

7535-01-U

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 704

RIN 3133-AE52

Corporate Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is issuing this final rule to exclude Central Liquidity Facility-related bridge loans (CLF-related bridge loans) from the aggregate unsecured lending cap to one borrower applicable to corporate credit unions (Corporates). Specifically, a CLF-related bridge loan that is exempt from that cap is a bridge loan made by a Corporate to a natural person credit union where the natural person credit union has been approved for a loan by the CLF and is awaiting funding from the CLF. Additionally, this rule excludes CLF-related bridge loans from the calculation of “net assets” and “net risk weighted assets” for determining minimum capital requirements.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: J. Owen Cole, President, Central Liquidity Facility, at 1775 Duke Street, Alexandria, VA 22314 or telephone (703) 518-6360; David Shetler, Deputy Director, Office of National Examinations and Supervision, at the above address

or telephone (703) 518-6640; or Justin M. Anderson, Senior Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518-6540.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

II. Comment Summary and Final Amendments

III. Regulatory Procedures

I. Background

At its April 2015 meeting,¹ the Board issued a proposed rule to exclude CFL-related bridge loans from the aggregate unsecured lending cap to one borrower applicable to Corporates. The Board issued this proposed rule to provide flexibility to Corporates to enhance their ability to serve natural person credit unions. That proposal was largely in response to comments received on a November 2014 proposed rule that made several technical amendments to NCUA's corporate regulation.²

II. Comment Summary and Final Amendments

In response to the April 2015 proposal, the Board received seven comment letters. The commenters were comprised of Corporates and credit union trade associations. All of the commenters supported the proposed changes and did not recommend any amendments. Accordingly, for the reasons set forth in the preamble to the April 2015 proposal, the Board is finalizing that proposed rule as published.

III. Regulatory Procedures

¹ 80 FR 27108 (May 12, 2015).

² 79 FR 65353 (Nov. 4, 2014).

1. Regulatory Flexibility Act.

The Regulatory Flexibility Act requires NCUA to prepare an analysis of any significant economic impact a regulation may have on a substantial number of small entities (primarily those under \$50 million in assets).³ This rule only affects Corporates, all of which have more than \$50 million in assets. Accordingly, NCUA certifies the rule will not have a significant economic impact on a substantial number of small credit unions.

2. Paperwork Reduction Act.

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden or increases an existing burden.⁴ For purposes of the PRA, a paperwork burden may take the form of a reporting or recordkeeping requirement, both referred to as information collections. This rule does not create any new burdens or increase any existing burdens. Therefore, a PRA analysis is not required.

3. Executive Order 13132.

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. The rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has, therefore, determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

³ 5 U.S.C. 603(a); 12 U.S.C. 1787(c)(1).

⁴ 44 U.S.C. 3507(d); 5 CFR part 1320.

4. Assessment of Federal Regulations and Policies on Families.

NCUA has determined that this rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105-277, 112 Stat. 2681 (1998).

5. Small Business Regulatory Enforcement Fairness Act.

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act. NCUA does not believe this final rule is a “major rule” within the meaning of the relevant sections of SBREFA. NCUA has submitted the rule to the Office of Management and Budget for its determination in that regard.

List of Subjects

12 CFR Part 704

Credit unions, Corporate credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on _____.

Gerard Poliquin,
Secretary of the Board.

For the reasons discussed above, the National Credit Union Administration amends 12 CFR part 704 as follows:

PART 704—CORPORATE CREDIT UNIONS

1. The authority citation for part 704 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1781, and 1789.

2. Amend § 704.2 by adding a definition for *CLF-related bridge loan* in alphabetical order and revising the definitions of *Net assets* and *Net risk-weighted assets* to read as follows:

§ 704.2 Definitions.

* * * * *

CLF-related bridge loan means interim financing, extending up to ten business days, that a corporate credit union provides for a natural person credit union from the time the CLF approves a loan to the natural person credit union until the CLF funds the loan. To repay a CLF-related bridge loan, the borrowing natural person credit union assigns the proceeds of the CLF advance

to the corporate credit union making the CLF-related bridge loan for the duration of the bridge loan.

* * * * *

Net assets means total assets less Central Liquidity Facility (CLF) stock subscriptions, CLF-related bridge loans, loans guaranteed by the National Credit Union Share Insurance Fund (NCUSIF), and member reverse repurchase transactions. For its own account, a corporate credit union's payables under reverse repurchase agreements and receivables under repurchase agreements may be netted out if the GAAP conditions for offsetting are met. Also, any amounts deducted in calculating Tier 1 capital are also deducted from net assets.

* * * * *

Net risk-weighted assets means risk-weighted assets less CLF stock subscriptions, CLF-related bridge loans, loans guaranteed by the NCUSIF, and member reverse repurchase transactions. For its own account, a corporate credit union's payables under reverse repurchase agreements and receivables under repurchase agreements may be netted out if the GAAP conditions for offsetting are met. Also, any amounts deducted in calculating Tier 1 capital are also deducted from net risk-weighted assets.

* * * * *

6. Amend § 704.7 by revising paragraph (c)(1)(i) and revising paragraph (d)(1) to read as follows:

§ 704.7 Lending.

* * * * *

(c) * * *

(1) * * *

(i) The maximum aggregate amount in unsecured loans and lines of credit from a corporate credit union to any one member credit union, excluding CLF-related bridge loans and pass-through and guaranteed loans from the CLF and the NCUSIF, must not exceed 50 percent of the corporate credit union's total capital.

* * * * *

(d) * * *

(1) *Credit unions.* A loan to a nonmember credit union, other than through a loan participation with another corporate credit union or a CLF-related bridge loan, is only permissible if the loan

is for an overdraft related to the providing of correspondent services pursuant to § 704.12.

Generally, such a loan will have a maturity of one business day.

* * * * *