



DCU BULLETIN

Division of Credit Unions

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Division Starts Rule-making Process to Revise MBL Rules and Repeal Real Estate Appraisal Rules

The Division is in the process of reviewing all of its rules. On November 16, the Division filed to initiate the rule-making process for revision of its member business loan (MBL) rules and for repeal of its real estate appraisal rules, Chapters 208-464 and -480, respectively. Enclosed are copies of the forms that were filed.

Revision of MBL Rules

The Division's current MBL rules are preempted by the MBL rules of the National Credit Union Administration (NCUA). See NCUA rules at 741.203(a), recently amended at 63 Federal Register 51793, 51802, September 29, 1998. The NCUA's MBL rules are available on the NCUA's website at:

http://www.ncua.gov/news/proposed_regs/mblhr111.html

However, the Division's MBL rules may supersede the NCUA's MBL rules if the NCUA Board determines that our MBL rules adequately minimize risk. See NCUA rules at 723.20. The Division adopted two other rules (concerning prohibited fees and nonpreferential loans) in 1997 that the NCUA Board has determined supersede the NCUA's related rules. See WAC 208-444-020 to -050. (The NCUA allows state rules to supersede its own rules only in the three areas.) In the past, the NCUA would not allow state rules to supersede the NCUA rules unless the state rules were virtually identical to the NCUA's. However, the NCUA has recently given signals that it is willing to relax its standards.

The Division intends to submit revised MBL rules to the NCUA for such a determination. Given the relaxation of the NCUA standards for such a determination, the Division intends to revise its MBL rules prior to submission to make them more flexible.

The Division believes that more flexible rules can be crafted which will allow credit unions to better serve the needs of their members while also protecting the safety and soundness of the institutions.

Because the Division's existing MBL rules need to be extensively revised for this purpose, the Division feels that it would be more convenient to adopt new MBL rules, rather than amend its existing MBL rules, and repeal its existing MBL rules.

The Division intends to use the NCUA's MBL rules as a starting point for drafting the Division's new MBL rules. Interested parties should provide comments to the Division on which provisions of the NCUA's MBL rules should be amended or deleted, and what new provisions should be added, for the purpose of drafting the Division's new MBL rules.

To revise its MBL rules for this purpose, the Division has:

1. Filed a CR-101 to initiate a rule-making proceeding for the adoption of new MBL rules. The next step in the Division's MBL rule-making process is for the Division to draft proposed MBL rules and schedule a public hearing to receive comment on the rules. The Division will provide notice to credit unions concerning the draft rules and the hearing.
2. Filed a CR-101XR to repeal its existing MBL rules in an expedited manner.

Copies of the CR-101 and CR-101XR are enclosed.

Notwithstanding the proposed repeal of the Division's existing MBL rules, the Division has taken the position that as a matter of safety and soundness the aggregate amount of a credit union's MBL, as defined by the Federal Credit Union Act, may not exceed an amount equal to 3 times its reserves, without the written permission of the Division.

Repeal of Real Estate Appraisal Rules

The Division's existing real estate appraisal rules, Chapter 208-480 WAC, are preempted by NCUA's real estate appraisal rules. See NCUA rules at 741.203(b). Because the Division's real estate appraisal rules do not effect Washington State-chartered credit unions, the Division on November 16 filed a CR-101XR to repeal its existing real estate appraisal rules in an expedited manner.

The Division will proceed to repeal its MBL and real estate appraisal rules in an expedited manner unless a written objection is received by the Division on or before January 1, 1999.