

7535-01-U

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 704

RIN 3133-AE43

Corporate Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The NCUA Board (Board) proposes to exclude Central Liquidity Facility (CLF)-related bridge loans (CLF-related bridge loans) from the aggregate unsecured lending cap to one borrower applicable to a corporate credit union (Corporate). 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 when the natural person credit union has been approved for a loan by the CLF and is awaiting funding from the CLF. Additionally, the proposal excludes CLF-related bridge loans from the calculation of “net assets” and “net risk weighted assets” for determining minimum capital requirements. This proposal results largely from comments the Board received on the November 2014 proposed rule amending NCUA’s Corporate regulations.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments by any of the following methods, but please send comments by one method only:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- NCUA Web Site:
http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html. Follow the instructions for submitting comments.
- E-mail: Address to regcomments@ncua.gov. Include “[Your name] – Comments on Proposed Rule – Corporate Credit Unions” in the e-mail subject line.
- Fax: (703) 518-6319. Use the subject line described above for e-mail.
- Mail: Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.
- Hand Delivery/Courier: Same as mail address.

FOR FURTHER INFORMATION CONTACT: J. Owen Cole, President, Central Liquidity Facility, at the above address 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.

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I. Background

In November 2014, the Board issued a proposed rule clarifying and modifying several provisions of the Corporate regulations in part 704. In response, NCUA received 20 comments addressing various aspects of the proposal. Eight commenters recommended that CLF-related bridge loans be excluded from the aggregate unsecured lending limit to one borrower for Corporates. Currently, only pass-through and guaranteed loans from the CLF and the National Credit Union Share Insurance Fund are excluded from the lending limit for unsecured loans and lines of credit.

The Board is aware that a CLF-related bridge loan would make it possible for a Corporate to assist a natural person credit union in meeting its liquidity needs during the time when the natural person credit union is awaiting funding from the CLF. The Board supports providing this flexibility to Corporates to enhance their ability to serve natural person credit unions. Accordingly, the Board agrees that CLF-related bridge loans should be excluded from the unsecured lending limit in the Corporate regulations.

Because this amendment will allow Corporates to provide a valuable service to natural person credit unions, the Board is issuing this proposed rule with a 30-day comment period to ensure credit unions can take advantage of this amendment as soon as possible.

II. Proposed Amendments

1. Section 704.2 – Definitions

This proposal would make several changes to the definitions section of the Corporate regulation. First, this proposal defines “CLF-related bridge loan” as:

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.

The Board notes that, when the CLF grants a liquidity advance, it “match funds” the loan with a borrowing from the Federal Financing Bank (FFB). FFB advances may take 1-10 business days to fund, subject to terms established by the United States Department of the Treasury (Treasury) and the dollar amount of the request. CLF-related bridge loans speed the delivery of funds to the borrowing natural person credit union by bridging the contractual timing gap between when CLF approves a loan and when FFB delivers the requested funds. Under the terms of a CLF-related bridge loan, a Corporate only funds an advance request once the CLF grants approval to the natural person credit union. These loans are short-term in duration and have a guaranteed payment source, as proceeds from the CLF-approved loan are used to pay off the CLF-related bridge loan on the settlement date of the CLF advance.

Second, this proposal would amend the definitions of “net assets” and “net risk-weighted assets” to specifically exclude CLF-related bridge loans. Because the Treasury provides the funding and the CLF is backed by the full faith and credit of the U.S. Government, a CLF-related bridge loan poses no credit risk to a Corporate. The Board, therefore, has determined it is appropriate to exclude CLF-related bridge loans from the definitions of “net assets” and “net risk-weighted assets.”

2. Section 704.7 – Lending

Section 704.7(c) currently restricts a Corporate’s unsecured member lending to 50 percent of capital, but specifically excludes pass-through and guaranteed loans from the CLF and the National Credit Union Share Insurance Fund. This proposal would include CLF-related bridge loans, as defined in proposed §704.2, in the list of loans that may be excluded in calculating the aggregate amount of unsecured loans a Corporate may make. In addition, for the same reasons discussed above, this proposal would exclude CLF-related bridge loans from the requirements of §704.7(d), which addresses loans to nonmembers.

III. Regulatory Procedures

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).¹ This proposed 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.² 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 proposed rule would 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 proposed 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 proposal does not constitute a policy that has federalism implications for purposes of the executive order.

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

² 44 U.S.C. 3507(d); 5 CFR part 1320.

4. Assessment of Federal Regulations and Policies on Families.

NCUA has determined that this proposed 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).

List of Subjects

12 CFR Part 704

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

By the National Credit Union Administration Board on April 30, 2015.

Gerard Poliquin,
Secretary of the Board.

For the reasons discussed above, the National Credit Union Administration proposes to amend

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 as follows:

a. Add a new paragraph after the paragraph beginning with the words “*Capital ratio means*”

and before the paragraph that begins with the words “*Collateralized debt obligation*

(CDO) means” to read as follows:

* * * * *

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.

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b. Revise the paragraph beginning with the words “*Net assets means*” to read as follows:

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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.

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- c. Revise the paragraph beginning with the words “*Net risk-weighted assets* means” to read as follows:

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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.

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6. Amend §704.7 as follows:

a. Revise paragraph (c) to read as follows:

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(c) *Loans to members*—(1) *Credit unions*. (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.

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b. Revise paragraph (d) to read as follows:

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(d) *Loans to nonmembers*—(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 of this part. Generally, such a loan will have a maturity of one business day.

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