

National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance programs under No. 10.850, Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402-9325, telephone number (202) 512-1800.

Information Collection and Recordkeeping Requirements

This interim rule does not impose new information collection requirements for the purposes of the Paperwork reduction Act of 1995 (44 U.S.C. Chapter 35). (OMB control number 0572-0032)

Unfunded Mandates

This rule contains no Federal mandate (under the regulatory provision of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act.

List of Subjects**7 CFR Part 1710**

Electric power, Electric utilities, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1726

Electric power, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, RUS amends Chapter XVII of Title 7 of the Code of Federal Regulations as follows:

PART 1710—GENERAL AND PRE-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

1. The authority citation for part 1710 continues to read as follows:

Authority: 7 U.S.C. 901-950(b); Public Law 99-591, 100 Stat. 3341; Public Law 103-354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

2. In § 1710.112, a new paragraph (c) is added to read as follows:

§ 1710.112 Loan feasibility.

* * * * *

(c) RUS considers a loan to be feasible only if the borrower's electric system is year 2000 compliant, or if the borrower provides RUS with evidence, satisfactory to RUS, that it is taking measures necessary to ensure that its electric system will be year 2000 compliant on or before December 31, 1999. Year 2000 compliant means that product performance and function are not affected by dates before, during, and a reasonable time after the year 2000.

PART 1726—ELECTRIC SYSTEM CONSTRUCTION POLICIES AND PROCEDURES

3. The authority citation for part 1726 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*; Public Law 103-354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

4. In § 1726.20, a new sentence is added at the end to read as follows:

§ 1726.20 Standards and specifications.

* * * The materials and equipment must be year 2000 compliant, as defined in 7 CFR 1710.112 (c).

Dated: September 21, 1998.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 98-26021 Filed 9-28-98; 8:45 am]

BILLING CODE 3410-15-U

NATIONAL CREDIT UNION ADMINISTRATION**12 CFR Parts 701, 722, 723 and 741****Organization and Operation of Federal Credit Unions; Appraisals; Member Business Loans; and Requirements for Insurance**

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interim final rule with request for comments.

SUMMARY: The NCUA is updating, clarifying and streamlining its existing rules concerning member business loans and appraisals for federally insured credit unions, as well as implementing recent statutory limitations regarding member business loans. The intended effect of this rule is to reduce regulatory burden, maintain safety and soundness, and provide an exception for qualifying credit unions from the statutory aggregate limit on a credit union's outstanding member business loans.

DATES: Effective September 29, 1998. Comments must be received on or before November 30, 1998.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. Fax comments to (703) 518-6319. *Please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Staff Attorney, Office of General Counsel at the above address or telephone: (703) 518-6540; or David Marquis, Director, Office of Examination and Insurance, at the above address or telephone: (703) 518-6360.

SUPPLEMENTARY INFORMATION:**A. Background**

The NCUA Board adopted its first member business loan rule in April 1987 due to the increased amount of credit union losses attributed to business lending activity. In response to continued losses to credit unions and the National Credit Union Share Insurance Fund (NCUSIF) due to member business loans, the NCUA Board adopted a more restrictive member business loan rule in September 1991. In general, the results of the 1991 revision have been very positive. Nonetheless, experience with the regulation indicated a need for simplification, clarification, and improvement. Therefore, on July 23, 1997, the Board issued proposed amendments to the regulation governing member business loans (Current Section 701.21(h) and Proposed Part 723 of NCUA's Regulations) and appraisals (Part 722 of NCUA's Regulations) with a sixty-day comment period. 62 FR 41313 (August 1, 1997).

The NCUA Board was considering adopting a final member business loan rule in March of this year, when it became apparent that Congress was considering legislation regarding the ability of credit unions to grant member business loans. The NCUA Board decided to defer consideration of a final rule until Congress had acted on this legislation. Since then, the Credit Union Membership Access Act (the Act) was enacted into law on August 7, 1998. Public Law 105-219. Among other things, the Act imposes a new aggregate limit on a credit union's outstanding member business loans. However, the Act also provides for three circumstances where a credit union may qualify for an exception from the aggregate limit.

The NCUA Board has decided to finalize those aspects of the proposed

rule that are not affected by the Act, as well as set forth the procedures for obtaining an exception from the aggregate limit as provided for by the Act. The Board is issuing this rule as an interim final rule because there is no public interest in delaying action on exceptions from the aggregate limit. On the contrary, there is a strong public interest in permitting credit unions to continue to grant, and members to receive, business loans. Therefore, the Board finds it necessary and appropriate to act expeditiously to allow certain credit unions to obtain an exception to continue to grant business loans that would exceed the aggregate loan limit. If this rule is not effective immediately, a number of credit unions and their members could be adversely impacted. Accordingly the Board, for good cause, finds that (1) pursuant to 5 U.S.C. 553(b)(3)(B), notice and public procedures are impracticable, unnecessary, and contrary to the public interest; and (2) pursuant to 5 U.S.C. 553(d)(3), the rule shall be effective immediately and without 30 days advance notice of publication. Although this rule is being issued as an interim final rule and is effective immediately, the NCUA Board encourages interested parties to submit comments, especially on the exception from the aggregate loan limits.

B. Previous Comments and New Statutory Provisions

Thirty-four comments were received. Comments were received from eight federal credit unions, seven state chartered credit unions, ten state leagues, three national credit union trade associations, one bank, four bank trade associations, and one consulting group. Except for the bank and bank trade associations, the commenters were very supportive of the proposal, although most commenters suggested ways to improve the final rule. Two commenters expressed complete support for the proposal.

Section-by-Section Analysis

The proposed amendments were written in a plain English question and answer format. Eight commenters approved of the plain English format but some of these commenters questioned whether a question and answer format would be comprehensive. The commenters expressing doubt requested an additional section of supplementary information.

Four commenters opposed the plain English question and answer format. They believe that using it is not in the best interest of the credit union industry because this format is not

comprehensive and would limit the creativity of credit unions in providing business loans to their members. These commenters recommend that the regulation be written in the traditional regulatory style and be supplemented with questions and answers for further clarification of the rule.

The NCUA Board has not received any evidence to indicate any problems with the plain English format. The NCUA Board believes the question and answer format will lessen misunderstandings and is comprehensive and easy to understand. The NCUA Board does not believe a supplementary information section in the final rule is necessary. Therefore, the final rule is written in this format.

NCUA proposed moving the rule from Part 701 to Part 723 of NCUA's Regulations. Five commenters approved placing the member business loan rule in its own Part. The NCUA Board agrees and the final rule will be in Part 723.

Proposed Section 723.1—What is a Member Business Loan?

This section provides a definition of a member business loan. The proposal defined a member business loan as any loan, line of credit, or letter of credit where the borrower uses the proceeds for the following purposes: commercial, corporate, investment property, business venture or agricultural. This definition was slightly different from the current rule in that the proposal deletes the term "business" from "business investment property." However, NCUA may no longer define what is a member business loan by regulation because the Act defines the term. Therefore, a member business loan means any loan, line of credit or letter of credit, the proceeds of which will be used for a commercial, corporate or other business investment property or venture, or agricultural purpose. Section 107A(c)(1)(a) of the Act.

Proposed Section 723.1(b)—Exceptions to the General Rule?

This section sets forth the exceptions to the definition of a member business loan. NCUA proposed to increase the dollar threshold at which the rule applies from \$50,000 to \$100,000. Fifteen commenters supported the new threshold. Some of these commenters believe the change would help small and low-income credit unions. However, the Act sets forth the applicable exceptions to the definition of a member business loan. The dollar threshold is set at \$50,000.

The new regulation sets forth five exceptions that are virtually identical to the exemptions in the current member

business loan regulation. The following loans are exempt from the member business loan definition: (1) an extension of credit that is fully secured by a lien on a 1-to-4 family dwelling that is the primary residence of a member; (2) an extension of credit that is fully secured by shares in the credit union making the extension of credit or deposits in financial institutions; (3) an extension of credit that meets the member business loan definition made to a borrower or an associated member that has a total of all such extensions of credit in an amount equal to or less than \$50,000; (4) an extension of credit the repayment of which is fully insured or fully guaranteed by, or where there is an advance commitment to purchase in full by, an agency of the Federal Government or of a State, or any political subdivision thereof; or (5) an extension of credit that is granted by a corporate credit union (as that term is defined by the Board) to another credit union.

Proposed Section 723.2—What are the prohibited activities?

NCUA proposed no substantive changes from the current rule, except to add senior management employees and officials to the provision prohibiting equity agreements or joint ventures. Four commenters agreed with NCUA that senior management employees and officials should be prohibited from receiving income tied to a business loan the credit union makes. Two opposed the proposal.

One commenter believed it would be inconsistent to prohibit non-compensated officials from entering into equity agreements and joint ventures involving business loans while permitting credit unions to make business loans to those officials. However, this commenter agreed with the proposal to extend the prohibition against equity agreements and joint ventures involving business loans to senior management employees as long as NCUA excludes non-compensated officials from the prohibition. The NCUA Board agrees and has incorporated this change into the final rule.

Two commenters believed that the current prohibition on senior management officials receiving business loans should be eliminated. The NCUA Board has not been provided with any convincing reason to eliminate the prohibition. One commenter correctly pointed out that the title to this section should be changed to "who is ineligible to receive a member business loan." This commenter stated that otherwise it would make senior management

employment a prohibited activity. The NCUA Board agrees and has retitled the section accordingly.

Proposed Section 723.3—What are the requirements for construction and development lending?

This section sets forth the requirements for construction and development lending. NCUA proposed no substantive changes to this section from the current rule. NCUA clarified that construction and development loans below the dollar limits, individually and/or in the aggregate, are not considered to be member business loans for the purpose of this rule. Thus, if a member has a construction loan for \$40,000, and no other outstanding business type loans, including unfunded business type lines of credit, then the construction loan is not a member business loan. No substantive comments were received on this section. The NCUA Board is adopting this section in final as proposed.

Proposed Section 723.4—What are the other applicable regulations?

This section merely describes the other lending rules credit unions must follow when granting member business loans to the extent they are consistent with this regulation. NCUA proposes no substantive changes from the current rule. One commenter objected to incorporating Sections 701.21(a) through (g) of NCUA's regulations into this regulation. One commenter supported this provision. The NCUA Board has not been provided with any convincing reason to change this section, so it is adopting it in final as proposed.

Proposed Section 723.5—How do I implement a member business loan program?

This section requires the board of directors to adopt business loan policies and review them at least annually. This section also requires the board to use the services of an individual with at least two years direct experience in the type of lending in which the credit union will be engaging. The preamble to the proposal also clarified that NCUA has never required experience with business loans in general but, rather, has required experience with making loans the credit union intends to grant. The preamble also clarified that credit unions need not hire staff to meet the requirements of this section; however, credit unions must ensure that the expertise is available. Credit unions can meet the experience requirement through various approaches. For example, a credit union can use the

services of a CUSO, an employee of another credit union, an independent contractor, or other third parties.

However, the actual decision to grant a loan must reside with the credit union.

Two commenters supported NCUA's clarification that the rule does not require two years experience specifically in business lending. Two commenters did not believe there would be any hindrances in obtaining a staff person with two years relevant lending experience. Two commenters believe it is difficult to find someone who has the relevant experience for every type of commercial loan. One commenter stated that the real issue is having the money to hire such experienced people.

Two commenters recommended eliminating the two-year experience requirement. Two commenters believed NCUA should allow credit unions to address qualifications based on what the credit union desires. One commenter agreed with the new language but believed it is still overly restrictive and represents an attempt to micromanage credit unions.

One commenter appreciated NCUA's clarification that the requirement to retain staff with two years of experience does not mean specific business lending experience. This commenter stated that allowing two years of lending experience to suffice without a specific requirement for business lending experience, coupled with the ability of a credit union to use CUSO services, an employee from another credit union, or a contractor, will remove a business lending impediment for many credit unions.

The NCUA Board believes it is crucial for a credit union to have experienced personnel involved in making decisions regarding business lending. Member business loans require special expertise in virtually all phases of origination and administration. Prior to NCUA's imposition of the experience requirement, a number of credit unions suffered losses from member business loans as a result of poorly structured and administered loans. Most of these problems could have been avoided had the credit union been better informed and prepared through the use of experienced personnel. Therefore, the NCUA Board is continuing to require credit unions instituting member business loan programs to retain personnel with two years of business lending experience.

Two commenters requested that the final regulation contain some of the examples in the preamble to the proposal of proper arrangements such as the use of a CUSO or an employee of another credit union. The Board agrees

and the final rule contains examples of how to fulfill the two-year requirement.

Proposed Section 723.6—What must our member business loan policies address?

This section sets forth those items that credit unions must address in their written business loan policies. The proposal adds a new requirement for credit unions to review financial statements. One commenter believed it is overly burdensome to review and analyze the member's entire financial statements instead of reviewing updates. Five commenters did not believe it would be excessively burdensome. After further consideration, the NCUA Board does not see any significant benefit in requiring a review of financial statements on all member business loans. In most cases, a credit union engaging in business lending will ordinarily review the financial statements of its open-end business loans. Therefore, the final rule does not require credit unions to review financial statements.

The proposal also changes the term "appraisals" to "determination of value." The wording in the current rule unduly emphasizes member business loans as real estate loans. The proposed wording clarifies that, whether a member business loan is for real estate or non-real estate, credit unions must meet the collateral requirements. The proposal also changes the term "title search" to "determination of ownership" for the same reason.

One commenter believed the present regulatory distinction between real estate secured business loans and other business loans is often blurred and that the proposed new regulation does little to recognize this distinction. This commenter stated that the terms used in this regulation are more applicable to real estate lending. Another commenter suggested that NCUA consider two distinct classes of member business loans: one for real estate, incorporating underwriting criteria such as higher loan-to-value ratios, owner occupancy standards, lien position requirements, longer loan terms; and one for other types of business loans, with flexible underwriting criteria appropriate to the specific loan. Although there is a distinction between real estate secured business loans and other types of business loans, the NCUA Board believes the stated requirements are necessary for both. The NCUA Board believes the proposed changes in language will be helpful to credit unions in making business loans.

The proposal also clarified that the maturity of a member business loan may not exceed twelve years. The proposal

inadvertently failed to exclude federally insured state chartered credit unions from this requirement as NCUA has consistently done in the past. Nine commenters stated that the twelve-year maturity limit should not apply to state chartered credit unions. NCUA agrees and the final rule permits state chartered credit unions to grant business loans with a maturity limit consistent with state law. Five credit unions requested that the twelve-year maturity limit be increased for federal credit unions. This is currently impermissible for federal credit unions since the Federal Credit Union Act limits such loans to twelve years.

Proposed Section 723.7—What other items must the member business loan policy address?

This section sets forth the remaining issues that written loan policies must address, including loan-to-value ratios and the requirement for the personal liability and guarantee of the member. The proposal increases the second lien limitation from 70% to 80% for collateral ratios. The proposal also clarifies that private mortgage insurance for first liens with a loan-to-value ratio exceeding 80% applies only to real estate loans. Twelve commenters supported the increase in the second lien limitation from 70% to 80%. However, some commenters questioned whether the same stringent loan-to-value ratios would be required for loans on personal properties, vehicles and equipment. They believed that NCUA's approach could hinder the competitiveness of credit unions wanting to provide business loans to their members. One commenter believed the second lien limitation should be increased further while another commenter believed the 70% loan-to-value is adequate. Two commenters believed that credit unions need more flexibility for loan to value ratios. One commenter believed NCUA should allow loan-to-value ratios up to 100%. The NCUA Board believes the specified loan limits are appropriate for member business loans and has incorporated them into the final rule.

One commenter stated that the regulation should be clarified so that the loan-to-value ratios for business loans are applicable only for member business loans. For example, if a business loan for \$50,000 is granted on an unsecured basis and if an additional \$40,000 is granted to the borrower, only \$40,000 would be subject to the loan-to-value limitations. The Board agrees that only that portion of member business loans in excess of \$50,000 are subject to the loan-to-value limitations. However, if

the two loans are on the same collateral, the loan-to-value limitation will apply to the aggregate amount of the loans. For example, if the credit union makes a loan on a piece of real estate for \$40,000 and subsequently makes another \$40,000 loan on the same collateral, the loan-to-value limitation will apply to the entire \$80,000.

This proposed section would also allow any credit union to seek a waiver from the loan-to-value ratios for a particular business loan program. Five commenters agreed with expanding the waiver provision to permit credit unions that recently initiated member business loan programs to seek an exemption from loan-to-value limitations. The final rule includes this waiver authority from the loan-to-value limitations.

The proposal exempts federally insured credit unions from the loan-to-value ratios with respect to credit card line of credit programs offered to nonnatural persons that are limited to routine purposes normally made under those programs. One commenter supported this proposal. One commenter erroneously believed this section did not apply to federal credit unions.

Proposed Section 723.8—How much may one member or a group of associated members borrow?

This section sets forth the aggregate amount of outstanding member business loans that credit unions may grant to one member or a group of associated members. Unless NCUA grants a waiver, the proposal limits the aggregate amount of outstanding business loans to any one member or group of associated members to 15% of the credit union's reserves (less the Allowance for Loan Losses account) or \$100,000, whichever is higher. Six commenters agreed with the 15% threshold although one commenter would delete the dollar threshold. One commenter requested that the 15% limit be increased. The NCUA Board has not been provided with a convincing rationale for raising the 15% limit and is adopting the proposal in final.

The NCUA Board is clarifying how loan participations are treated in regard to business loan limits. In those situations where the credit union sold the participation without recourse, the amount sold would not be included when calculating the 15% limit for a single borrower. However, if the credit union sold the participation with recourse (that is, the selling credit union essentially retains a contingent liability), it would include the amount sold when calculating the 15% limit.

The NCUA Board is also clarifying that the aggregate amount of outstanding

member business loans to any one member includes any unfunded commitments.

Proposed Section 723.9—How do I calculate the aggregate 15% limit?

The current rule states that, if any portion of a member business loan is secured by shares in the credit union or a deposit in another financial institution, or fully or partially insured or guaranteed by, or subject to an advance commitment to purchase by any agency of the federal government or of a state or any of its political subdivisions, such portion is not used in calculating the 15% limit. NCUA proposed no substantive changes to the current rule on the calculation of the 15% limit. Some credit unions have asked NCUA staff whether the partial guarantee by a federal agency includes loans guaranteed by the Small Business Administration. The amount of the loan guaranteed by the Small Business Administration is not used in calculating the 15% limit.

For the purpose of being consistent with proposed section 723.1(b), NCUA proposed to change the term "financial institution" in this section to "federally insured financial institution." Since the Act, in setting forth the exceptions to the member business loan definition, does not require the financial institution to be federally insured, NCUA is not adopting this change.

Proposed Section 723.10—What loan limit waivers are available?

The proposal provides for a waiver from: (1) the maximum loan amount to one borrower or associated group of members; (2) loan-to-value ratios; and (3) construction and development lending. Although a number of commenters approved of the waiver provision, twelve commenters specifically questioned whether the waivers apply to individual loans or to a category of loans. The intent of the proposal was to exempt categories of loans. A loan-by-loan waiver would be unworkable and overly burdensome for credit unions and NCUA. The final rule clearly states that the waiver is for a category of loans.

Proposed Section 723.11—How do I obtain an available waiver?

This section describes the information that a credit union must submit to the Regional Director with a waiver request. NCUA proposed no substantive changes to the requirements of the current rule. However, in the interim final rule, the NCUA Board is providing a mechanism for state chartered federally insured credit unions to have the waiver request

processed through the state supervisory authority.

Proposed Section 723.12—What will NCUA do with my waiver request?

This section addresses what the Regional Director must consider in reviewing the waiver request and how the waiver is processed. The proposal increased the number of days from 30 to 60 that a Regional Director must act on a waiver request. It also eliminated the automatic waiver approval if a region does not take action on a request within the specified timeframe. Twelve commenters believed that the number of days NCUA should have to process the waiver should be limited to 30 days and the automatic waiver provision should be reinstated. A few commenters requested that NCUA have less than 30 days to approve or disapprove the request. One commenter asked that NCUA clarify whether there are any time limits once a waiver has been approved. The NCUA Board is extending the number of days the agency has to process the waiver to 45 days (from the receipt from the federal credit union or the state supervisory authority) and has restored the automatic waiver approval if a region does not take action on a request within the specified timeframe. Any waiver is revocable in NCUA's sole discretion. If a waiver is revoked, loans granted under the waiver authority are grandfathered.

Proposed Section 723.13—What options are available if the Regional Director denies our waiver request or a portion of it?

Under the current rule, a credit union may appeal the denial of its waiver request by the Regional Director to the NCUA Board. NCUA proposed no substantive changes to this area and no substantive comments were received. The Board is adopting this section in final as proposed.

Proposed Section 723.14—How do I reserve for potential losses?

Consistent with the current rule, this section addresses the criteria for determining the classification of loans. NCUA proposes no substantive changes to the loan classification. However, NCUA proposes to move the current Appendix of Section 701.21(h) to this proposed section. No substantive comments were received on this section. The Board is adopting this proposed section in final.

Proposed Section 723.15—How much must I reserve for potential losses?

This section provides a schedule a credit union must use to reserve for

classified loans. NCUA proposes no substantive changes to this schedule from the current rule. However, NCUA clarified the meaning of this section by stating that this is the minimum amount when establishing the reserve percentage. One commenter opposed the mandatory reserve requirement. The Board believes the current requirement is working well and is retained as proposed.

New Section 723.16—What is the aggregate member business loan limit?

The Act imposes a new aggregate limit on a credit union's outstanding member business loans (including any unfunded commitments) of the lesser of 1.75 times the credit union's net worth or 12.25% of the credit union's total assets. Net worth is all of the credit union's retained earnings. Retained earnings normally includes undivided earnings, regular reserves and any other reserves. If a credit union currently has business loans that exceed the aggregate loan limit and does not qualify for an exception, it has until August 7, 2001 to reduce the total amount of outstanding member business loans or below the aggregate loan limit. Furthermore, an insured credit union that is undercapitalized may not make any new business loans until such time the credit union becomes adequately capitalized as required by the prompt corrective action provisions of the Credit Union Membership Access Act of 1998.

New Section 723.17—Are there any exceptions to the aggregate loan limit?

The Act sets forth three exceptions to the aggregate limit: (1) credit unions that have a low-income designation or participate in the Community Development Financial Institutions program; (2) credit unions that have a "a history of primarily making member business loans," or (3) credit unions that were chartered for the purpose of primarily making member business loans.

A credit union that does not currently have a low-income designation and is seeking to determine whether it qualifies should contact its regional director or the appropriate state supervisor. The Board is defining "a history of primarily making member business loans" as either (1) member business loans that comprise at least 25% of the credit union's outstanding loans (as evidenced in a call report for 1998 or any of the three prior years); or (2) member business loans comprise the largest portion of the credit union's loan portfolio. For example, if a credit union makes 23% member business loans, 22% first mortgage loans, 22% new

automobile loans, 20% credit card loans and 13% other real estate loans, then the credit union would be considered as meeting the primarily making business loan standard. For determining the categories of loans the credit union should use loan categories that are similar to those set forth in the call report such as: unsecured credit card loans/lines of credit; all other unsecured loans/lines of credit; new vehicle loans; used vehicle loans; total first mortgage loans; total other real estate loans; total member business loans. NCUA estimates that less than 70 credit unions, out of a total of 11,125 federally insured credit unions, will qualify for either of these exceptions.

An exception may also be granted for credit unions that were chartered for the purpose of primarily making member business loans. It is up to the credit union to provide sufficient documentation to demonstrate it meets this exception. Due to the nature of federal chartering it is unlikely that many federal credit unions will qualify for this type of exception. Furthermore, the NCUA Board is seeking comment on how it can more fully define credit unions that were "chartered for the purpose of * * * primarily making business loans" for the purpose of the exception.

A credit union that does not qualify for an exception must immediately stop making business loans that will exceed the aggregate loan limit. Credit unions that, in good faith, believe they qualify for an exception can continue to make new member business loans as long as they have applied for an exception.

New Section 723.18—How do I obtain an exception?

To obtain the exception, a federal credit union must submit documentation to the Regional Director, demonstrating that it meets the criteria of one of the exceptions. The regional director will process requests for exemptions expeditiously for federal credit unions. Although NCUA believes most exceptions will be granted in 1998 it is possible for a credit union to qualify in the future. For example, a credit union that receives a low-income designation in the year 2001 could apply for and receive an exception on that basis.

A state chartered federally insured credit union must submit documentation to its state regulator to receive the exception. Although effective when granted by the state regulator, the state regulator should forward its decision to NCUA.

The exception does not expire unless revoked by the regional director for a

federal credit union or by the state regulator for a federally insured state chartered credit union. If an exception is revoked, loans granted under the exception authority are grandfathered.

If an exception request is denied for a federal credit union, it may be appealed to the NCUA Board within 60 days of the denial by the regional director. A federal credit union can continue to make business loans until the NCUA Board decides the appeal.

Proposed Section 723.16—What are the recordkeeping requirements?

This proposed section, consistent with the current rule, requires a credit union to identify member business loans separately in its records and financial reports. NCUA proposed no substantive changes to this requirement from the current rule. Four commenters believed that this recordkeeping would be burdensome and unnecessary. NCUA believes it is important for credit unions as well as NCUA to be able to monitor business lending activity. Therefore, the Board is not making any changes to this section in the final rule, except to renumber it as Section 723.19.

Proposed Section 723.17—What additional steps do federally insured state chartered credit unions have to perform?

In the preamble to the proposal, the Board stated that it believes it is important for state supervisory authorities to remain aware of, and involved in, member business loan activities in federally insured state chartered credit unions. This new section would require federally insured state chartered credit unions to obtain written approval for a waiver from their state supervisory authority prior to submitting the waiver request to NCUA. Three commenters questioned why NCUA believes it is necessary to have this section. The commenters asked what would happen if a state had no policy on waivers and declined to rule on the waiver. These commenters believed this provision simply makes it more difficult for a state chartered federally insured credit union to obtain a waiver and that it makes little sense to restrict state chartered credit unions in such a manner.

It appears that some of the commenters believed the waiver process was on a loan-by-loan basis instead of a category loans. The NCUA Board still believes it is important for state supervisory authorities to be involved in waivers from the member business loan rule. Therefore, Section 723.11 requires a federally insured state chartered credit union to process its waiver request

through the state supervisory authority. The NCUA Board believes the state supervisory authorities will expeditiously process this request and there will only be a minimal increase in time in processing waivers from state chartered federally insured credit unions. NCUA will not approve a waiver request that the state supervisory authority has not forwarded to NCUA or a request that the state supervisory authority recommends denial.

Proposed Section 723.18—How can a state supervisory authority develop and implement a member business loan regulation?

As in the current rule, the proposal allows a federally insured state chartered credit union to obtain an exemption from NCUA's member business rule so that a state supervisory authority can enforce the state's rule instead of NCUA's rule. The NCUA Board must approve the state's rule before a federally insured state chartered credit union is exempt from NCUA's member business loan rule. To provide better guidance to the states, the proposal identifies the minimum requirements that they must address for a rule to be approved by the NCUA Board. One commenter opposes the application of NCUA's member business rule to federally insured state chartered credit unions and requests that it be eliminated for them. Past practice has indicated the importance of this rule being applied to state chartered federally insured credit unions. However, the NCUA Board recognizes the concerns of the state supervisory authorities and the interim final rule modifies this section to demonstrate that the NCUA Board in reviewing a state's rule is concerned, as insurer, with the safety and soundness issues presented by the rule and not whether the language of the rule is virtually identical to NCUA's rule.

Three commenters questioned whether the adoption of the revised rule by NCUA automatically means a state's rule is no longer "substantially equivalent." Because of the new statutory requirements of the Act, no state rule is currently approved for use by federally insured state chartered credit unions. Therefore, states must seek a new determination from NCUA.

Three commenters encouraged the NCUA Board to allow more flexibility in the interpretation of what is "substantially equivalent" where safety and soundness can be maintained. In making its determination to approve a state's rule, the Board is primarily concerned with safety and soundness considerations, and that is why the

minimum standards for such a determination are set forth in the regulation.

Because proposed section 723.17 is deleted from the final rule, this section is renumbered as Section 723.20.

Proposed Section 723.19—Definition

NCUA proposed a general definition section at the end of the rule. This section clarified the loan-to-value ratio by including terminology that requires the inclusion of unfunded commitments and/or lines of credit when determining the aggregate sum. Six commenters believed NCUA should require credit unions to include unfunded commitments and/or lines of credit in the aggregate sum to determine loan-to-value ratios. One commenter disagreed. The NCUA Board is adopting in final the proposal to include unfunded commitments and/or lines of credit in the aggregate sum for loan-to-value determinations since this is the total amount that the credit union agreed to loan to the borrower. However, this section in the final rule is numbered section 723.21.

Miscellaneous

One commenter requested that the preamble or final regulation state that credit scoring is permitted to assist in determining the credit worthiness of a business loan applicant. Although not stated in the regulation, we note that credit scoring that complies with equal credit opportunity laws is permitted in evaluating the credit worthiness of a business loan applicant.

Part 722—Appraisals

Certain loans as specified in Section 722.3(a) do not require an appraisal. In addition, the NCUA Board proposes a waiver process from the appraisal requirement where the appraisal requirement is an unnecessary burden. Eight commenters supported the waiver appraisal provision, although there was some confusion on whether it applied to a loan program or individual loans. The intent of the proposal was to apply to a loan program. The final rule reflects that the waiver applies to a loan program. Three commenters objected to having a waiver process. The NCUA Board does not believe that a waiver process will have a negative effect on the safety and soundness of credit unions.

C. Other Reductions in Regulatory Burden

Under the current rule, all loans, lines of credit, or letters of credit that meet the definition of a member business loan must be separately identified in the

records of the credit union and be reported as such in financial and statistical reports required by the NCUA. NCUA believes that this information is already collected, and readily available, through the 5300 Call Report. The current requirement imposes an unnecessary burden on credit unions and, therefore, the NCUA Board is deleting this monitoring requirement.

The current rule requires credit unions to provide periodic disclosures to credit union members on the number and aggregate dollar amount of member business loans. NCUA believes the language is ambiguous and does not serve any true safety or soundness issue or concern. Therefore, the NCUA Board is deleting this requirement.

Current § 701.21(c)(5) references the member business loan section. Due to the proposed change to the member business loan rule numbering system, NCUA is updating § 701.21(c)(5) to reference the appropriate sections of the final rule.

D. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities (primarily those under \$1 million in assets). The final member business loan rule would reduce existing regulatory burdens. In addition, most small credit unions do not grant member business loans. Therefore, the NCUA Board has determined and certifies that the final rule will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

The reporting requirements in part 723 have been submitted to the Office of Management and Budget for approval and the OMB number will be published as soon as it is received by NCUA. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The control number will be displayed in the table at 12 CFR Part 795.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The final rule, as does the current rule, applies to all

federally insured credit unions, including federally insured state chartered credit unions. However, since the final rule reduces regulatory burden, NCUA has determined that the final rule does not constitute a "significant regulatory action" for purposes of the Executive Order.

Congressional Review

The Office of Management and Budget has determined this is not a major rule.

List of Subjects

12 CFR Part 701

Credit, Credit unions, Insurance, Mortgages, Reporting and recordkeeping requirements, Surety bonds.

12 CFR Part 722

Appraisals, Credit, Credit unions, Reporting and recordkeeping requirements, State-certified and State-licensed appraisers.

12 CFR Part 723

Credit, Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 741

Bank deposit insurance, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on September 23, 1998.

Becky Baker,

Secretary of the Board.

For the reasons set forth in the preamble, it is proposed that 12 CFR chapter VII be amended as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*, 42 U.S.C. 1861 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

§ 701.21 [Amended]

2. Section 701.21 is amended in paragraph (c)(5) by revising "§ 701.21(h)(1)(i)" to read "§ 723.1 of this chapter" and "§ 701.21(h)(2)(ii)" to read "§§ 723.8 and 723.9 of this chapter."

3. Section 701.21(h) is removed and reserved.

PART 722—APPRAISALS

4. The authority citation for part 722 continues to read as follows:

Authority: 12 U.S.C. 1766, 1789 and 3339.

5. Section 722.3 is amended by removing "or" at the end of paragraph (a)(7), by removing the period at the end of paragraph (a)(8)(ii) and adding "; or" in its place, and by adding a new paragraph (a)(9) to read as follows:

§ 722.3 Appraisals required; transactions requiring a State certified or licensed appraiser.

(a) * * *

(9) The regional director has granted a waiver from the appraisal requirement for a category of loans meeting the definition of a member business loan.

* * * * *

6. Part 723 is added to read as follows:

PART 723—MEMBER BUSINESS LOANS

Sec.

- 723.1 What is a member business loan?
- 723.2 What are the prohibited activities?
- 723.3 What are the requirements for construction and development lending?
- 723.4 What are the other applicable regulations?
- 723.5 How do you implement a member business loan program?
- 723.6 What must your member business loan policy address?
- 723.7 What are the collateral and security requirements?
- 723.8 How much may one member, or a group of associated members, borrow?
- 723.9 How do you calculate the aggregate 15% limit?
- 723.10 What loan limit waivers are available?
- 723.11 How do you obtain a waiver?
- 723.12 What will NCUA do with my waiver request?
- 723.13 What options are available if the NCUA Regional Director denies our waiver request, or a portion of it?
- 723.14 How do I reserve for potential losses?
- 723.15 How much must I reserve for potential losses?
- 723.16 What is the aggregate member business loan limit for a credit union?
- 723.17 Are there any exceptions to the aggregate loan limit?
- 723.18 How do I obtain an exception?
- 723.19 What are the recordkeeping requirements?
- 723.20 How can a state supervisory authority develop and enforce a member business loan regulation?
- 723.21 Definitions.

Authority: 12 U.S.C. 1756, 1757, 1757A, 1766, 1785, 1789.

§ 723.1 What is a member business loan?

(a) *General rule.* A member business loan includes any loan, line of credit, or

letter of credit where the borrower uses the proceeds for the following purposes:

- (1) Commercial;
- (2) Corporate;
- (3) Other business investment property or venture; or
- (4) Agricultural.

(b) *Exceptions to the general rule.* The following is not a member business loan:

- (1) A loan fully secured by a lien on a 1 to 4 family dwelling that is the member's primary residence;
- (2) A loan fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions;
- (3) Loan(s) to a member or an associated member which, when added together, are equal to or less than \$50,000;
- (4) A loan where a federal or state agency (or its political subdivision) fully insures repayment, or fully guarantees repayment, or provides an advance commitment to purchase in full; or
- (5) A loan granted by a corporate credit union to another credit union under part 704 of this chapter.

§ 723.2 What are the prohibited activities?

(a) Who is ineligible to receive a member business loan? You must not make a member business loan to the following:

- (1) Any member of the board of directors who is compensated as such;
- (2) Your chief executive officer (typically this individual holds the title of President or Treasurer/Manager);
- (3) Any assistant chief executive officers (e.g., Assistant President, Vice President, or Assistant Treasurer/Manager);
- (4) Your chief financial officer (Comptroller); or
- (5) Any associated member or immediate family member of anyone listed in paragraphs (a)(1) through (4) of this section.

(b) Equity agreements/joint ventures. You may not grant a member business loan if any additional income received by the credit union, senior management employees, or any member of the board of directors who is compensated as such, is tied to the profit or sale of the business or commercial endeavor for which the loan is made.

§ 723.3 What are the requirements for construction and development lending?

Unless the Regional Director grants an exemption, loans granted for the construction or development of commercial or residential property are subject to the following additional requirements.

(a) The aggregate of all construction and development loans must not exceed 15% of reserves, (excluding the Allowance for Loan Losses account). To determine the aggregate, you may exclude any portion of a loan:

- (1) Secured by shares in the credit union;
- (2) Secured by deposits in another federally insured financial institution;
- (3) Fully or partially insured or guaranteed by any agency of the federal government, state, or its political subdivisions; or
- (4) Subject to an advance commitment to purchase by any agency of the federal government, state, or its political subdivisions;

(b) The borrower must have a minimum of 35% equity interest in the project being financed; and

(c) The funds may be released only after on-site, written inspections by independent, qualified personnel and according to a preapproved draw schedule and any other conditions as set forth in the loan documentation.

§ 723.4 What are the other applicable regulations?

The provisions of § 701.21(a) through (g) of this chapter apply to member business loans to the extent they are consistent with this part.

§ 723.5 How do you implement a member business loan program?

The board of directors must adopt specific business loan policies and review them at least annually. The board must also utilize the services of an individual with at least two years direct experience with the type of lending the credit union will be engaging in. Credit unions do not have to hire staff to meet the requirements of this section; however, credit unions must ensure that the expertise is available. A credit union can meet the experience requirement through various approaches. For example, a credit union can use the services of a credit union service organization, an employee of another credit union, an independent contractor, or other third parties. However, the actual decision to grant a loan must reside with the credit union.

§ 723.6 What must your member business loan policy address?

At a minimum, your policy must address the following:

- (a) The types of business loans you will make;
- (b) Your trade area;
- (c) The maximum amount of your assets, in relation to reserves, that you will invest in business loans;

(d) The maximum amount of your assets, in relation to reserves, that you will invest in a given category or type of business loan;

(e) The maximum amount of your assets, in relation to reserves, that you will loan to any one member or group of associated members, subject to § 723.8;

(f) The qualifications and experience of personnel (minimum of 2 years) involved in making and administering business loans;

(g) A requirement to analyze and document the ability of the borrower to repay the loan;

(h) Receipt and periodic updating of financial statements and other documentation, including tax returns;

(i) A requirement for sufficient documentation supporting each request to extend credit, or increase an existing loan or line of credit (except where the board of directors finds that the documentation requirements are not generally available for a particular type of business loan and states the reasons for those findings in the credit union's written policies). At a minimum, your documentation must include the following:

- (1) Balance sheet;
- (2) Cash flow analysis;
- (3) Income statement;
- (4) Tax data;
- (5) Analysis of leveraging; and
- (6) Comparison with industry average or similar analysis.

(j) The collateral requirements must include:

- (1) Loan-to-value ratios;
- (2) Determination of value;
- (3) Determination of ownership;
- (4) Steps to secure various types of collateral; and
- (5) How often the credit union will reevaluate the value and marketability of collateral;

(k) The interest rates and maturities of business loans;

(l) General loan procedures which include:

- (1) Loan monitoring;
- (2) Servicing and follow-up; and
- (3) Collection;

(m) Identification of those individuals prohibited from receiving member business loans.

§ 723.7 What are the collateral and security requirements?

(a) Unless your Regional Director grants a waiver, all member business loans must be secured by collateral as follows:

Lien	Minimum loan to value requirements
All	LTV ratios cannot exceed 95%.
First	You may grant a LTV ratio in excess of 80% only where the value in excess of 80% is covered through: for real estate member business loans, acquisition of private mortgage or equivalent type insurance provided by an insurer acceptable to the credit union (where available); insurance or guarantees by, or subject to advance commitment to purchase by, an agency of the federal government; or insurance or guarantees by, or subject to advance commitment to purchase by, an agency of a state or any of its political subdivisions.
First	LTV ratios up to 80%.
Second	LTV ratios up to 80%.

(b) Borrowers, other than a not for profit organization as defined by the Internal Revenue Service Code (26 U.S.C. 501) or those where the Regional Director grants a waiver, must provide their personal liability and guarantee.

(c) Federally insured credit unions are exempt from the provisions of paragraphs (a) and (b) of this section with respect to credit card line of credit programs offered to nonnatural person members that are limited to routine purposes normally made available under those programs.

§ 723.8 How much may one member, or a group of associated members, borrow?

The aggregate amount of outstanding member business loans (including any unfunded commitments) to any one member or group of associated members must not exceed the greater of:

- (a) 15% of the credit union's reserves (excluding the Allowance for Loan Losses account); or
- (b) \$100,000; or
- (c) An amount approved by the credit union's Regional Director.

§ 723.9 How do you calculate the aggregate 15% limit?

(a) *Step 1.* Calculate the numerator by adding together the total outstanding balance of member business loans to any one member, or group of associated members. From this amount, subtract any portion:

- (1) Secured by shares in the credit union;
- (2) Secured by deposits in another federally insured financial institution;
- (3) Fully or partially insured or guaranteed by any agency of the Federal government, state, or its political subdivisions;
- (4) Subject to an advance commitment to purchase by any agency of the Federal government, state, or its political subdivisions.

(b) *Step 2.* Divide the numerator by all reserves, excluding the Allowance for Loan Losses account.

§ 723.10 What loan limit waivers are available?

In addition to an individual waiver from the personal liability and guarantee requirement, you also may

seek a waiver for a category of loans in the following areas:

- (a) Loan-to-value ratios;
- (b) Maximum loan amount to one borrower or associated group of borrowers; and
- (c) Construction and development loan limits.

§ 723.11 How do you obtain a waiver?

To obtain a waiver, a federal credit union must submit a request to the Regional Director. A state chartered federally insured credit union must submit the request to its state supervisory authority. If the state supervisory authority approves the request, the state regulator will forward the request to the Regional Director. A waiver is not effective until it is approved by the Regional Director. The waiver request must contain the following:

- (a) A copy of your business lending policy;
- (b) The higher limit sought;
- (c) An explanation of the need to raise the limit;
- (d) Documentation supporting your ability to manage this activity; and
- (e) An analysis of the credit union's prior experience making member business loans, including as a minimum:
 - (1) The history of loan losses and loan delinquency;
 - (2) Volume and cyclical or seasonal patterns;
 - (3) Diversification;
 - (4) Concentrations of credit to one borrower or group of associated borrowers in excess of 15% of reserves (excluding the Allowance for Loan Losses account);
 - (5) Underwriting standards and practices;
 - (6) Types of loans grouped by purpose and collateral; and
 - (7) The qualifications of personnel responsible for underwriting and administering member business loans.

§ 723.12 What will NCUA do with my waiver request?

Your Regional Director will:

- (a) Review the information you provided in your request;
- (b) Evaluate the level of risk to your credit union;

(c) Consider your credit union's historical CAMEL composite and component ratings when evaluating your request; and

(d) Notify you of the action taken within 45 calendar days of receiving the request from the federal credit union or the state supervisory authority. If you do not receive notification within 45 calendar days of the date the request was received by the regional office, the credit union may assume approval of the waiver request.

§ 723.13 What options are available if the NCUA Regional Director denies our waiver request, or a portion of it?

You may appeal the Regional Director's decision in writing to the NCUA Board. Your appeal must include all information requested in § 723.11 and why you disagree with your Regional Director's decision.

§ 723.14 How do I reserve for potential losses?

Non-delinquent loans may be classified based on factors such as the adequacy of analysis and supporting documentation. You must classify potential loss loans as either substandard, doubtful, or loss. The criteria for determining the classification of loans are:

(a) *Substandard.* Loan is 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 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.

(b) *Doubtful.* A loan classified doubtful has all the weaknesses inherent in one 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 may be determined. Pending factors include: proposed merger, acquisition, or liquidation actions; capital injection; perfecting liens on collateral; and refinancing plans.

(c) *Loss*. Loans classified loss 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.

§ 723.15 How much must I reserve for potential losses?

The following schedule sets the minimum amount you must reserve for classified loans:

Classification	Amount required
Substandard ..	10% of outstanding amount unless other factors (for example, history of such loans at the credit union) indicate a greater or lesser amount is appropriate.
Doubtful	50% of the outstanding amount.
Loss	100% of the outstanding amount.

§ 723.16 What is the aggregate member business loan limit for a credit union?

The aggregate limit on a credit union's outstanding member business loans (including any unfunded commitments) is the lesser of 1.75 times the credit union's net worth or 12.25% of the credit union's total assets. Net worth is all of the credit union's retained earnings. Retained earnings normally includes undivided earnings, regular reserves and any other reserves.

§ 723.17 Are there any exceptions to the aggregate loan limit?

There are three circumstances where a credit union may qualify for an exception from the aggregate limit. The three exceptions are:

(a) Credit unions that have a low-income designation or participate in the Community Development Financial Institutions program;

(b) Credit unions that were chartered for the purpose of primarily making member business loans and can provide documentary evidence; or

(c) Credit unions that have a history of primarily making member business loans, meaning that either member business loans comprise at least 25% of the credit union's outstanding loans (as evidenced in a call report for 1998 or any of the three prior years) or member business loans comprise the largest portion of the credit union's loan portfolio. For example, if a credit union makes 23% member business loans, 22% first mortgage loans, 22% new automobile loans, 20% credit card loans, and 13% total other real estate loans, then the credit union meets this exception.

§ 723.18 How do I obtain an exception?

To obtain the exception, a federal credit union must submit documentation to the Regional Director, demonstrating that it meets the criteria of one of the exceptions. A state chartered federally insured credit union must submit documentation to its state regulator. The state regulator should forward its decision to NCUA. The exception does not expire unless revoked by the state regulator for a state chartered federally insured credit union or the Regional Director for a federal credit union. If an exception request is denied for a federal credit union, it may be appealed to the NCUA Board within 60 days of the denial by the Regional Director. Until the NCUA Board acts on the appeal, the credit union can continue to make new business loans

§ 723.19 What are the recordkeeping requirements?

You must separately identify member business loans in your records and in the aggregate on your financial reports.

§ 723.20 How can a state supervisory authority develop and enforce a member business loan regulation?

(a) The NCUA Board may exempt a federally insured state chartered credit union from NCUA's member business loan rule, if, NCUA approves the state's rule for use for state chartered federally insured credit unions. In making this substantial equivalency determination, the Board is guided by safety and soundness considerations and reviews whether the state regulation minimizes the risk and accomplishes the overall objectives of NCUA's member business rule in this part. Specifically, the Board

will focus its review on the definition of:

- (1) A member business loan;
- (2) Loan to one borrower limits;
- (3) Written loan policies;
- (4) Collateral and security requirements;
- (5) Construction and development lending; and
- (6) Loans to senior management.

(b) To receive NCUA's approval of a state's members business rule, the state supervisory authority must submit its rule to the NCUA regional office. After reviewing the rule, the region will forward the request to the NCUA Board for a final determination.

§ 723.21 Definitions.

For purposes of this part, the following definitions apply:

Associated member is any member with a shared ownership, investment, or other pecuniary interest in a business or commercial endeavor with the borrower.

Construction or development loan is a financing arrangement for acquiring property or rights to property, including land or structures, with the intent to convert it to income-producing property such as residential housing for rental or sale; commercial use; industrial use; or similar uses.

Immediate family member is a spouse or other family member living in the same household.

Loan-to-value ratio is the aggregate amount of all sums borrowed, outstanding balances plus any unfunded commitment or line of credit, from all sources on an item of collateral divided by the market value of the collateral used to secure the loan.

Reserves are all reserves, including the Allowance for Loan Losses and Undivided Earnings or surplus.

PART 741—REQUIREMENTS FOR INSURANCE

7. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766 and 1781–1790. Section 741.4 is also authorized by 31 U.S.C. 3717.

§ 741.203 [Amended]

8. Section 741.203 is amended in paragraph (a) by revising “§ 701.21(h)” to read “part 723.”

[FR Doc. 98–25959 Filed 9–28–98; 8:45 am]
BILLING CODE 7535–01–P