

CHAPTER 133
ACCOUNTS, REPORTS, AUDITS AND STATEMENTS

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§ 133101. Uniform Fiscal Year and Accounts.

The commissioner shall have power to establish a uniform fiscal year for all associations, and shall have power to establish a uniform classification of accounts to be kept by associations, or to classify associations and to establish a uniform classification of accounts for each class, and to prescribe the manner in which such accounts shall be kept. The commissioner may, after hearing, following notice to an association, prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited. If the commissioner has established a uniform classification of accounts it shall thereafter be unlawful for any association to fail to keep its accounts in accordance therewith, excepting such accounts as shall be explanatory of and supplemental to the accounts prescribed by the commissioner.

SOURCE: GC §41500.

§ 133102. Books of Account, and Record of Appraisals.

Each association shall keep its books in such form as to show accurately in detail its assets and liabilities and its receipts and expenditures and shall keep records written in ink or typewriting showing the appraised values of the real estate security held in connection with each loan and signed in each case by the appraiser, officer or committee charged with making such estimated valuations. Every association shall file in writing with the commissioner the names of the appraisers, officers and members of any committee charged with making such estimated valuations for it.

A director, officer, agent or employee of any association shall be

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guilty of a felony who:

First: Knowingly receives or possesses himself of any of its property otherwise than in payment for a just demand, and with intent to defraud, omits to make or to cause or direct to be made a full and true entry thereof in its books and accounts; or

Second: Knowingly concurs in omitting to make any material entry thereof; or

Third: Knowingly concurs in making or publishing any written report, exhibit or statement of its affairs or pecuniary condition containing any material statement which he knows to be false; or

Fourth: Having the custody or control of its books, willfully refuses or neglects to make any proper entry in the books of such association as required by law, or to exhibit or allow the same to be inspected and extracts to be taken therefrom by the commissioner, or any of his deputies or examiners.

SOURCE: GC §41501.

§ 133103. Apportionment of Profits.

Profits and losses shall be apportioned at least annually. In computing earnings or dividends on shares, the rate shall be applied to the value thereof, subject to regulations prescribed by the by-laws or directors in respect of payments on such shares since the last prior apportionment. Interest unpaid, although due or accrued, on debts owing to any association, shall not be included in calculation of its profits available for dividends; nor shall any association, except with the previous written consent of the commissioner, enter or at any time carry on its books any of its assets at a valuation exceeding its actual cost to such association. If the loan reserve mentioned in this section shall not equal 5 percent of the aggregate unpaid principal amount of the outstanding loans at the time of each apportionment of profits, the directors, before declaring any dividends, shall set aside as a loan reserve not less than 5 percent of the net profits accruing since the last prior apportionment and shall continue so to do until said loan reserve shall amount to at least 5 percent of the aggregate unpaid principal amount of the loans in force secured by real property. Such loan reserve shall be available at all times to meet any losses, whether arising from loans or otherwise, but the directors of any association at their option may charge losses against earnings, undivided profits or surplus. If at any time said

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loan reserve shall be in anywise impaired, it shall thereafter be restored in like manner. Said loan reserve shall include such sum, if any, as the directors of such association may transfer from its surplus or undivided profits to said loan reserve. Every association may, in addition to a dividend on its stock at a rate equal to that declared and paid or credited on installment shares, if any, set aside from and out of the net profits, if any, at each annual distribution thereof an amount not exceeding 1 per cent per annum on the average loans in force during such period, or a proportionate amount at each semiannual, quarterly or other distribution, from which to declare additional dividends on its stock; provided, however, that at least one-tenth of the amount so set aside shall be carried to stock surplus until such surplus shall amount to at least 25 per cent of the par value of the outstanding stock, and if at any time thereafter such stock surplus shall be in anywise impaired, it shall thereafter be restored in like manner. Subject to the requirements of this section as to the loan reserve and stock surplus, and subject to the provisions of other sections of this act expressly restricting the declaration or payment of dividends, the directors of any association not issuing shares may make, declare and pay dividends on the stock of so much of the surplus profits arising from the business thereof as to them appears advisable.

SOURCE: GC §41502.

§ 133104. Federal Insurance Reserve Account.

Any association by resolution of its board of directors may irrevocably establish all or any part of any reserve or surplus account for the sole purpose of absorbing losses; provided, however, that, except in the case of reserve or surplus accounts which were available prior to the adoption of such resolution for the purpose (either solely or among other things) of absorbing losses, the written consent of the commissioner shall first be obtained. If prior to the adoption of such resolution (a) the reserve or surplus account so established for the sole purpose of absorbing losses was available for the purpose (either solely or among other things) of absorbing losses, and (b) such reserve or surplus account constituted all or a part of, or counted toward, the investment certificate and withdrawable share reserve referred to in Section 113108, the loan reserve or the stock surplus referred to in Section 133103, or any other reserve or surplus account required by or referred to in this act, then such reserve or surplus account (excepting such part, if any, as may be

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absorbed by losses) shall continue to constitute all or a part of, or to be counted toward, such reserve or surplus account required by or referred to in this act.

SOURCE: GC §41503.

§ 133105. Annual and Other Reports.

Each association shall make a full report in writing to the Commissioner annually, within thirty (30) days after the close of its fiscal year, which report shall be verified by its president or vice-president and secretary or treasurer, showing accurately the financial condition of such association at the end of such preceding fiscal year and the income and expenses of such association during such preceding fiscal year, together with such statistical and other information as the Commissioner may require, all in such form and detail as the Commissioner may prescribe. Each association shall also make any further reports which the Commissioner may require and in such form and as to such matters relating to the conduct of the business of such association as the Commissioner may designate. A copy of each annual report made to the Commissioner pursuant to this section shall be kept at the Office of the Commissioner, and shall be open to examination by any investor of the reporting association, subject to such reasonable regulations as the Commissioner may prescribe. If any association fails to make any report required from it pursuant to this section within thirty (30) days after such report is due, the Commissioner shall immediately cause the books, papers and affairs of such association to be examined at the expense of such association.

SOURCE: GC §41504.

§ 133106. Annual Audit.

Each association, at least once in each year, shall cause its books and accounts to be audited at its own expense by a certified public accountant of any of the states or territories of the United States or by such other accountants selected by such association as shall be approved by the commissioner. Such annual audit shall cover the fiscal year unless the commissioner shall fix a different period which he may do in the case of any association. Each association shall furnish to the commissioner annually within 90 days after the end of the period covered by such audit, two signed copies of the report of such accountant or accountants showing the result of such audit and including a balance sheet of such

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association at the date of such audit and a statement of the income and expenses of such association during the year ending with the date of such audit which balance sheet and statement of income and expenses shall be certified by such accountant or accountants. The commissioner shall have power to prescribe the scope of such audit, and to require, such accountant or accountants to furnish him with information additional to that contained in the report of such audit. A copy of each report furnished to the commissioner pursuant to this section shall be kept at the office of the commissioner, and shall be open to examination by any investor of the association in question, subject to Section 141101 of this act and to such reasonable regulations as the commissioner may prescribe. In lieu of such audit, or as a portion of such audit, the commissioner may accept any audit, or that portion or any audit, made exclusively by the examiners for the Home Loan Bank Board, Federal Home Loan Bank or Federal Savings and Loan Insurance Corporation.

SOURCE: GC §41505.

§ 133107. Annual Financial Statement.

The Commissioner shall have power in his discretion to require each association to mail once in each year within sixty days after the close of its fiscal year to each of the investors of such association a copy of a financial statement, showing, in such form and detail as the commissioner may require, the amount and character of the assets, and liabilities of such association at the end of its preceding fiscal year; provided, however, that any association in lieu of mailing such financial statements to its investors as aforesaid may publish a copy of such financial statement in any newspaper of general circulation published in Guam.

SOURCE: GC §41506.

§ 133108. Designation of Capital.

Each association issuing shares shall designate the capital attributable to such shares, in any statement or advertisement which it shall publish in which any reference shall be made to such capital, as *withdrawable capital*; in any such statement or advertisement the capital attributable to shares shall be stated separately from the capital attributable to stock, and shall not be combined. No association shall publish any statement or advertisement of its capital authorized or

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subscribed, unless it shall also publish in connection therewith the amount of its capital actually paid up.

SOURCE: GC §41507.

§ 133109. Accounts Insured Under FSLIC.

Notwithstanding any provision of law including §§113108 and 133103 of this Code). a savings and loan association whose accounts are insured by the Federal Savings and Loan Insurance Corporation (FSLIC) shall be deemed to meet all net worth, reserve or capital requirements for all purposes of this Act if the association is in compliance with the regulatory net worth, reserve or capital requirements established by the FSLIC for associations whose accounts are insured by the FSLIC. An association whose accounts are insured by the FSLIC may include as net worth, reserves or capital all items that the FSLIC permits FSLIC insured associations to include as net worth, reserves or capital for purposes of meeting any net worth, reserve or capital requirements established by the FSLIC.

SOURCE: GC §41508.
