



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

May 25, 2010

The Honorable Barney Frank
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Frank:

This letter responds to your request for the views of the Treasury Department concerning current limits on the total amount a credit union can loan in the form of business loans to credit union members. In general, credit unions may make member business loans within a current statutory limit: loans cannot exceed the lesser of 1.75 times the credit union's net worth or 12.25 percent of its total assets. Various proposals have been made to allow for additional lending, such as to raise the limit to 25 percent of total assets with no net worth ratio, as well as to redefine the type of loans that count toward the limit, effectively raising the overall amount of loans even further.

As you know, Representative Kanjorski introduced the *Promoting Lending to America's Small Businesses Act of 2009* (H.R. 3380) and a companion bill has been introduced in the Senate by Senator Udall and others.

The Treasury Department could support proposals to increase credit union member business lending provided safety and soundness concerns are addressed. It is important that reforms are not done in a way that inappropriately introduces more risk to credit union members, the credit union system, the National Credit Union Share Insurance Fund, or the financial system as a whole. Treasury will work with the Congress on legislative proposals that include sufficient safeguards.

One approach would be to maintain the current limit for most credit unions but increase the limit for credit unions that meet certain high standards. In particular, the cap could be raised for credit unions that: (1) have been near the current limit for four consecutive quarters (for example, credit unions with member business loans totaling eighty percent of the amount allowed); (2) are well capitalized; (3) have no less than five years of experience of underwriting and servicing member business loans; (4) have strong policies and experience in managing member business loans; and, (5) satisfy other standards established by the National Credit Union Administration (NCUA) to maintain the safety and soundness of credit unions.

We would support allowing credit unions that meet these high standards to increase lending above the current limit, but the new limit should be no higher than 27.5 percent of total assets. In addition, safeguards should be in place that safeguard against eligible credit unions increasing their member business loans too quickly. We would suggest that member business loan growth for eligible credit unions be limited to no more than thirty percent annually. In addition, the NCUA should be given the authority to set rules creating intermediate member business loan limits and to require approval before any credit union can move to the next higher limit.

Moreover, if a credit union should become less than well capitalized, it should be required to cease member business lending and only resume such lending upon its return to a well capitalized position after regulatory approval. Finally, the NCUA should be vigilant and carefully oversee implementation and there should be reporting on member business lending activity and loan performance. Legislative language is enclosed which reflects this approach and addresses safety and soundness concerns.

We are willing to continue to work with the Congress on legislation that would meet these objectives.

Sincerely,



Timothy F. Geithner

Enclosure

SECTION 1. SHORT TITLE.

This Act may be cited as the “Increased Options for Small Business Lending Act of 2010”.

SEC. 2. LIMITS ON MEMBER BUSINESS LOANS.

(a) **REVISED LIMITATION AND CRITERIA.**—Effective 6 months after the date of enactment of this Act, section 107A(a) of the Federal Credit Union Act (12 U.S.C. 1757a(a)) is amended to read as follows:

“(a) **LIMITATION.**—

“(1) **IN GENERAL.**—No insured credit union may make any member business loan that would result in the total amount of such loans outstanding at that credit union at any one time equal to more than the lesser of 1.75 times the actual net worth of the credit union or 12.25 percent of the total assets of the credit union, except as provided in paragraph (2).

“(2) **ADDITIONAL AUTHORITY.**—The Board may approve an application of a credit union upon a finding that the credit union meets the criteria under this paragraph to make one or more member business loans that would result in a total amount of such outstanding loans at any one time of not more than 27.5 percent of the total assets of the credit union, only if the credit union—

“(A) had member business loans outstanding at the end of each of the 4 consecutive quarters immediately preceding the date of its application, in a total amount of not less than 80 percent of its applicable limitation under paragraph (1);

“(B) is well capitalized, as defined in section 216(c)(1)(A);

“(C) can demonstrate at least 5 years of experience of sound underwriting and servicing of member business loans;

“(D) has the requisite policies and experience in managing member business loans; and

“(E) has satisfied other standards that the Board determines are necessary to maintain the safety and soundness of the insured credit union.”.

(b) CREDIT UNIONS THAT ARE NO LONGER WELL CAPITALIZED.—

Effective 6 months after the date of enactment of this Act, section 107A of the Federal Credit Union Act (12 U.S.C. 1757a) is amended by adding at the end the following:

“(f) EFFECT OF NOT BEING WELL-CAPITALIZED.—

Notwithstanding subsection (a), an insured credit union that has made member business loans under the limitation in subsection (a)(2) and that is not, as of its most recent quarterly call report, well capitalized (as defined in section 216(c)(1)(A)), shall not make any new member business loans, until such time as the credit union becomes well capitalized, as reflected in a subsequent quarterly call report, and obtains approval from the Board.”.

SEC. 3. IMPLEMENTATION.

(a) TIERED APPROVAL PROCESS.—The National Credit Union Administration Board shall develop a tiered approval process, whereby federally insured credit unions gradually increase the amount of member business lending in a manner that is consistent with safe and sound operations, subject to the limit established under section 107 A(a)(2) of the Federal Credit Union Act (as amended by this Act), provided that such rate of increase shall not exceed 30 percent per year.

(b) RULEMAKING REQUIRED.—The National Credit Union Administration Board shall issue proposed rules, not later than 6 months after the date of enactment of this Act, to establish the tiered approval process required by subsection (a). The tiered approval process shall establish standards which seek to ensure that the new business lending capacity provided by section 2 is being used only by federally insured credit unions that are well-managed and well-capitalized, as required by the amendments made by section 2, and as defined in such rules by the National Credit Union Administration Board, consistent with the safety and soundness thereof.

(c) CONSIDERATIONS.—In issuing rules required by this section, the National Credit Union Administration Board shall consider—

- (1) the experience level of the institutions, including a demonstrated history of sound member business lending;
- (2) the criteria under section 107 A(a)(2) of the Federal Credit Union Act, as amended by this Act; and
- (3) such other factors as the Board may deem necessary or appropriate.

SEC. 4. REPORTS TO CONGRESS ON MEMBER BUSINESS LENDING.

(a) REPORT OF THE BOARD.—

(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the National Credit Union Administration Board shall submit a report to Congress on member business lending by federally insured credit unions.

(2) **REPORT.**—The report required by paragraph (1) shall include—

(A) the types and asset size of credit unions making member business loans and their applicable member business loan limitations;

(B) the overall amount and average size of member business loans by each credit union;

(C) the ratio of member business loans to total assets and net worth;

(D) the performance of the member business loans, including delinquencies and net charge offs;

(E) the effect of this Act on the number of credit unions engaged in member business lending, any change in the amount of member business lending, and the extent to which any increase is attributed to the change in the limitation in section 107A(a) of the Federal Credit Union Act, as amended by this Act;

(F) the number, types, and asset size of credit unions that were denied or approved by the Board for increased member business loans under section 107A(a)(2), as amended by this Act, including denials and approvals under the tiered approval process;

(G) the types and sizes of businesses that receive member business loans, the duration of their credit union membership at the time of the loan, the types of collateral used to secure member business loans, and the income level of members receiving member business loans; and

(H) the effect of any increases in member business loans on the risk to the National Credit Union Share Insurance Fund and the assessments on insured credit unions.

(b) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the status of member business lending by federally insured credit unions, including—

(A) trends in such lending;

(B) types and amounts of member business loans;

(C) the effectiveness of this Act in enhancing small business lending;

(D) recommendations for legislative action, if any, with respect to such lending; and

(E) any other information that the Comptroller General considers relevant with respect to such lending.

(2) REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the study required by paragraph (1).