shall be subject to a fine or $5,000 for each such occurrence.

(y) Merchant funds. An MALPB that fails to account for and deposit or cause to be deposited merchant funds as required by Rule 80-12-7-.02 shall be subject to a fine of $50,000 for each day that merchant funds are not properly accounted for or deposited.

(2) The Department, in its sole discretion, may waive or modify a fine based upon the gravity of the violation, history of previous violations, willfulness of the violation, and the facts and circumstances of the violation.

(3) All fines levied by the Department are due within thirty (30) days after the date of assessment.

(4) All fines paid to the Department are nonrefundable.

Authority: O.C.G.A. §§ 7-9-3, 7-9-13.

CHAPTER 80-14

INSTALLMENT LOANS

SUBJECT 80-14-5

LICENSING

80-14-4-.02 Restrictions of Employment and Licensing

Rule 80-14-4-.02 Restrictions of Employment and Licensing

(1) No person who has been an owner, director, trustee, or executive officer of a licensee that has had its license revoked, denied, or suspended, may perform any of those roles at another licensee for five years from the date of the final order.

(2) Felony convictions; restrictions on the employee and the licensee:

(a) Licensees are responsible for ensuring that no persons who have been convicted of a felony as set forth in O.C.G.A. § 7-3-42 are covered employees or direct the affairs of their business.

(b) O.C.G.A. § 7-3-42 provides for remedies to cure a felony conviction. These remedies must be completed and in place prior to employment. Hiring or continuing to employ a covered employee with an unremedied felony conviction subjects a licensee to revocation of its license.

(c) For purposes of O.C.G.A. §§ 7-3-31 and 7-3-42, "agent" means any person who appears to the public or to a regulatory agency as acting for or on behalf of a licensee to the extent the licensee is engaged in the business of making installment loans.

(d) If a licensee discovers that a covered employee or director/officer is a felon at the time of hire or subsequently becomes a felon and has not satisfactorily cured the conviction, the violation of O.C.G.A. § 7-3-42 must be immediately corrected or the license will be subject to revocation. Such individuals with felony convictions are ineligible for an employee exemption and are in violation of O.C.G.A. §§ 7-3-4 and 7-3-50. The licensee employer is also in violation of O.C.G.A. § 7-3-4 in such circumstance.

(e) A cease and desist order to a person for failure to meet the employee exemption due to a violation of the felony provisions of O.C.G.A. § 7-3-42 shall become final in 30 days without a hearing pursuant to O.C.G.A. § 7-3-45. Such a person must show within those 30 days, by certified court documents that the record is erroneous, or, that the cure provisions in O.C.G.A. § 7-3-42 were completed prior to employment, in order to stop the order from becoming final. In the event such proof is provided, the order will be rescinded.

(3) Cease and desist orders may be issued against persons required to be licensed or against employees of those parties. All of the provisions of O.C.G.A. §§ 7-3-45 and 7-3-46, including injunction, apply to actions against all such persons.

(4) For purposes of O.C.G.A. §§ 7-3-31 and 7-3-43(b)(1), "misrepresentation" means making a false statement of a substantive fact or intentionally engaging in any conduct which leads to a false belief which is material to the transaction.

Authority: O.C.G.A. § 7-3-51.

SUBJECT 80-14-5

DISCLOSURE, CHARGES, AND MISCELLANEOUS

80-14-5-.03 Closing, Convenience, and Other Fees

Rule 80-14-5-.03 Closing, Convenience, and Other Fees

(1) Closing Fees. In addition to any other charges authorized by the Georgia Installment Loan Act ("Act"), a licensee may collect a closing fee at the time of making a loan to the extent authorized by O.C.G.A. § 13-1-14 and 7-3-17.

(a) No licensee may collect a closing fee unless, prior to the advance of money or the extension of credit, such licensee conducted an investigation or verification of the borrower's credit history, residences, references, employment, or sources of income. Each licensee shall retain on file the procedures that the licensee uses to conduct such investigations and verifications.

(b) The amount of the closing fee shall be listed in the loan agreement after the loan fees authorized by O.C.G.A. § 7-3-11 but before the maintenance charge fee.

(2) Convenience Fees. In addition to any other charges authorized by the Act, a licensee may collect convenience fees to offset the cost of receiving or remitting payment by electronic means, to the extent authorized by O.C.G.A. § 13-1-15. If a licensee elects to calculate convenience fees based on average cost for that specific type of payment over the preceding calendar year rather than the actual cost, the licensee shall maintain documentation supporting the calculation of the average cost.

(3) Unaffiliated Third-Party Fees. Fees charged to a consumer by a third party unaffiliated with a licensee to negotiate a payment instrument, including but not limited to check cashing fees or automated teller machine fees, are not prohibited by the Act.

(4) Late Charges. O.C.G.A. § 7-3-11(4) specifically provides that a licensee may charge and collect from the borrower a late or delinquent charge of $10.00 or an amount equal to 5¢ for each $1.00 of any installment which is not paid within five days from the date such payment is due, whichever is greater, provided that this late or delinquent charge shall not be collected more than once for the same default. Therefore, a licensee is not authorized to charge and collect a late or delinquent charge from a borrower until such time as that borrower has actually failed to pay an installment within five days after the date such payment was due. Under no circumstances is a licensee authorized to charge or collect and hold any unearned late or delinquent charge in advance, to be refunded if said installment is paid on or within five days from the date such payment is due.

(5) Charges for Refinancing. When any debt is renewed or refinanced by any creditor, the consumer shall be entitled to a refund or credit of that unearned portion of the interest charge computed as of the date of such refinancing or renewal and pursuant to the methodology set forth in O.C.G.A. § 7-3-14.

Authority: O.C.G.A. §§ 7-3-40, 7-3-51.