

to include obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association and participation certificates evidencing beneficial interests in obligations, or in the right to receive interest and principal collections therefrom, which obligations have been subjected by one or more Government agencies to a trust or trusts for which any executive department, agency, or instrumentality of the United States (or the head thereof) has been named to act as trustee.

1964—Par. (7)(E). Pub. L. 88-353 added cl. (E).

1959—Pub. L. 86-354 made numerous capitalization, punctuation and phraseological changes throughout text; increased maturities limits for loans from three to five years, authorized approval of loans by a loan officer and authorized loans in an amount which shall include total unencumbered and unpledged shareholdings in the Federal credit union of any member pledged as security for the obligation of the director or committee member, provided for payment and amortization of loans, redesignated provisions (a) to (d) as (A) to (D) in par. (7), substituted “levy late charges” for “fine members” and inserted “of members” in par. (10), substituted “charges” for “fines” in par. (11), added par. (12); and redesignated former par. (12) as par. (13).

1952—Par. (7)(d). Act May 13, 1952, authorized investment of funds in shares or accounts of any other institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation.

1949—Par. (5). Act Oct. 25, 1949, increased from 2 years to 3 years the limit for maturity of loans.

1946—Par. (5). Act July 31, 1946, inserted last two sentences to provide for the forfeiture of the entire amount of interest reserved and for the recovery of the entire amount of interest paid for the violation of the interest limitation.

1937—Par. (7)(c), (d). Act Dec. 6, 1937, added cls. (c) and (d).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 362(1) of Pub. L. 111-203 effective on the transfer date, see section 351 of Pub. L. 111-203, set out as a note under section 906 of Title 2, The Congress.

Amendment by section 1073(d) of Pub. L. 111-203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as an Effective Date note under section 5301 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 305(b) of Pub. L. 96-221 effective at close of Mar. 31, 1980, see section 306 of Pub. L. 96-221, set out as a note under section 1464 of this title.

EFFECTIVE AND TERMINATION DATES OF 1979 AMENDMENTS

Amendment by Pub. L. 96-161 effective Dec. 31, 1979, with that amendment to remain in effect until the close of Mar. 31, 1980, see section 104 of Pub. L. 96-161, formerly set out as a note under section 371a of this title.

Pub. L. 96-153, title III, §323(e), Dec. 21, 1979, 93 Stat. 1120, provided that: “The amendments made by subsections (a) through (d) [amending this section and sections 1728, 1787, and 1821 of this title] are not applicable to any claim arising out of the closing of a bank, savings and loan association, or credit union prior to the date of enactment of this Act [Dec. 21, 1979], but shall be applicable to any such claim arising on or after such date.”

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 502(b) of Pub. L. 95-630 effective on expiration of 120 days after Nov. 10, 1978, and transitional provisions, see section 509 of Pub. L. 95-630, set out as a note under section 1752 of this title.

Amendment by section 1803 of Pub. L. 95-630 effective Oct. 1, 1979, see section 1806 of Pub. L. 95-630, set out as an Effective Date note under section 1795 of this title.

EFFECTIVE DATE OF 1974 AMENDMENTS

Amendment by Pub. L. 93-569 effective Dec. 31, 1974, see section 10 of Pub. L. 93-569, set out as a note under section 3702 of Title 38, Veterans’ Benefits.

Amendment by Pub. L. 93-495 effective on 30th day beginning after Oct. 28, 1974, see section 101(g) of Pub. L. 93-495, set out as a note under section 1813 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as a note under section 1716b of this title.

REPEALS

Amendment by section 103 of Pub. L. 96-161, cited as a credit to this section, was repealed at the close of Mar. 31, 1980, by section 307 of Pub. L. 96-221, and substantially identical provisions were enacted by section 305 of Pub. L. 96-221, such amendments to take effect at the close of Mar. 31, 1980.

§ 1757a. Limitation on member business loans

(a) In general

On and after August 7, 1998, no insured credit union may make any member business loan that would result in a total amount of such loans outstanding at that credit union at any one time equal to more than the lesser of—

- (1) 1.75 times the actual net worth of the credit union; or
- (2) 1.75 times the minimum net worth required under section 1790d(c)(1)(A) of this title for a credit union to be well capitalized.

(b) Exceptions

Subsection (a) does not apply in the case of—

- (1) an insured credit union chartered for the purpose of making, or that has a history of primarily making, member business loans to its members, as determined by the Board; or
- (2) an insured credit union that—
 - (A) serves predominantly low-income members, as defined by the Board; or
 - (B) is a community development financial institution, as defined in section 4702 of this title.

(c) Definitions

As used in this section—

- (1) the term “member business loan”—
 - (A) means any loan, line of credit, or letter of credit, the proceeds of which will be used for a commercial, corporate or other business investment property or venture, or agricultural purpose; and
 - (B) does not include an extension of credit—
 - (i) that is fully secured by a lien on a 1-to 4-family dwelling;
 - (ii) that is fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions;
 - (iii) that is described in subparagraph (A), if it was made to a borrower or an associated member that has a total of all such extensions of credit in an amount equal to less than \$50,000;

(iv) the repayment of which is fully insured or fully guaranteed by, or where there is an advance commitment to purchase in full by, any agency of the Federal Government or of a State, or any political subdivision thereof; or

(v) that is granted by a corporate credit union (as that term is defined by the Board) to another credit union.

(2) the term “net worth”—

(A) with respect to any insured credit union, means the credit union’s retained earnings balance, as determined under generally accepted accounting principles; and

(B) with respect to a credit union that serves predominantly low-income members, as defined by the Board, includes secondary capital accounts that are—

(i) uninsured; and

(ii) subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and the Fund; and

(3) the term “associated member” means any member having a shared ownership, investment, or other pecuniary interest in a business or commercial endeavor with the borrower.

(d) Effect on existing loans

An insured credit union that has, on August 7, 1998, a total amount of outstanding member business loans that exceeds the amount permitted under subsection (a) shall, not later than 3 years after August 7, 1998, reduce the total amount of outstanding member business loans to an amount that is not greater than the amount permitted under subsection (a).

(e) Consultation and cooperation with State credit union supervisors

In implementing this section, the Board shall consult and seek to work cooperatively with State officials having jurisdiction over State-chartered insured credit unions.

(June 26, 1934, ch. 750, title I, §107A, as added Pub. L. 105-219, title II, §203(a), Aug. 7, 1998, 112 Stat. 920; amended Pub. L. 115-174, title I, §105(a), May 24, 2018, 132 Stat. 1301.)

Editorial Notes

AMENDMENTS

2018—Subsec. (c)(1)(B)(i). Pub. L. 115-174 struck out “that is the primary residence of a member” after “dwelling”.

Statutory Notes and Related Subsidiaries

RULE OF CONSTRUCTION

Pub. L. 115-174, title I, §105(b), May 24, 2018, 132 Stat. 1301, provided that: “Nothing in this section [amending this section] or the amendment made by this section shall preclude the National Credit Union Administration from treating an extension of credit that is fully secured by a lien on a 1- to 4-family dwelling that is not the primary residence of a member as a member business loan for purposes other than the member business loan limitation requirements under section 107A of the Federal Credit Union Act (12 U.S.C. 1757a).”

STUDY AND REPORT

Pub. L. 105-219, title II, §203(b), Aug. 7, 1998, 112 Stat. 922, required the Secretary to conduct a study of mem-

ber business lending by insured credit unions, with a final report to be sent to Congress not later than 12 months after Aug. 7, 1998.

§ 1758. Bylaws

In order to simplify the organization of Federal credit unions the Board shall from time to time cause to be prepared a form of organization certificate and a form of bylaws, consistent with this chapter, which shall be used by Federal credit union incorporators, and shall be supplied to them on request. At the time of presenting the organization certificate the incorporators shall also submit proposed bylaws to the Board for its approval.

(June 26, 1934, ch. 750, title I, §108, formerly §8, 48 Stat. 1219; 1947 Reorg. Plan No. 1, §401, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952; June 29, 1948, ch. 711, §§1, 2, 62 Stat. 1091; renumbered §9 and amended Pub. L. 86-354, §1, Sept. 22, 1959, 73 Stat. 631; Pub. L. 91-206, §2(1), Mar. 10, 1970, 84 Stat. 49; renumbered title I, §108, Pub. L. 91-468, §1(2), Oct. 19, 1970, 84 Stat. 994; amended Pub. L. 95-630, title V, §502(b), Nov. 10, 1978, 92 Stat. 3681.)

Editorial Notes

AMENDMENTS

1978—Pub. L. 95-630 substituted “Board” for “Administrator” in two places, and “its approval” for “his approval”.

1970—Pub. L. 91-206 substituted “Administrator” for “Director” in two places.

1959—Pub. L. 86-354 substituted “from time to time” for “, upon the passage of this Act,”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-630 effective on expiration of 120 days after Nov. 10, 1978, and transitional provisions, see section 509 of Pub. L. 95-630, set out as a note under section 1752 of this title.

Executive Documents

TRANSFER OF FUNCTIONS

Transfer of functions of Farm Credit Administration and Governor thereof, generally, see notes set out under section 1751 of this title.

Functions of Governor of Farm Credit Administration under this section transferred to Federal Deposit Insurance Corporation by Reorg. Plan No. 1 of 1947.

§ 1759. Membership

(a) In general

Subject to subsection (b), Federal credit union membership shall consist of the incorporators and such other persons and incorporated and unincorporated organizations, to the extent permitted by rules and regulations prescribed by the Board, as may be elected to membership and as such shall each, subscribe to at least one share of its stock and pay the initial installment thereon and a uniform entrance fee if required by the board of directors. Shares may be issued in joint tenancy with right of survivorship with any persons designated by the credit union member, but no joint tenant shall be permitted to vote, obtain loans, or hold office, unless he is within the field of membership and is a qualified member.