

August 10, 1999

Ralph Goodwin, President/CEO
Grant-Baker Federal Credit Union
650 West Main Street
John Day, Oregon 97845

Re: Maturity Limit on Member Business Loans.

Dear Mr. Goodwin:

You have asked whether loans secured by agricultural real estate that includes the borrower's personal residence are subject to the 12-year maturity limit for member business loans. You note that 90% of the loan amount may be sold to the secondary market or guaranteed by the Farm Service Agency of the Department of Agriculture. You have asked whether those facts affect classification of the loans as business loans subject to a 12-year maturity limit.

We first note that the maturity limit for all federal credit union loans is 12 years unless covered by an exception. 12 U.S.C. §1757(5). Exceptions from the 12-year maturity limit include long-term residential mortgages that have a 40-year maturity limit, certain other residential loans that have a 20-year maturity limit and lines of credit that have no maturity limit. 12 C.F.R. §§701.21(g), 701.21(f), 701.21(c)(4).

Your specific questions are discussed more fully below. Briefly summarized, the purpose of a loan is generally the determining factor in deciding whether a loan is defined as a member business loan. A loan on property that combines agricultural and residential components will generally be treated as a business loan, assuming that the loan is made for a business purpose. However, the maturity limit for a loan guaranteed by a federal government agency may be as provided by the law under which the guarantee is made.

First, you have asked, if a credit union originates a \$300,000 loan secured by agricultural real estate that includes the member's personal residence and then sells \$270,000 (90%) to the secondary market, whether the remaining \$30,000 is a member business loan subject to the 12-year maturity limit. The purpose of the loan is the determining factor in deciding whether it will be considered a member business loan. NCUA's regulation defines a member business loan as:

[A]ny loan, line of credit, or letter of credit (including any unfunded commitments) where the borrower uses the proceeds for the following purposes: (1) Commercial; (2) Corporate; (3) Other business investment property or venture; or (4) Agricultural.

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12 C.F.R. §723.1(a). Loans fully secured by a lien on a 1 to 4 family dwelling that is the member's

primary residence and loans under \$50,000 are exempt from the member

business loan requirements. 12 C.F.R. §723.1(b). A loan on property that is secured by real estate that combines agricultural and residential uses will generally be treated as a business loan if the loan is made for a business purpose; however, the determination will depend on the specific facts in each case. A loan is classified at the time the credit union originates the loan. If the loan is classified as a business loan, it will have a maturity limit of 12 years and that maturity limit will apply to the remainder of the loan, even if a portion of the loan is sold leaving \$50,000 or less on the credit union's books. In your example, the remaining \$30,000 would have a 12-year maturity limit.

Second, you have asked whether a credit union that makes a loan on agricultural property, that includes the member's residence and is 90% guaranteed by the Farm Service Agency, USDA, can have a maturity greater than 12 years. This type of loan can have a maturity limit in excess of 12 years. The Federal Credit Union Act states:

[A] loan secured by the insurance or guarantee of, or with advance commitment to purchase the loan by, the Federal Government, a State government or any agency of either may be made for the maturity and under the terms and conditions specified in the law under which such insurance, guarantee, or commitment is provided.

12 U.S.C. §1757(5)(A)(iii). Therefore, if the Farm Service Agency is guaranteeing the loan, the maturity can be greater than 12 years, as long as the maturity is consistent with the terms and conditions of the guarantee. This provision is reflected in our member business loan regulation that exempts loans guaranteed or insured by a federal agency from the definition of a member business loan. 12 C.F.R. §723.1(b)(4). However, if a loan is not fully guaranteed, it will be considered a business loan subject to the limitations of the member business loan regulation if the amount of the loan that is not guaranteed exceeds \$50,000. See 64 Fed. Reg. 28721,28722 (May 27, 1999).

Sincerely,

Sheila A. Albin
Associate General Counsel

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SSIC 3501
99-0437