

**From:** [Thomson, Mark](#)  
**To:** [Jekel, Linda \(DFI\)](#)  
**Cc:** [Phelan, Alison](#); [Mele-Hetter, Catherine \(DFI\)](#)  
**Subject:** Comments on Proposed MBL Rule  
**Date:** Monday, August 21, 2017 4:29:55 PM

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Dear Ms. Jekel –

On behalf of BECU, thank you for the opportunity to comment on the Division of Credit Union’s proposed Member Business Loans rule. At this point in the process, BECU has two major concerns regarding the last version of the proposed rule dated 7-12-2017:

1. We do not fully understand the concept of equity as defined in the proposed rule and how it relates to the definition of Loan-to-Value (LTV) Ratio.

The LTV ratio is defined as:

“...the aggregate amount of all sums borrowed and secured by that collateral, including outstanding balances plus any unfunded commitment or line of credit from another lender that is senior to the federally insured credit union's lien position, divided by the current collateral value.”

The definition generally requires that the value of the collateral be determined by “prudent and accepted commercial lending practices” but in the case of a C & D loan the collateral value must be the lesser of the cost to complete or the prospective market value.

Equity is defined as:

“the lesser of the appraised value of a completed project or the sales price of the subject property, as applicable, minus the principal amount of the loan.”

- a. It is unclear when in time the “sales price of the subject property” is meant to refer. Does this mean a historical sales price? If that is the case, it would appear to be almost always both controlling and misleading as to the true economic equity in the project. Or does it mean the prospective sales price of a completed project? If that is the case, how does it differ from both the appraised value of a completed project and the prospective market value in the definition of the LTV ratio?
- b. LTV requires the inclusion of “all sums borrowed and secured by that collateral” while equity refers only to “the principal amount of the loan.” Does that mean that equity does not include other debt secured by the loan? If so, that would not seem to comport with the economic meaning of equity and would give wildly different results from the two measures, LTV ratio and equity ratio. We suspect that is not the intent.
- c. So if “sales price of the subject property” means the prospective sales price, and if equity must include “all sums borrowed and secured by that collateral,” then the two measures LTV ratio and equity ratio should be reciprocals of each other. Is that the intent of the limits in the proposed WACs 208-460-030 and 208-460-050? Is the intent that if a loan fails one test it should also fail the other test? If so, why

is there a need for two tests? Is there a particular class of loans that the Division is trying to capture that would pass the LTV test in .050 but fail the equity test in .030? If so, we are unsure what the characteristics of such a class of loans would be and why that class of loans would entail greater risk than another loan that would pass the LTV test. Greater understanding of the Division's intent in proposing both tests would assist credit unions in understanding the impact of the proposed definition of equity.

2. The minimum policy standards for underwriting an MBL contained in proposed WAC 208-460-050 do not exempt non-owner occupied one-to-four family loans (NOO 1-4 family loans) and loans made to purchase a vehicle designed for household use (household vehicle MBLs). BECU currently underwrites such loans through its consumer channels and complies with the requirements for consumer lending even if the loan is for a business purpose. That is to say, we provide the disclosures required for consumer lending. BECU believes that this practice provides greater protection to our members without impacting safety and soundness. It would be overly burdensome to require the full underwriting for a commercial loan on such transactions and we would request an exemption from these minimum policy requirements for NOO 1-4 family loans and household vehicle MBLs.

Again, thank you for the opportunity to comment. The process for reviewing the proposed MBL rule has been very open and has provided ample opportunity for all interested parties to provide input.

Thank you for your consideration in these matters.

Sincerely,

Mark Thomson

Mark Thomson  
Chief Compliance Officer, Vice President of Compliance & Government Relations

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