



State of Washington

**DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CREDIT UNIONS**

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June 10, 2011



RE: WAC 208-460-020 (1) (b) Definition of Vice President

DCU Interpretive Letter I-11-03

Dear [REDACTED]:

Issue

You inquired if WAC 208-460-020 (1) (b) is intended to include any Vice President position in a credit union. In this regard, you stated the following:

“The purpose of my question is we have numerous vice presidents in our company. Each branch manager and all department managers have the title of vice president but are not considered officers of [REDACTED]”. Senior Vice Presidents are. I would estimate we have 25 plus vice presidents titles and 6 senior vice president titles. Was it the intent of the WAC to include branch and department managers in this light or just those executives with the highest level of fiduciary responsibility? I have seen this addressed in the past by defining the difference between a Vice President and a Senior Vice President.”

Analysis

WAC 208-460-020 states:

“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.
(Italic and bold added)”

The terms “vice president” and “assistant chief executive officers” are not defined in Chapter 208-460 WAC (“Washington Credit Union Rules”) nor in the Washington Credit Union Act, Chapter 31.12 RCW (“Act”). Pursuant to RCW 31.12.516(4), the Director of Credit Unions has the broad administrative discretion to interpret the Act. This includes, where appropriate, necessary interpretation of Washington Credit Union Rules that have been adopted by the Division of Credit Unions pursuant to the Administrative Procedures Act, Chapter 34.05 RCW. In the absence of a definition of “executive officer” within the Act or the Washington Credit Union Rules, the Director of Credit Unions has the authority and broad administrative discretion to look to analogous federal law to supply such a definition. In this regard, Federal Reserve Board Regulation O¹ is both fitting and useful, because it contains general prohibitions on a bank extending commercial credit to its executive officers. Regulation O defines an “executive officer” as a “person who participates or has authority to participate in major policymaking functions of the company or bank.” 12 C.F.R. 215 (e)(1) Accordingly, we conclude that the term “vice president,” contained in WAC 208-460-020 (1)(b), was intended to include a person with major policymaking authority at a credit union.²

Conclusion

You have represented to us that Senior Vice Presidents are considered “officers” and Vice Presidents (who are typically branch managers or department managers) are not considered “officers.” Based on your representations, it is our interpretation that Senior Vice Presidents meet the definition of “executive officers” and participate or have authority to participate in major policymaking function of the credit union. Based upon your representations, Vice Presidents at your credit union do not.

Therefore, based upon your representations, a vice president responsible for operations of a particular branch or a department does not meet the definition of “executive officer” and he/she is eligible to receive a member business loan that meets the other requirements of the credit union.

¹ 12 CFR 215, also known as Regulation O, governs any extension of credit by a [Federal Reserve Bank] member bank to an executive officer, director, or principal shareholder of that bank.

² We also note that associated members and immediate family members of “executive officers” are prohibited from receiving a member business loan. WAC 208-460-020 (1)(d).

Interpretive Letter I-11-03

June 10, 2011

Page 3 of 3

This interpretation has general application to all Washington State-chartered credit unions similarly situated. However, since it is apparent that each credit union subject to the Act and Washington Credit Union Rules may differ in which officer employees it accords policymaking responsibilities, the general principles set forth in this interpretation, as applied to the facts of each credit union, may result in different member business lending limitations.

If you have further questions please contact Mike Delimont at (360) 902-8753.

Sincerely,

/s/

Linda Jekel
Director of Credit Unions