

## National Credit Union Administration

## § 723.10

(h) 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 re-evaluate the value and marketability of collateral;
  - (i) The interest rates and maturities of business loans;
  - (j) General loan procedures which include:
    - (1) Loan monitoring;
    - (2) Servicing and follow-up; and
    - (3) Collection;
  - (k) Identification of those individuals prohibited from receiving member business loans.

[64 FR 28729, May 27, 1999, as amended at 68 FR 56551, Oct. 1, 2003]

### § 723.7 What are the collateral and security requirements?

(a) Unless your Regional Director grants a waiver, all member business loans, except those made under paragraphs (c), (d), and (e), must be secured by collateral as follows:

(1) The maximum loan-to-value ratio for all liens must not exceed 80% unless the value in excess of 80% is covered through private mortgage insurance or equivalent type of insurance, or insured, guaranteed, or subject to advance commitment to purchase by an agency of the federal government, an agency of a state or any of its political subdivisions, but in no case may the ratio exceed 95%;

(2) A borrower may not substitute any insurance, guarantee, or advance commitment to purchase by any agency of the federal government, a state or any political subdivision of such state for the collateral requirements of this paragraph.

(b) Principals, 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. Federal credit unions and federally insured state-chartered credit unions that meet RegFlex standards, as determined pursuant to Part 742 of this Chapter, are exempt from this require-

ment and may make their own determination whether to require the personal liability and guarantee of principals.

(c) You may make unsecured member business loans under the following conditions:

(1) You are well capitalized as defined by § 702.102(a)(1) of this chapter;

(2) The aggregate of the unsecured outstanding member business loans to any one member or group of associated members does not exceed the lesser of \$100,000 or 2.5% of your net worth; and

(3) The aggregate of all unsecured outstanding member business loans does not exceed 10% of your net worth.

(d) You are exempt from the provisions of paragraphs (a), (b), and (c) of this section with respect to credit card line of credit programs offered to non-natural person members that are limited to routine purposes normally made available under those programs.

(e) You may make vehicle loans under this part without complying with the loan-to-value ratios in this section, provided that the vehicle is a car, van, pick-up truck, or sports utility vehicle and not part of a fleet of vehicles.

[68 FR 56551, Oct. 1, 2003]

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

Unless your Regional Director grants a waiver for a higher amount, the aggregate amount of net member business loan balances to any one member or group of associated members must not exceed the greater of:

- (a) 15% of the credit union's net worth; or
- (b) \$100,000.

[68 FR 56552, Oct. 1, 2003]

### § 723.9 [Reserved]

### § 723.10 What waivers are available?

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

(a) Appraisal requirements under § 722.3;

(b) Aggregate construction and development loans limits under § 723.3(a);

(c) Minimum borrower equity requirements for construction and development loans under § 723.3(b);

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- (d) Loan-to-value ratio requirements for business loans under § 723.7(a);
- (e) Requirement for personal liability and guarantee under § 723.7(b);
- (f) Maximum unsecured business loans to one member or group of associated members under § 723.7(c)(2);
- (g) Maximum aggregate unsecured member business loan limit under § 723.7(c)(3); and
- (h) Maximum aggregate outstanding member business loan balance to any one member or group of associated members under § 723.8.

[68 FR 56552, Oct. 1, 2003]

### § 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 corporate federal credit union submits the waiver request to the Director of the Office of Corporate Credit Unions). 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 (or if appropriate the Director of the Office of Corporate Credit Unions). A waiver is not effective until it is approved by the Regional Director (or in the case of a corporate federal credit union the Director of the Office of Corporate Credit Unions). The waiver request must contain the following:

- (a) A copy of your business lending policy;
- (b) The higher limit sought (if applicable);
- (c) An explanation of the need to raise the limit (if applicable);
- (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 net worth;
  - (5) Underwriting standards and practices;

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- (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 (or the Director of the Office of Corporate Credit Unions) 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 whenever your waiver request is deemed complete. Notify you of the action taken within 45 calendar days of receiving a complete 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 complete 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 my waiver request, or a portion of it?

You may appeal the Regional Director's (or the Director of the Office of Corporate Credit Unions) 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 (or the Office of Corporate Credit Union Director's) decision.

### §§ 723.14-723.15 [Reserved]

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

- (a) *General.* The aggregate limit on a credit union's net member business loan balances 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 appropriations designated by management or