

NCUA

UFCW FCU can be affected by the rule change in regards to the Partial Occupancy Requirements.

B. How Would the Proposed Rule Change the Current Rule?

The Board proposes to provide regulatory relief to FCUs by: (1) allowing FCUs to exceed the current five percent aggregate limit on fixed assets, without prior NCUA approval, provided FCUs do so safely and soundly by establishing their own FAM policies and programs; and (2) simplifying the partial occupancy requirement for premises acquired for future expansion. The proposed rule also eliminates or streamlines certain aspects of the fixed assets waiver requirements in various circumstances.

C. Partial occupancy of premises acquired for future expansion.

Under the current rule, if a FCU does not fully occupy premises within one year it must have board resolution in place by the end of that year with definitive plans for full occupation.

There is no set time period within which an FCU must achieve full occupation, giving FCU's significant leeway and flexibility in managing real property acquired for future use.

An FCU, however may not hold or lease to unrelated third parties real property indefinitely without fully occupying the premises. The rule requires an FCU to show that it will fully occupy the premises within a reasonable time and consistent with its usage plan by requiring the FCU's partial occupancy of the premises within a time period set by the rule.

In our case UFCW FCU purchased two properties which both had rentals as occupants. We currently only have one at this time that is being rented. For UFCW FCU to purchase these two buildings respectfully our Hanover office in 1999 and our Wyoming office in 2003 we made the purchase to better serve our members and both buildings were occupied already with tenants.

UFCW FCU is not trying to become a landlord. This was an opportunity for us to buy these two building and better serve our existing membership and gain additional non members by taking in SEG's in these areas.

We are the only credit union located in these two areas, and if we did not purchase these our members would not be using our credit union and would still have their accounts at banks.

The NCUA Board proposes to simplify this aspect of the fixed assets rule by establishing a single time period for partial occupancy of any premises acquired for future expansion. The proposed rule retains the current waiver process for FCU's that require additional time to partially occupy premises acquired for future expansion.

#### Request for comment on full occupancy of premises acquired for future expansion

As discussed above the current rule does not set a specific time period within which a FCU must achieve full occupation of premises acquired for future expansion. However partial occupancy of the premises is required within five years (as proposed) and must be sufficient to show, among other things, that the FCU will fully occupy the premises within a reasonable time and consistent with its plan for the premises.

UFCW FCU does partially utilize the Hanover office for educational training (BSA training, Staff meetings, IT training and so on).

We feel that the full occupation of a building should be left up to the financial institution itself. As NCUA Chair Debbie Matz stated earlier this year, "Our intent is to allow federal credit unions to manage their own fixed-asset purchases without having to seek permission or waivers from NCUA. As long as it has no impact on safety and soundness, NCUA should not micro-manage individual business decisions."

Our argument is that we did not go out and look to purchase any type of rental income properties. We went out and purchased properties to better serve our members with the understanding that if we need the properties for additional growth that we would be able to move into them when the leases were over. Both leased properties were short term leases which would enable us to take back the rental properties and use them for our operations as needed. Another factor we feel as to why we have not fully occupied these two buildings is that with the introduction of online banking, bill payer, our web site, automated phone, and other small products that have taken away the need for filling those office spaces.

UFCW FCU built two additional buildings after these two rentals were purchased and both building that were built are only occupied by UFCW FCU, there are no rentals in either of these buildings. Again showing that we are not out to be landlords.

Last but not least we feel that every credit union needs to be looked at with this regulation on an individual basis. Some rules and regulations can not be written as an across the board type of policy.

Thank you

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