

**WAC 208-460-010 Definitions**

As used in this chapter and unless it otherwise appears from the context, the following terms mean:

- (1) **"Member business loan" or "MBL"** means any commercial loan, except a commercial loan that meets one or more of the exemptions below are not MBLs and are not counted toward the aggregate MBL limit.
- (2) Exemptions. The following are not member business loans:
  - a) A commercial loan fully secured by a lien on a one to four residential property that is the member's primary residence;
  - b) A commercial loan fully secured by shares or deposits in the credit union making the extension of credit or in other credit unions, or by shares or deposits in other financial institutions;
  - c) One or more commercial loans to a member or any associated member in which the outstanding aggregate net member business loan balance is less than \$50,000;
  - d) A commercial loan where a federal or state agency (or any political subdivision of a state) fully insures repayment, or fully guarantees repayment, or provides an advance commitment to purchase in full; or
  - e) A loan granted by a corporate credit union to another credit union.
  - f) Any commercial loan secured by a vehicle manufactured for household use that will be used for commercial, corporate, or other business investment property or venture, or agricultural purposes.
- (3) Method of Calculation for the net MBL balance. The net member business loan balance is determined by calculating the outstanding loan balance plus any unfunded commitments, and reduced by any of the following:
  - a) any portion of the loan that is secured by shares or deposits in the credit union, or by shares or deposits in other financial institutions,
  - b) the amount of a first lien on a member's primary residence, not to exceed the MBL balance,
  - c) the amount insured or guaranteed by any agency of the federal government, a state or any political subdivision of such state,
  - d) the amount subject to an advance commitment to purchase by any agency of the Federal Government, a state or any political subdivision of such state, or
  - e) the amount sold as a participation interest without recourse and qualifying for true sales accounting under generally accepted accounting principles.

**"Acquisition loan"** is a commercial loan made for the purpose of acquiring raw land or a developed parcel for future commercial development, new construction, or remodel or renovation by means other than the acquisition loan.

**"Agricultural real estate"** means real property which the primary (51% or more) use is for agricultural purposes, including, without limitation, farming, livestock, grazing, or aqua-culture.

**"Commercial loan"** means any loan, line of credit, letter of credit (including any unfunded commitments), or other extension of credit, and any interest a credit union obtains in such an

extension of credit made by another lender, for commercial, industrial, agricultural, or professional purposes, but not for personal, family or household purposes, provided that “commercial loan” specifically excludes: loans made by a corporate credit union; loans made by a federally insured credit union to another federally insured credit union; loans made to a credit union service organization to which the credit union is affiliated; loans secured by a one-to-four family residential property (whether or not it is the borrower’s primary residence); loans fully secured by shares or deposits in the credit union making the extension of credit; loans secured by a vehicle manufactured for household use and which is not part of a fleet of vehicles; and loans that would otherwise meet the definition of “commercial loan” and which, when the aggregate outstanding balances plus unfunded commitments less any portion secured by shares in the credit union to a borrower or an associated borrower, equal an amount less than \$50,000.

“**Non-real estate collateral**” includes collateral for commercial loans consisting of accounts receivable, business inventory, harvested crops, equipment and machinery, commercial-purpose (fleet) vehicles, or other tangible or intangible personal property having a commercial purpose.

“**Commercial real estate loan**” is a commercial loan secured by real property.

“**Remodel or renovation**” means a capital improvement to an existing real property that substantially changes the use and impact of the property. Excluded from this definition is repair, maintenance, or minor improvements on an income-producing property that does not change the use or materially impact the property.

“**Construction loan**” is a commercial loan made for the purpose of new construction or substantial renovation and remodel on property that has been developed or repurposed to the point where the planned new construction or remodel or renovation is permissible and feasibly ready for construction.

“**Development loan**” is a commercial loan made for the purpose of improving raw land or repurposing improved property to make it permissible, feasible, and ready for new construction or **remodel or renovation**.

“**A & D loan**” is the combination of an acquisition loan and a development loan into a single loan.

“**D & C loan**” is the combination of a development loan and a construction loan into a single loan.

“**ADC loan**” is a combination of an acquisition loan, development loan and construction loan into a single loan.

“**Cost to complete**” means the sum of all qualifying costs necessary to complete a development or construction loan, or combinations of the above, as documented in an approved budget.

“**Equity**” means, 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.

**“Prospective market value”** means the market value opinion determined by an independent appraiser in compliance with applicable USPAP standards.

**“Qualified costs”** means the aggregate itemized costs of development, construction, remodel or renovation approved by a credit union.

**“USPAP”** means the Uniform Standards of Professional Appraisal Practice, or successor appraisal standards as may be authorized by the Federal Financial Institutions Examination Council.

**“Controlling person”** is a person who directly or indirectly, or acting through or together with one or more persons:

- (a) Owns, controls, or has the power to vote twenty-five percent or more of any class of voting securities of another person;
- (b) Controls, in any manner, the election of a majority of the directors, trustees, or other persons exercising similar functions of another person; or
- (c) Has the power to exercise a controlling influence over the management or policies of another person.

### **WAC 208-460-020 - not yet discussed for proposed amendments**

#### **What member business loans are prohibited?**

(1) **Who is ineligible to receive a member business loan?** You may not grant a member business loan to the following:

- (a) Your chief executive officer (typically this individual holds the title of president or treasurer/manager);
- (b) Any assistant chief executive officers (e.g., assistant president, vice president, or assistant treasurer/manager);
- (c) Your chief financial officer (comptroller); or
- (d) Any associated member or immediate family member of anyone listed in (a) through (c) of this subsection.

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

(3) **Loans to directors.** A credit union may not grant a member business loan to a director unless the board of directors approves granting the loan and the director is recused from the decision-making process.

WAC 208-460-030 see page 7

#### **WAC 208-460-040 How do you implement a commercial loan program?**

(1) Prior to engaging in commercial loans, the board of directors must:

- (a) adopt specific commercial loan policies and review them at least annually as described in WAC 208-460-050. Policies must ensure the commercial loan program is performed in a safe and sound manner by providing for ongoing control, measurement, and management of the commercial loan activities.
- (b) ensure it has appropriate staff for its commercial loan program in compliance with (2).
- (c) understand and remain informed, through periodic briefings from responsible staff and other methods, about the nature and level of risk in the commercial loan portfolio, including its potential impact on its earnings and net worth.

(2) A credit union making, purchasing, or holding any commercial loan must internally possess the following experience and competencies:

- (a) *Senior executive officers.* A credit union's senior executive officers overseeing the commercial loan program must understand the credit union's commercial loan activities. At a minimum, senior executive officers must have a comprehensive understanding of the role of commercial loans in the credit union's overall business model and establish risk management processes and controls necessary to safely conduct commercial lending.
- (b) *Qualified lending personnel.* A credit union must employ qualified staff with experience in the following areas:
  - (i) Underwriting and processing for the type(s) of commercial lending in which the credit union is engaged;
  - (ii) Overseeing and evaluating the performance of a commercial loan portfolio, including rating and quantifying risk through a credit risk rating system; and
  - (iii) Conducting collection and loss mitigation activities for the type(s) of commercial loans in which the credit union is engaged.

(3) *Options to meet the required experience.* A credit union may meet the experience requirements in paragraphs (2)(a) and (b) of this section by conducting internal training and development, hiring qualified individuals, or using a third party, such as an independent contractor or a credit union service organization. However, with respect to the qualified lending personnel requirements in paragraph (2) (b) of this section, use of a third-party is permissible only if the following conditions are met:

- (i) The third-party has no affiliation or contractual relationship with the borrower or any associated borrowers;
- (ii) The actual decision to grant a loan must reside with the credit union;

(iii) Qualified credit union staff exercises ongoing oversight over the third party by regularly evaluating the quality of any work the third party performs for the credit union; and

(iv) The third-party arrangement must be consistent with the requirements of this chapter.

**WAC 208-460-050 What must your commercial loan policy and procedures address?** At a minimum, your commercial loan policy must address the following:

(1) The categories or types of commercial loans you will make, including the maximum amount given in any category or type of commercial loans to any one borrower or group of associated borrowers in compliance with WAC 208-460-070;

(2) Your trade area for commercial lending;

(3) The maximum amount of your commercial secured, unsecured, and unguaranteed loans in relation to your net worth;

(4) The maximum amount of your types of commercial loans in relation to your net worth;

(5) The maximum amount you will loan to a member or associated members in relation to net worth, subject to WAC 208-460-070;

(6) The qualifications and experience of personnel involved in underwriting, processing, approving, administering, and collecting the loans;

(7) Risk management processes commensurate with the size, scope and complexity of the credit union's commercial lending activities and borrowing relationships. , at a minimum, address the following:

(i) Use of loan covenants, if appropriate, including frequency of borrower and guarantor financial reporting;

(ii) Periodic loan review, consistent with loan covenants and sufficient to conduct portfolio risk management. This review must include a periodic reevaluation of the value and marketability of any collateral;

(ii) A credit risk rating system. Credit risk ratings must be assigned to commercial loans at inception and reviewed as frequently as necessary to satisfy the federally insured credit union's risk monitoring and reporting policies, and to ensure adequate reserves as required by generally accepted accounting principles (GAAP); and

(iv) A process to identify, report, and monitor loans approved as exceptions to the credit union's loan policy.

(8) Identification of those individuals prohibited from receiving commercial loans at a minimum in compliance with WAC 208-460-020; and

(9) Requirements for purchase and sale of commercial s loans and loan participations, if the credit union engages in that activity.

The following may be in policy or procedures:

(10) Loan approval amounts, including establishing levels of loan approval authority commensurate with the individual's or committee's proficiency in evaluation and underwriting commercial loan risk, when considered in terms of the level of risk the borrowing relationship poses to the credit union.

11) The underwriting standards commensurate with the size, scope, and complexity of the commercial loan activities and borrowing relationship contemplated. Policy must provide standards that must, at a minimum, address the following:

(i) The level and depth of financial analysis necessary to evaluate the financial trends and condition of the borrower to meet debt service requirements.

(ii) Thorough due diligence of the principal(s) to determine whether any related interests of the principal(s) might have a negative impact or place an undue burden on the borrower and related interests with regard to meeting the debt obligations with the credit union;

(iii) Requirements of a borrower prepared projection when historic performance does not support projected debt payments. The projection must be supported by reasonable rationale and, at a minimum, must include a projected balance sheet and income and expense statement;

(iv) The financial statement quality and the degree of verification sufficient to support an accurate financial analysis and risk assessment;

(v) The methods to be used in collateral evaluation, for all types of collateral authorized, including loan-to value ratio limits. Such methods must be appropriate for the particular type of collateral. The means to secure various types of collateral, and the measures taken for environmental due diligence must also be appropriate for all authorized collateral; and

(vi) Other appropriate risk assessment including analysis of the impact of current market conditions on the borrower and associated borrowers.

The division recognizes that all of the provisions of the policy may not apply to every commercial loan.

### **WAC 208-460-030 Requirements for MBL Acquisition, Development & Construction**

**Acquisition, development and construction loan requirements.** Unless the director grants a waiver pursuant to WAC 208-460-090, a credit union that makes acquisition (A) loans, development (D) loans, construction (C) loans or a combination of the loans is subject to the following requirements:

(1) **Aggregate credit union limit.** The aggregate of all acquisition loans, development loans, construction loans, A & D loans, D & C loans, and ADC loans may not exceed fifteen percent of the net worth of the credit union. To determine the aggregate amount, a credit union may exclude any portion of a loan that is:

- (a) Secured by shares or deposits in the credit union making the extension of credit;
- (b) Secured by deposits in one or more third-party financial institutions which are obligated in writing to deliver to or otherwise make such deposits accessible to the credit union in the event of default of the borrower; or
- (c) Insured or guaranteed, or subject to an advance commitment to purchase, by any federal or state agency (or any political subdivision of a state), or a state or federal government sponsored entity (GSE);

(2) **Equity interest of the borrower.** The borrower on such loans must have a minimum of:

- (a) Thirty percent equity interest in the real property being financed by an acquisition loan;
- (b) Twenty-five percent equity interest in the project being financed by a development loan;
- (c) Twenty-five percent equity in the project being financed by a D & C loan or a ADC loan if less than fifty percent of the qualifying costs are attributable to construction;
- (d) Twenty percent equity in the project being financed by a D & C loan or a ADC loan if fifty percent or more of the qualifying costs are attributable to construction;
- (e) Twenty percent equity interest in the project being financed by a construction loan that is multifamily in nature (e.g., condominiums, planned unit developments, and apartment buildings) or has a nonresidential purpose (e.g., an office building, retail strip-mall, warehouse, or manufacturing facility); or
- (f) Fifteen percent equity interest in the project being financed by a construction loan that is for one-to-four family speculative residential new construction or for remodel or renovation;

(3) **Draw inspections and release of funds.** The funds for such loans may be released only after on-site inspections, documented in writing, by qualified personnel and according to a pre-approved draw schedule and any other conditions as set forth in the loan documentation, with due regard for maintaining the credit union's agreed-upon lien priority according to the mechanic's lien laws of the state where the subject project is situated;

(4) **Credit union experience.** A credit union may not make such loans unless it utilizes the services of qualified staff or qualified independent contractors with direct experience in acquisition, development or construction lending; and

(5) **Determination of the collateral value of the improvements.** For a development or construction loan, or the portions of a "development loan" or a "construction loan" (as applicable for a A & D loan or an ADC loan, the collateral value is the lesser of the project's cost to complete or its prospective market value.

**WAC 208-460-060 Standards for Secured and Unsecured Lending**

(1) **Personal guarantees.** If a credit union requires personal guarantee(s) in connection with a commercial loan where the borrower is an entity other than an individual, the personal guarantee(s) must be from individual(s) who are controlling persons of the borrower-entity, and may be from individual(s) who are not controlling person(s) if deemed commercially reasonable under the circumstances and not otherwise impermissible under applicable law. A credit union that does not require a full and unconditional personal guarantee in connection with the loan must determine and document in the loan file that mitigating factors sufficiently offset the relevant risk.

(2) **Secured lending.** In relation to commercial loans secured by collateral of any kind, the following standards are applicable:

(a) **Collateral standards in general.** All secured commercial loans must be secured by collateral commensurate with the level of risk associated with the size and type of any commercial loan. Collateral must be sufficient to ensure adequate loan balance protection along with appropriate risk sharing with the borrower and the principal or principals.

(b) **Real estate as collateral – loan-to-value limits generally.** A credit union’s lending policies must contain internal loan-to-value limits for the making of commercial loans having real estate as collateral, and these internal loan-to-value limits must be applied to the underlying real estate that collateralizes the commercial real estate loans the credit union makes. The internal loan-to-value limit for a commercial real estate loan in excess of two hundred fifty thousand dollars must not exceed the following limits:

Loan Category	Loan-to-Value Limit
Acquisition loan	70%*
Development loan	75%*
Construction loan:	
Commercial, multifamily (including condominiums, planned unit developments, and cooperatives) and other nonresidential projects	80%*



One-to-four family residential (speculative) construction	85%*
D & C loan or ADC loan (which has less than 50% of its qualifying costs attributable to construction)	75%*
D & C loan or ADC loan (which has 50% or more of its qualifying costs attributable to construction)	80%*
Existing commercial-purpose buildings	85%
Agricultural real estate (excluding crops)	80%*

\* See WAC 208-460-030(2).

- (c) **Exception - Commercial real estate loan not exceeding \$250,000.** For a real estate commercial loan not exceeding two hundred fifty thousand dollars, a credit union may make such a loan up to a loan-to-value ratio of one hundred percent, provided that personal guarantees have been obtained, if the borrower is an entity.
- (d) **Non-real estate collateral loan-to-value limits.** A credit union's lending policies must contain internal loan-to-value limits, and these internal loan-to-value limits must be applied to the underlying personal property that collateralizes the commercial non-real estate loans the credit union makes. The loan-to-value limit for commercial loans with non-real estate collateral must not exceed eighty percent.
- (e) **Transactions excluded from the loan-to-value limits listed in subsections (2)(b), (c) and (d) above.** There are a number of commercial lending situations in which other factors significantly outweigh the need to apply the loan-to-value limits. The following commercial loans are excluded from the loan-to-value limits in (2)(b), (c) and (d):
- (i) A commercial loan guaranteed or insured by the U.S. government or its agencies (e.g., the Small Business Administration), provided that the amount of the guaranty or insurance is at least equal to the portion of the loan that exceeds the loan-to-value limits listed in sections (2)(b), (c) and (d) above;
  - (ii) A commercial loan backed by the full faith and credit of a state government, provided that the amount of the assurance is at least equal to the portion of the loan that exceeds the credit union's loan-to-value limit;
  - (iii) A commercial loan guaranteed or insured by a state, municipal or local government, an agency thereof, or a federal or state government sponsored entity (GSE), provided that the amount of the guaranty or insurance is at least equal to the portion of the loan that exceeds the loan-to-value limits listed in subsections (2)(b), (c) and (d) above, and provided that the credit union has determined that the guarantor or insurer has the financial capacity to perform under the terms of the guaranty or insurance agreement;

- (iv) A commercial loan adequately insured by private mortgage insurance or equivalent type of insurance, and provided that the credit union has reasonably determined that the private mortgage insurer has the capacity to perform under the terms of the insurance policy and that the terms and conditions of the policy are commercially reasonable within the industry for the type of commercial loan in question;
- (v) A commercial loan that is to be sold promptly after origination, without recourse, to a financially responsible third party who has made a commitment to purchase the loan prior to or contemporaneously with the loan's origination;
- (vi) A commercial loan that is renewed, refinanced, or restructured without the advancement of new funds or an increase in the line of credit (except for reasonable closing costs), or a commercial loan that is renewed, refinanced, or restructured in connection with a workout situation, which is part of a clearly defined and well-documented program to achieve orderly liquidation of a commercial loan debt, reduce risk of loss, or maximize the recovery on a commercial loan;
- (vii) A commercial loan that facilitates the sale of real estate or personal property acquired by a credit union in the ordinary course of collecting a debt; and
- (viii) A commercial loan for which a waiver of an applicable loan-to-value limit set forth in subsections (2)(b), (c) and (d) of this section has been granted pursuant to WAC 208-460-090.

(3) **Unsecured lending standards.** A credit union making an unsecured commercial loan must determine and document in the loan file that mitigating factors sufficiently offset the relevant risks. All unsecured commercial loans, including but not limited to a credit card line of credit, must meet the following conditions:

- (a) The amount of an unsecured commercial loan may not exceed two hundred fifty thousand dollars;
- (b) The aggregate of all unsecured commercial loans of a credit union may not exceed ten percent of the credit union's net worth; and
- (c) The credit union must have a net worth ratio of at least eight percent.

(4) **Prohibition against “structuring” unsecured loans to avoid other limits.** A credit union may not make a series of unsecured loans to a person for the same or related purpose so as to “structure” or avoid any lending limit or loan-to-value ratio requirement set forth in this section.

### **WAC 208-460-070 – not yet discussed for amendments**

#### **How much may a member or associated members borrow?**

Unless the director grants a waiver for a higher amount, the aggregate amount of member business loans to a member or associated members may not exceed the greater of:

- (1) Fifteen percent of the credit union's net worth; or
- (2) One hundred thousand dollars.

**WAC 208-460-080 – not yet discussed for amendments****How do you calculate the aggregate fifteen percent limit?**

- (1) Step 1. Calculate the numerator by adding together the amount of the member business loans to the member and associated members (if any). From this amount, subtract any portion:
  - (a) Secured by shares or deposits in the credit union making the extension of credit or in other credit unions, or by deposits in other financial institutions; or
  - (b) Insured or guaranteed, or subject to an advance commitment to purchase, by any federal or state agency (or any political subdivision of a state).
- (2) Step 2. Divide the numerator by net worth.

**WAC 208-460-090 -not yet discussed for amendments****What waivers are available?**

You may seek a waiver for a type of member business loan in the following areas:

- (1) Development and construction loan requirements under WAC 280-460-030;
- (2) Loan-to-value ratios under WAC 208-460-060;
- (3) Maximum loan amount to a member or associated members under WAC 208-460-070;
- and
- (4) Appraisal requirements under Section 722.3 of NCUA rules.

**WAC 208-460-100 -not yet discussed for amendments****How do you obtain a waiver?**

- (1) To obtain a waiver under WAC [208-460-090](#), a credit union must submit its request to the director. The waiver request must contain the following:
  - (a) A copy of your member business loan 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:
    - (i) The history of loan losses and loan delinquency;
    - (ii) Volume and cyclical or seasonal patterns;
    - (iii) Diversification;
    - (iv) Concentrations of credit to a member and associated members in excess of fifteen percent of 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.
- (2) The 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;

- (d) Notify you whenever your waiver request is deemed complete; and
  - (e) Notify you of the action taken within forty-five calendar days of receiving a complete request.
- (3) In connection with a waiver request under WAC [208-460-090](#) (1) through (3):
- (a) The director will provide a copy of the waiver request to Region VI of the NCUA and will consult and seek to work cooperatively with Region VI in making his or her decision on the request;
  - (b) The waiver is not effective until the director approves it;
  - (c) If you do not receive notification within forty-five calendar days after the date the complete request was received by the director, the waiver request is deemed approved by the director; and
  - (d) The director will promptly notify Region VI of the NCUA of his or her decision on the request.
- (4) In connection with a waiver request under WAC [208-460-090](#)(4):
- (a) If the director approves the request, the director will promptly forward the request to Region VI of the NCUA for decision under NCUA rules at 12 C.F.R. 723.12;
  - (b) The waiver is not effective until the regional director of the NCUA approves it in accordance with NCUA rules at 12 C.F.R. 723.12; and
  - (c) The credit union may appeal the regional director's decision in accordance with NCUA rules at 12 C.F.R. 723.13.

### **WAC 208-460-110 – not yet discussed for amendments – eliminate?**

#### **How do I classify member business loans so as to reserve for potential losses?**

Nondelinquent member business 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:

(1) **Substandard.** A substandard loan is inadequately protected by the current sound worth and paying capacity of the obligor or of the collateral pledged, if any. The loan must have a well-defined weakness or weaknesses that jeopardize the liquidation of the debt. It is characterized by the distinct possibility that the credit union will sustain some loss if the deficiency is not corrected. Loss potential, while existing in the aggregate amount of substandard loans, does not have to exist in individual loans classified substandard;

(2) **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; and

(3) **Loss.** A loan classified loss is considered uncollectible and of such little value that its continuance as a loan 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.

**WAC 208-460-120 – not yet discussed for amendments; eliminate and just require compliance with GAAP?**

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

<b>Classification</b>	<b>Amount Required</b>
Substandard	10% of outstanding balance 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 balance.
Loss	100% of the outstanding balance.

**WAC 208-460-130 What is the aggregate member business loan limit?**

The aggregate limit on the amount of a credit union's net member business loans is the lesser of: (1) One and three quarters times the credit union's actual net worth; or (2) One and three quarters times the minimum net worth required under section 1790d(c)(1)(A) of the Federal Credit Union Act.

**WAC 208-460-140 Are there any exceptions to the aggregate MBL limit? Not planning to amend**

- (1) Credit unions that meet any one of the following four criteria qualify for an exception from the aggregate member business loan limit in WAC 208-460-130:
  - (a) Credit unions that have a low-income designation;
  - (b) Credit unions that participate in the Community Development Financial Institutions program;
  - (c) Credit unions that are chartered for the purpose of making member business loans, as supported by documentary evidence, such as the credit union's charter, bylaws, business plan, field of membership, board minutes and loan portfolio; and
  - (d) Credit unions that have a recent history of primarily making member business loans, established by the fact that the outstanding balance of member business loans comprises:
    - (i) At least twenty-five percent of the outstanding balance of the credit union's loans; or
    - (ii) The largest portion of the outstanding balance of the credit union's loans. Such facts must be evidenced in an NCUA call report or any equivalent documentation, such as financial statements, for a period within two years before the date of application. For example, a credit union qualifies for the exception under (d) (ii) of this subsection if,

- based on the outstanding balance of a credit union's loans, the credit union's loan portfolio is comprised of twenty-three percent member business loans, twenty-two percent first mortgage loans, twenty-two percent new automobile loans, twenty percent credit card loans, and thirteen percent total other real estate loans.
- (2) Unless the director gives his or her prior consent, a credit union granted an exception from the aggregate MBL limit may not make MBL in excess of the greater of:
- (a) Twelve and one quarter percent of the credit union's total assets; or
  - (b) Three times the credit union's net worth.

### **WAC 208-460-150 – not yet discussed for proposed amendments**

#### **How do I obtain an exception?**

- (1) The exception under WAC 208-460-140 (1)(a) and (b) is effective upon written notice to the director of such designation or participation.
- (2) To obtain an exception under WAC 208-460-140(1)(c) or (d), a credit union must submit its request to the director. An exception is not effective until it is approved by the director. The exception request must include documentation demonstrating that the credit union meets the criteria for one of the exceptions. The exception does not expire unless revoked for safety and soundness reasons by the director.
- (3) The director will promptly notify Region VI of the NCUA of his or her decision on the request.

### **WAC 208-460-160 – not yet discussed for proposed amendments**

#### **What are the recordkeeping requirements?**

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

WAC 208-460-170; renumber as 208-460-010 and see proposed amendments