

**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**SUBTITLE 03 - Commissioner of Financial Regulation**

**Chapter: 09.03.01 - Credit Unions**

**Authority:** Financial Institutions Article, §§2-105.1, Annotated Code of Maryland

**Note:** brackets mean [new language], cross outs mean deleted language.

**.14 Member Business Loans. Repealed in part, and amended**

[A. Maryland chartered credit unions shall follow the National Credit Union Administration's Member Business Loan Regulation (12 C.F.R. Title 12, Part 723, as amended from time to time), except as provided in subparagraph C]

~~A~~**B.** In this regulation, the following terms have the meanings indicated:

(1) "~~Associated member~~" means a member with shared ownership, investment, or other pecuniary interest in a business or commercial endeavor with the borrower.

(2) "~~Development or construction loan~~" or both means 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, sale, commercial use, industrial use, or a similar use.

(2-1) "~~Family member~~" means a spouse or other family member living in the same household.

(3) "~~Loan to value ratio or LTV~~" means the aggregate amount of all sums borrowed including 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.

(4-~~1~~**1**) "Member business loan" [shall have the same meaning as defined in 12 C.F.R. §723.1, as amended from time to time] means a loan, line of credit, or letter of credit (including an unfunded commitment), the proceeds of which will be used for a commercial, corporate, other business investment property or venture, or agricultural purpose.

(5) "~~Member business loan~~" does not include a loan or loans:

(a) That is fully secured by a lien on a one-to-four family dwelling that is the member's primary residence;

~~(b) That is fully secured by shares or deposits in credit unions, or savings and deposits in other financial institutions;~~

~~(c) For which a federal, state, or local political subdivision fully insures repayment, guarantees repayment, or provides an advance commitment to purchase in full;~~

~~(d) To a member or associated member which is equal to or less than \$50,000; or~~

~~(e) Granted to a credit union by a corporate credit union.~~

~~(6) "Net worth" means retained earnings as defined under Generally accepted accounting principles. Retained earnings include, but are not limited to, undivided earnings, regular reserves, and any other appropriations designated by management or the Commissioner.~~

~~(7) "Senior management employee" means the chief executive officer (typically the president or treasurer/manager), the assistant chief executive officer (typically the assistant president, vice president, or assistant treasurer/manager), or the chief financial officer (typically the comptroller).~~

~~B. Requirements. A credit union may make member business loans only in accordance with the following requirements:~~

~~(1) Written Business Loan Policy.~~

~~(a) The board shall adopt a written business loan policy, which may be included in the credit union's overall lending policy required by Financial Institutions Article §6-605, Annotated Code of Maryland.~~

~~(b) The board shall review the policy at least annually.~~

~~(c) At a minimum, the policy shall address the following:~~

~~(i) The types of business loans that will be made;~~

~~(ii) The credit union's trade area for business loans;~~

~~(iii) The maximum amount of credit union assets, in relation to net worth, that will be invested in business loans;~~

~~(iv) The maximum amount of credit union assets, in relation to net worth, that will be invested in a given category or type of business loan;~~

~~(v) The maximum amount of credit union assets, in relation to net worth, that will be loaned to any one member or group of associated members, subject to §B(4) of this regulation;~~

~~(vi) The qualifications and experience of personnel involved in making and administering business loans, which must include at least 2 years experience in the applicable type of lending;~~

~~(vii) The methodology used in determining the ability of the borrower to repay the loan, which shall include analysis of the balance sheet, cash flow analysis, income and expense, tax data, analysis of leveraging, and comparison with industry averages, excluding any document not generally available for a particular type of business loan if stated in the business loan policy;~~

~~(viii) The receipt and periodic updating of financial statements, tax returns, or other documentation;~~

~~(ix) Collateral requirements, including loan to value ratios, appraisal, title search and insurance requirements, steps to be taken to secure various types of collateral, and how often the value and marketability of collateral is reevaluated;~~

~~(x) Appropriate interest rates and maturities of business loans;~~

~~(xi) Loan monitoring, servicing, and follow up procedures, including collection procedures;~~

~~(xii) Guidelines for purchase and sale of member business loans and loan participations, if the credit union intends to engage in that activity; and~~

~~(xiii) Restrictions on member business loans to officials, senior management employees, and their family members as stated in §D of this regulation.~~

~~(2) Under §B(1)(b)(iii) of this regulation, the aggregate amount of member business loans shall be limited to the lesser of 12.25 percent of total assets or 1.75 times the credit union's net worth.~~

~~(3) Collateral and Security Requirements.~~

~~(a) A member business loan secured by collateral on which the credit union will have a first lien may have an LTV greater than 80 percent only if:~~

~~(i) The value in excess of 80 percent is covered through private mortgage insurance or equivalent insurance acceptable to the credit union; or~~

~~(ii) The loan is insured or guaranteed or subject to advance commitment to purchase by an agency of the federal government, State, or any of its political subdivisions.~~

~~(b) A member business loan secured by collateral on which the credit union will have a second or lesser priority lien may not exceed an 80 percent LTV ratio.~~

~~(c) A member business loan secured by collateral on which the credit union will have a first lien as well as a second or lesser priority lien may have an LTV greater than 80 percent and not greater than 95 percent, only if:~~

~~(i) The value in excess of 80 percent is covered through private mortgage insurance or equivalent insurance acceptable to the credit union; or~~

~~(ii) The loan is insured or guaranteed or subject to advance commitment to purchase by an agency of the federal government, State, or any of its political subdivisions.~~

~~(d) Member business loans secured by collateral on which the credit union will have a first, second, or lesser lien may not exceed a 95 percent LTV ratio.~~

#### ~~(4) Loans to One Borrower.~~

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

~~(i) 15 percent of the credit union's net worth; or~~

~~(ii) \$100,000.~~

~~(b) If a portion of a member business loan is fully secured by a one-to-four family dwelling that is the member's primary residence, by shares in the credit union, by savings or deposits in another financial institution, or is subject to an advance commitment to purchase by an agency of the federal government or of a state or any of its political subdivisions, that portion may not be taken into account in determining the 15 percent limit.~~

~~(c) The Commissioner may grant a higher limit upon written request by the credit union as described in §F(2) of this regulation.~~

#### ~~(5) Development and Construction Loans.~~

~~(a) Loans made for the purpose of development or construction or both are subject to the following additional requirements:~~

~~(i) The aggregate amount of all development or construction loans or both may not exceed 15 percent of net worth;~~

~~(ii) The borrower shall have a minimum of 30 percent equity interest in the project being financed if the loan is for land development;~~

~~(iii) The borrower must have a minimum of 25 percent equity interest in the project being financed if the loan is for construction or for a combination of development and construction; and~~

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

~~(b) The Commissioner may grant a higher limit upon written request by the credit union as described in §F(2) of this regulation.~~

~~(6) Prohibition of Member Business Lending. A credit union may not make a member business loan if its net worth is less than 7 percent or its CAMEL composite rating is 4 or 5.~~

### C. Classification of Problem [Member] Business Loans.

#### (1) [Member] Business Loan Categories.

(a) A [member] business loan may be classified by credit union management or the Commissioner into one or more of the categories described in this subsection upon a regular review.

~~(b)~~ [(1)] Substandard. A [member business] loan classified as substandard is inadequately protected by the current sound worth and paying capacity of the obligor or the value of any collateral pledged. [Member business L] loans classified as substandard have well-defined weaknesses that jeopardize the liquidation of the debt and are characterized by the distinct possibility that the credit union will sustain some loss if the weaknesses are not corrected. Loss potential, while existing in the aggregate amount of substandard loans, does not have to exist in individual [member business] loans classified substandard.

~~(c)~~ [(2)] Doubtful. A [member business] loan classified as doubtful has all the weaknesses inherent in a substandard loan, with the added characteristic that the weaknesses make collection or liquidation in full highly improbable, on the basis of currently existing facts, conditions, and values. The possibility of loss is extremely high, but because of certain important and reasonably specific pending factors, which may strengthen the [member business] loan, its classification as an estimated loss may be deferred or limited until its more exact status may be determined. Pending factors include proposed merger, acquisition, or liquidation actions, capital injection, perfecting liens on additional collateral, and refinancing plans.

~~(d)~~ [(3)] Loss. A [member business] loan classified as loss is considered uncollectable and of such little value that its continuance as a loan on the books of a credit union is not warranted. This classification does not necessarily mean that the [member business] loan has absolutely no recovery or salvage value, but rather that it is not practical or desirable to defer writing off this asset even though partial recovery may occur in the future.

#### (2) Allowance for Loan Losses.

(a) 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 be based on factors not limited to the delinquency of the [member business] loan, including, but not limited to, the adequacy of analysis and documentation.

(b) An allowance for loan losses shall be maintained for the specified classified [member business] loans as follows:

- (i) Loss [member business] loans at 100 percent of outstanding balance;
- (ii) Doubtful [member business] loans at 50 percent of outstanding balance; and
- (iii) Substandard loans at 10 percent of outstanding balance unless other factors (for example, history of these [member business] loans at the credit union) indicate a greater or lesser amount is appropriate.

**~~D. Restrictions on Member Business Loans to Officials, Senior Management Employees, and Their Family Members.~~**

~~(1) A credit union may make member business loans to officials, senior management employees, and their family members subject to the following restrictions:~~

- ~~(a) The official, senior management employee, or their family member who will receive the proceeds of a member business loan may take no part in the decision-making process for approval of the loan;~~
- ~~(b) All member business loans to officials, senior management employees, or their family members that, when added to the aggregate of all other credit union loans for which the official, senior management employee, or their family member is a debtor, guarantor, endorser, or cosigner, are in excess of \$25,000 shall be approved by the board; and~~
- ~~(c) The rates, terms, and conditions for any member business loan for which an official, senior management employee, or their family member is a debtor, guarantor, endorser, or cosigner may not be more favorable than the rates, terms, and conditions for a comparable loan to another member of the credit union.~~

~~(2) Equity Agreements/Joint Ventures. A credit union may not grant a member business loan if a portion of the amount of income to be received by the credit union, officials, senior management employees, or their family members is tied to the profit or sale of the business or commercial endeavor for which the loan is made.~~

**~~E. Records Requirements.~~** ~~Aggregate member business loans shall be identified on the credit union's financial statements and each category of member business loan shall be separately identified in the credit union's records.~~

**~~F. Waiver of Limits.~~**

~~(1) A credit union may request a waiver of certain limits as listed in this regulation as follows:~~

- ~~(a) Loan-to-value ratios and requirements for collateral and security under §B(3) of this regulation;~~

~~(b) Maximum loan amount to one borrower or associated group of borrowers under §B(4) of this regulation; and~~

~~(c) Development or construction loan limits, or both, under §B(5) of this regulation.~~

~~(2) Upon written request by a credit union, the Commissioner may waive the limitations listed in §F(1) of this regulation. Federally insured credit unions need the approval of the Commissioner and the Regional Director of the National Credit Union Administration. The Commissioner shall approve or deny the request within 45 calendar days of the date the complete request was received by the Commissioner. The request for waiver shall contain the following:~~

~~(a) A copy of the business loan policy;~~

~~(b) A statement of the higher limit sought;~~

~~(c) An explanation of the need to raise the limit;~~

~~(d) Documentation to support the credit union's ability to manage the activity;~~

~~(e) An analysis of the credit union's prior experience making member business loans, including at a minimum:~~

~~(i) The history of loan losses and loan delinquency;~~

~~(ii) Volume and cyclical or seasonal patterns;~~

~~(iii) Diversification;~~

~~(iv) Concentrations of credit to one borrower or group of associated borrowers in excess of 15 percent of the credit union's net worth;~~

~~(v) Underwriting standards and practices;~~

~~(vi) Types of loans grouped by purpose and collateral; and~~

~~(vii) The qualifications of personnel responsible for underwriting and administering member business loans.~~

~~(3) If the credit union's policies or practices violate safe and sound lending principles, the Commissioner may restrict all limits as listed in this chapter or revoke the credit union's approval to make member business loans.~~