**Section 190.90 Fixed Asset Investments**

a) Definitions

"Fixed assets" means premises and furniture, fixtures and equipment, as those terms are defined in this Section:

"Premises" includes any office, branch office, suboffice, service center, parking lot, other facility, or real estate where the credit union transacts or will transact business.

"Furniture, fixtures and equipment" includes all office furnishings, office machines, computer hardware and software, automated terminals, and heating and cooling equipment.

"Investment in fixed assets" means:

any investment in real property (improved or unimproved) that is being used or is intended to be used as premises, excluding premises leased for five years or less;

any leasehold improvement on premises;

the present value of the aggregate of all capital lease payments pursuant to lease agreements for fixed assets, excluding lease payments for premises leased for five years or less;

any investment in the bonds, stock, debentures, or other obligations of a partnership or corporation or limited liability entity, including a credit union service organization, holding any fixed assets used by the credit union and any loans to that partnership or corporation or limited liability entity; and

any investment in furniture, fixtures and equipment.

"Retained earnings" includes undivided earnings, regular reserve, other reserves, and any other appropriations designated by management or regulatory authorities.

b) Investment in Fixed Assets

1) Credit unions with assets of less than $1,000,000 that choose to invest in premises must apply to the Division for approval.

2) Credit unions with assets of $1,000,000 or more may invest in fixed assets, without the prior approval of the Division.

c) Credit unions with assets of less than $1,000,000 seeking to invest in premises must submit to the Division an application for approval. The application for approval must contain the following minimum supporting documentation:

1) why the purchase and/or lease is necessary to serve the credit union's members;

2) details of the proposed transaction including:

A) location and full description of the fixed asset;

B) if a purchase of premises is involved, current valuation by an independent appraiser;

C) purchase price or lease details;

D) current owners and their relationship to the credit union or to any members of the credit union;

E) how the project will be financed;

F) if a purchase, lease or improvement of premises is involved, a summary of planned due diligence inspections to verify building, building line and use or occupancy restrictions; conditions and covenants on record; zoning laws and ordinances; easements for public utilities; and other matters pertinent to the transaction; and

G) evidence that the increase in operating expenses caused by the project can be supported after accounting for the current level of expenses and dividend commitments;

3) the credit union's latest balance sheet, income statement and loan delinquency report;

4) a certified copy of Board minutes that contain approval for the project.

d) The Division shall respond to applications for approval of fixed asset investments as follows:

1) The Division shall inform the credit union applicant, in writing, of the date the letter of application was received.

2) Approval of applications shall be given in writing once it is determined by the Division that the proposal will not adversely affect the credit union's financial position. The determination will be based on the past history, current financial condition, projections of the credit union, and whether the increase of operating expenses caused by the project can be supported after accounting for the current level of expense, dividend and reserve commitments.

3) An approval will state a dollar amount or percentage of retained earnings that may be invested in fixed assets by the credit union.

4) The Division shall provide to credit union applicants written notification of action taken within 45 calendar days after receipt of the complete package of supporting documentation from the credit union. If the credit union does not receive written notification of the action taken within 45 calendar days after the date the complete package of supporting documentation was received by the Division, the credit union may proceed with its proposed investment in fixed assets.

e) A credit union that has received approval for a specific fixed asset transaction from the Division prior to the date of promulgation of amendments to this Section shall continue to be eligible to consummate the transaction after the date of promulgation, without further Division approval.

f) In recording all transactions for fixed assets, GAAP shall be followed.

(Source: Amended at 41 Ill. Reg. 4764, effective May 1, 2017)