



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF CREDIT UNIONS

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May 27, 2005

“A”

DCU Interpretive Letter No. I-05-04 redacted

**Subject:** How and when is a loan counted as a member business loan for calculating per-member and total credit union limit on member business loans?

Dear “A”:

You have requested our opinion regarding how a credit union determines its limit on member business loans (MBL) when a member has multiple loans that, in the aggregate, exceed \$49,999. You have also asked whether an MBL continues to be counted as such, even when the balance due changes, and whether an unused line of credit or an SBA-backed loan count toward the MBL limit.

## Background

Unless waived by the Director of the Department of Financial Institutions, Washington state-chartered credit unions may only make MBLs to any one member, or associated members, of up to \$100,000 or 15% of the credit union’s net worth, whichever is greater. WAC 208-460-070. A credit union’s total MBLs are also limited to the lesser of 12¼ % of the credit union’s total assets or 1¾ times the credit union’s net worth. WAC 208-460-130. There are exceptions to the aggregate MBL limit for credit unions engaged in certain types of activities. WAC 208-460-140.

## Analysis

**Issue 1. If a member has multiple business-purpose loans at a credit union, which of those loans are considered MBLs for purposes of calculating MBL limits under state regulations?**

Washington Credit Union regulations define a “business purpose” loan as any loan where the borrower intends to use the proceeds for commercial, corporate, investment property, business venture, or agricultural purposes. WAC 208-460-170(3), 208-460-010(1).

A “member business loan” is defined in the Washington Administrative Code as a loan, line of credit, letter of credit, or unfunded commitment to make a loan, where the borrower intends to use the proceeds for commercial, corporate, investment property, business venture, or agricultural purposes. WAC 208-460-010(1).

However, business-purpose loans to a member, or associated members, which, in the aggregate, do not exceed \$49,999 are *not* considered MBLs. If the loan, or the aggregate of loans, is over \$49,999, the entire amount of the loan exceeding that figure is considered an MBL. WAC 208-460-010(2)(c).

Members are “associated” if they have shared ownership, investment, or other monetary interest in a business or commercial enterprise. WAC 208-460-170(2).

For example:

The credit union makes a \$35,000 business-purpose loan to a member. The credit union then makes a \$40,000 business-purpose loan to the same member. The aggregate total of business-purpose loans to that member is \$75,000.

*In this example, the entire amount of the second, \$40,000 loan made to the member is considered an MBL.*

**Issue 2. Once a loan is counted as an MBL, does it continue to be counted as one, even if the aggregate total of a member’s business-purpose loans falls below \$50,000?**

The “amount” of an MBL includes any unfunded commitment to make the loan, **the outstanding balance of the loan**, and any unpaid proceeds of the loan. WAC 208-460-170(1). Under this definition, the outstanding balance of the member loan, not the original amount borrowed, would be counted when determining whether it is an MBL.

For example:

The credit union makes a \$35,000 business-purpose loan to a member. The credit union then makes a \$40,000 business-purpose loan to the same member. However, when the second loan is made, the member has paid down the outstanding balance of the first loan to \$15,000. The aggregate total of business-purpose loans to that member is \$55,000. Neither loan has any unfunded commitments or unpaid proceeds.

*At this point, the amount of the MBL would still be \$40,000, the entire amount of the second loan. This is because the aggregate total of business purpose loans to that member is over the \$49,999 limit.*

Then, one year later, the member has paid down the outstanding balance on the first loan to \$10,000, and on the second loan to \$35,000. The aggregate total of business-purpose loans to that member is now \$45,000.

*At this point, neither loan is counted as an MBL, because the aggregate total of both loans is under the \$49,999 limit.*

**Issue 3. How will a member’s business line of credit or business credit card be counted when calculating MBLs?**

The “amount” of an MBL, as defined in the Washington Administrative Code, includes “any unfunded commitment to make the loan.” WAC 208-460-170(1). A business line of credit or business credit card is an unfunded commitment to make a loan, because the line of credit or credit card can be drawn upon at any time. Therefore, the entire amount of the credit line or the limit on the credit card must be counted as a “business purpose” loan when such loans are counted toward the MBL limit.

For example:

The credit union makes a business purpose loan to a member for \$30,000. The credit union also opens up a business credit card account with a \$25,000 limit. The member has an existing balance of \$10,000 on the credit card.

*The member currently owes a total of \$40,000, which is under the MBL threshold. However, the member may use his card at any time up to the limit of \$25,000, and thus the entire amount must be counted toward the MBL threshold. The \$25,000 business credit card, together with the \$30,000 business purpose loan, is over the \$49,999 aggregate limit. Therefore, the entire \$25,000 limit on the member’s business credit card counts as an MBL.*

**Issue 4. How will a loan backed by the Small Business Administration (SBA) be counted when calculating MBLs?**

Under Washington law, a business-purpose loan is not considered a “member business loan” if a federal or state agency (or its political subdivision) fully insures or guarantees repayment, or provides an advance commitment to purchase the loan in full. WAC 208-460-010(2)(d). This provision of Washington law is virtually identical to the National Credit Union Administration (NCUA) rule defining member business loans. 12 CFR §723.1(b)(4). The NCUA has interpreted its rule to mean that the portion of a loan guaranteed by the federal, state, or local government is not counted as an MBL for purposes of the \$50,000 threshold or the aggregate credit union loan limit. NCUA Opinion Letter 00-0939.

In addition, Washington law clarifies that any portion of a loan that is insured or guaranteed, or subject to an advance commitment to purchase, by any federal or state agency is not included in the amount calculated toward the 15% maximum that any member may borrow from a credit union. WAC 208-460-080.

Government guaranteed loans are exceptions to the general rule on MBLs precisely because loans guaranteed by government agencies pose less risk to the safety and soundness of credit unions than other types of business-purpose loans. Accordingly, in order to ensure consistency in federal reporting, we are interpreting the Washington Administrative Code provision to conform with the NCUA interpretation. Therefore, the portion of a loan guaranteed by the SBA will not count when calculating MBL limits for purposes of member loan limits or aggregate credit union loan limits.

For example:

The credit union makes a \$40,000 business purpose loan to a member.  
The credit union then makes a \$30,000 SBA loan to the same member. \$24,000 of that SBA loan is guaranteed.

*Only the \$6,000 unsecured portion of the entire \$30,000 second loan counts towards the MBL threshold. Therefore, the loan is under the \$49,999 limit.*

## **Conclusion**

When a member has more than one business-purpose loan at a credit union, and the aggregate total of all loans exceeds \$49,999, the entire amount of the loan which causes the aggregate to exceed this limit must be counted as an MBL.

When the outstanding balances of all of a member's business-purpose loans cause the aggregate total to fall below \$50,000, none of those loans are counted as MBLs.

The entire amount available on a member's business credit card or line of credit must be counted toward the MBL limit, regardless of the outstanding balance on the account.

The portion of a member's business-purpose loan that is guaranteed by a state or federal agency (or its political subdivision), such as the SBA, is not counted toward the MBL limits.

Sincerely,

Linda K. Jekel  
Director of Credit Unions