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NCUA Board Modernizes Member-Business Lending Rule to Provide Flexibility

Board Action Bulletin

Share Insurance Fund Continues Positive Trends in 2015

ALEXANDRIA, Va. (Feb. 18, 2016) – The National Credit Union Administration Board held its second open meeting of 2016 at the agency's headquarters here today and approved a final rule giving federally insured credit unions greater flexibility and autonomy to offer member-business loans in a safe and sound manner.

The Chief Financial Officer also briefed the Board on the performance of the National Credit Union Share Insurance Fund, which had a net income of \$61.3 million for 2015.

Final Member-Business Lending Rule Ushers in a "New Era"

Credit unions will have greater latitude to make commercial lending decisions under a new member-business lending rule (Part 723) unanimously approved by the Board.

"With this final rule, we begin a new era," NCUA Board Chairman Debbie Matz said. "Today, the vast majority of credit unions making these loans have well-established member-business lending infrastructures and risk management in place. So, it is time to transition from prescriptive limits to over-arching principles that will provide greater flexibility for credit unions to serve more member businesses."

Part of the agency's Regulatory Modernization Initiative, the final rule moves from prescriptive limits on credit unions—such as collateral and security requirements, equity requirements and loan limits—to principles-based regulation. As such, the rule eliminates the current member-business loan waiver process.

The increased flexibility provided by the final rule will give federally insured credit unions greater autonomy to develop and maintain member-business lending programs that best fit their members' needs and strategic goals. Credit unions making member-business loans will need to have the people, processes and policies in place to ensure safety and soundness.

Key changes in the final rule include:

- Giving credit union loan officers the ability, under certain circumstances, to not require a personal guarantee;
- Replacing explicit loan-to-value limits with the principle of appropriate collateral and eliminating the need for a waiver;
- Lifting limits on construction and development loans;
- Exempting credit unions with assets under \$250 million and small commercial loan portfolios from certain requirements; and
- Affirming that non-member loan participations do not count against the statutory member-business lending cap.

The changes finalized today are fully consistent with the requirements of the Federal Credit Union Act. The final rule does not expand credit unions' business loan authority or modify the statutory limit on member-business lending.

Speaking about the benefits of the rule, Matz said, "Safely expanding business lending will diversify portfolios and revenue sources, improving the ability of credit unions to withstand economic downturns. It will also grow small businesses, which may not be able to obtain capital from other sources, and strengthen communities by creating jobs and fostering economic development."

The credit union system's total member-business lending portfolio has grown 14-fold, to \$56 billion, from only \$4 billion in 2000. Federally insured credit unions have generally conducted business lending safely, and the vast majority of credit unions making these loans today have well-established business lending infrastructures and solid risk management in place. Declining delinquencies and charge-offs for credit unions' commercial loans overall indicate the solid performance of these loans:

The rule empowers credit unions to write their own policies and limits appropriate to servicing members and within their capacity. Approximately 660 smaller credit unions that currently engage in a small level of commercial lending would be exempt from the requirement to establish a commercial loan policy and hire commercial lending staff.

Additionally, the new member-business lending rule establishes a baseline minimum safety and soundness standard to protect the Share Insurance Fund. States may choose to impose higher standards, but not lower. The seven states with pre-approved member-business lending rules are grandfathered, and any state may submit a new rule for NCUA review.

No additional funds will be budgeted to implement the final rule. An incremental one-time cost of \$960,000 in 2016 for

NC Credit Union Division Business Lending Rules

04 NCAC 06C .0407 BUSINESS LOANS

(a) Prohibited fees. A North Carolina credit union shall not make any loan or extend any line of credit if, either directly or indirectly, any commission, fee or other compensation is to be received by the Credit Union's directors, committee members, senior management employees, loan officers, or any immediate family members of such individuals, in connection with underwriting, insuring, servicing or collecting the loan or line of credit. However, salary (except commissions) for employees is not prohibited by this Section. For purposes of this Section, "senior management employees" means the Credit Union's chief executive officer (typically this individual holds the title of President or Treasurer/Manager), any assistant chief executive officers (e.g., Assistant President, Vice President or Assistant Treasurer/Manager), and the chief financial officer (Comptroller), and "immediate family member" means a spouse or other family member living in the same household.

(b) Member Business Loans.

(1) Definitions:

- (A) Member business loans mean any loan, line of credit, or letter of credit, the proceeds of which will be used for commercial, corporate, business, investment property or venture, or agriculture purpose, except that the following shall not be considered member business loans for purposes of this Section:
- (i) A loan or loans fully secured by a lien on a one to four family dwelling that is the member's primary residence.
 - (ii) A loan that is fully secured by shares in the credit union or deposits in other financial institutions.
 - (iii) A loan meeting the general definition of member business loans under Part (b)(1)(A) of this Rule, and, made to a borrower or an associated member, which, when added to other such loans to the borrower or associated member, is less than fifty thousand dollars (\$50,000).
 - (iv) A loan, the repayment of which is fully insured or fully guaranteed by, or where there is an advance commitment to purchase in full by, any agency of the federal government or of a state or any of its political subdivisions.
 - (v) A loan granted by a corporate credit union operating under the provisions of the North Carolina General Statutes to another credit union.
- (B) Reserves means reserve fund, undivided earnings, current earnings, and excludes the Allowance for Loan Losses.
- (C) Associated Member means any member with a shared ownership, investment or other pecuniary interest in a business or commercial endeavor with the borrower.
- (D) Immediate Family Member means a spouse, or other family member living in the same household.
- (E) Loan-to-Value (LTV) ratio means the quotient of the aggregate amount of all sums borrowed from all sources on an item of collateral divided by the market value of the collateral used to secure the loan.
- (F) Construction or development loan means a financing arrangement for the purpose of acquisition of property or rights to property or rights to property including land or structures with the intent of conversion into income-producing property including residential housing for rental or sale, commercial or industrial use, or a similar use.

(2) Requirements. Member business loans, as defined in Part (b)(1)(A) of this Rule may be made by credit unions only in accordance with the applicable provisions of Rule .0409 and .0205(d) and the following additional requirements:

- (A) Written loan policies. The Board of Directors must adopt specific business loan policies and review them at least annually. The policies shall, at a minimum, address the following:
- (i) Types of business loans that will be made;
 - (ii) The credit union's trade area for business loans;
 - (iii) Maximum amount of credit union assets, in relation to reserves, that will be invested in business loans;
 - (iv) Maximum amount of credit union assets, in relation to reserves, that will be invested in a given category or type of business loan;
 - (v) Maximum amount of credit union assets, in relation to reserves, that will be loaned to any one member or group of associated members, subject to Subpart (b)(2)(C)(i) of this Rule;

analysis of credit union experience in making member business loans shall document the history of loan losses, loan delinquency, volume and cyclical or seasonal patterns, diversification, concentrations of credit to one borrower or group of associated borrowers in excess of 15 percent of reserves (less the Allowance of Loan Losses account), underwriting standards and practices, types of loans grouped by purpose and collateral and qualifications of personnel responsible for underwriting and administering member business loans. The credit union must have written approval of the Administrator of Credit Unions and the Regional Director of the National Credit Union Administration to exceed the limitations contained in this Rule.

- (iii) Maturity. Member business loans shall be granted for periods consistent with the purpose, security, creditworthiness of the borrower and sound lending policies.
 - (iv) Monitoring requirement. Credit unions with member business loans in excess of 100 percent of reserves (less the Allowance for Loan Losses account) shall submit the following information regarding member business loans to the Administrator on a quarterly basis: the aggregate total of loans outstanding; the amount of loans delinquent in excess of 30 days; the balance of the allowance for member business loan losses; the aggregate total of all concentrations of credit to one borrower or group of associated borrowers in excess of 15 percent of reserves (less the Allowance for Loan Losses account); the total number and amount of all construction, development or speculative loans; and any other information pertinent to the safe and sound condition of the member business loan portfolio.
- (D) Allowance for loan losses.
- (i) The determination whether a member business loan will be classified as substandard, doubtful, or loss, for purposes of the valuation allowance for loan losses, will rely on factors not limited to the delinquency of the loan. Nondelinquent loans may be classified depending on an evaluation of factors, including but not limited to, the adequacy of analysis and documentation.
 - (ii) Loans classified shall be reserved as follows:
 - (I) Substandard loans at ten percent of outstanding amount unless other factors (e.g. history of such loans at the Credit Union) indicate a greater or lesser amount is appropriate. Loans classified as substandard loans are inadequately protected by the current sound worth and paying capacity of the obligor or of the collateral pledged, if any. Loans classified must have a well-defined weakness or weaknesses that jeopardize the liquidation of the debt. They are characterized by the distinct possibility that the Credit Union will sustain some loss if the deficiencies are not corrected. Loss potential, while existing in the aggregate amount of substandard loans, does not have to exist in individual loans classified substandard.
 - (II) Doubtful loans at 50 percent of outstanding amount. Loans classified as doubtful loans have all the weaknesses inherent in ones classified substandard, with the added characteristic that the weaknesses make collection or liquidation in full, on the basis of currently existing facts, conditions, and values, highly questionable and improbable. The possibility of loss is extremely high, but because of certain important and reasonably specific pending factors which may work to the advantage and strengthening of the loan its classification as an estimated loss is deferred until its more exact status is determined. Pending factors include: proposed merger, acquisition, or liquidation actions, capital injection, perfecting liens on additional collateral, and refinancing plans.
 - (III) Loss loans at 100 percent of outstanding amount. Loans classified as loss loans are considered uncollectible and of such little value that their continuance as loans is not warranted. This classification does not necessarily mean that the loan has absolutely no recovery or salvage value, but rather it is not practical or desirable to defer writing off this basically worthless asset even though partial recovery may occur in the future.