

Section 190.165 Business Loans

- a) Purpose and Scope
 - 1) This Section is intended to accomplish two broad objectives. First, it sets out policy and program responsibilities that an Illinois chartered credit union must adopt and implement as part of a safe and sound commercial lending program. Second, it incorporates the statutory limit on the aggregate amount of member business loans that a federally insured credit union may make pursuant to Section 107A of the Federal Credit Union Act (12 USC 1757a). This Section distinguishes between these two distinct objectives.
 - 2) Credit Unions and Loans Covered by this Section
 - A) This Section applies to Illinois chartered natural person credit unions. However, an Illinois chartered natural person credit union is not subject to subsections (c) and (d) if it meets all of the following conditions:
 - i) The credit union's total assets are less than \$250 million.
 - ii) The credit union's aggregate amount of outstanding commercial loan balances and unfunded commitments, plus any outstanding commercial loan balances and unfunded commitments of participations sold, plus any outstanding commercial loan balances and unfunded commitments sold and serviced by the credit union total less than 15% of the credit union's net worth.
 - iii) In a given calendar year the amount of originated and sold commercial loans the credit union does not continue to service total less than 15% of the credit union's net worth.
 - B) This Section does not apply to loans:
 - i) Made by a corporate credit union, as defined in Section 1.1 of the Act;
 - ii) Made by a federally insured credit union to another federally insured credit union;

- iii) Made by a credit union to a credit union service organization, as defined in Section 190.5; or
 - iv) Fully secured by a lien on a 1 to 4 family residential property that is a member's primary residence.
 - 3) Other Regulations that Apply
 - A) As required by section 741.203 of the NCUA regulations (12 CFR 741.203), a federally insured, State chartered credit union must comply with sections 701.21(c)(8) (prohibited fees) and (d)(5) (non-preferential loans) (12 CFR 701.21(c)(8) and (d)(5)).
 - B) When a credit union makes a commercial loan as part of a loan program in which a federal or state agency (or its political subdivision) insures repayment, guarantees repayment, or provides an advance commitment to purchase the loan in full and that program has requirements that are less restrictive than those required by this Section, the credit union may follow the loan requirements of the relevant guaranteed loan program.
 - C) The requirements of section 701.22 of the NCUA regulations (12 CFR 701.22) apply to a federally insured credit union's purchase of a participation interest in a commercial loan.
- b) Definitions – For purposes of this Section, the following definitions apply:
 - 1) "Associated borrower" means any other person or entity with a shared ownership, investment or other pecuniary interest in a business or commercial endeavor with the borrower. This means any person or entity named as a borrower or debtor in a loan or extension of credit, or any other person or entity, such as a drawer, endorser or guarantor, engaged in a common enterprise with the borrower, or deriving a direct benefit from the loan to the borrower. Exceptions to this definition for partnerships, joint ventures and associations are as follows:
 - A) If the borrower is a partnership, joint venture or association, and the other person with a shared ownership, investment or other pecuniary interest in a business or commercial endeavor with the borrower is a member or partner of the borrower, and neither a direct benefit nor a common enterprise exists, this other person is not an associated borrower.

- B) If the borrower is a member or partner of a partnership, joint venture or association, the other entity is not an associated borrower if:
 - i) the other entity with a shared ownership, investment or other pecuniary interest in a business or commercial endeavor with the borrower is the partnership, joint venture or association;
 - ii) the borrower is a limited partner of that other entity; and
 - iii) by the terms of a partnership or membership agreement valid under applicable law, the borrower is not held generally liable for the debts or actions of that other entity.
 - C) If the borrower is a member or partner of a partnership, joint venture or association, the other person is not an associated borrower if:
 - i) the other person with a shared ownership, investment or other pecuniary interest in a business or commercial endeavor with the borrower is another member or partner of the partnership, joint venture or association; and
 - ii) neither a direct benefit nor a common enterprise exists.
- 2) "Commercial loan" means any loan, line of credit or letter of credit (including any unfunded commitments), and any interest a credit union obtains in loans made by another lender, to individuals, sole proprietorships, partnerships, corporations or other business enterprises for commercial, industrial, agricultural or professional purposes, but not for personal expenditure purposes. Excluded from this definition are loans:
- A) made by a corporate credit union;
 - B) made by a federally insured credit union to another federally insured credit union;
 - C) made by a credit union to a credit union service organization;
 - D) made by a credit union not subject to section 107A of the Federal Credit Union Act (12 USC 1757a) to another credit union;

- E) secured by a 1 to 4 family residential property (whether or not it is the borrower's primary residence);
 - F) fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions;
 - G) secured by a vehicle manufactured for household use; and
 - H) that would otherwise meet the definition of commercial loan, when the aggregate outstanding balances plus unfunded commitments less any portion secured by shares in the credit union to a borrower or an associated borrower are less than \$50,000.
- 3) "Common enterprise" means:
- A) The expected source of repayment for each loan or extension of credit is the same for each borrower and no individual borrower has another source of income from which the loan (together with the borrower's other obligations) may be fully repaid. An employer will not be treated as a source of repayment because of wages and salaries paid to an employee, unless the standards described in subsection (b)(3)(B) are met;
 - B) Loans or extensions of credit are made:
 - i) To borrowers who are related directly or indirectly through common control, including when one borrower is directly or indirectly controlled by another borrower; and
 - ii) Substantial financial interdependence exists between or among the borrowers. Substantial financial interdependence means 50% or more of one borrower's gross receipts or gross expenditures (on an annual basis) are derived from transactions with another borrower. Gross receipts and expenditures include gross revenues or expenses, intercompany loans, dividends, capital contributions and similar receipts or payments; or
 - C) Separate borrowers obtain loans or extensions of credit to acquire a business enterprise of which those borrowers will own more than 50% of the voting securities or voting interests.

- 4) "Control" means a person or entity directly or indirectly, or acting through or together with one or more persons or entities:
 - A) Owns, controls or has the power to vote 25% or more of any class of voting securities of another person or entity;
 - B) Controls, in any manner, the election of a majority of the directors, trustees or other persons exercising similar functions of another person or entity; or
 - C) Has the power to exercise a controlling influence over the management or policies of another person or entity.
- 5) "Credit risk rating system" means a formal process that identifies and assigns a relative credit risk score to each commercial loan in a credit union's portfolio, using ordinal ratings to represent the degree of risk. The credit risk score is determined through an evaluation of quantitative factors based on financial performance and qualitative factors based on management, operational, market and business environmental factors.
- 6) "Direct benefit" means the proceeds of a loan or extension of credit to a borrower, or assets purchased with those proceeds, that are transferred to another person or entity, other than in a bona fide arm's-length transaction, when the proceeds are used to acquire property, goods or services.
- 7) "Financial statement quality" is determined by:
 - A) The level of assurance provided by the preparer and the required professional standards supporting the preparer's opinion. In many cases, tax returns and/or financial statements professionally prepared in accordance with generally accepted accounting principles (GAAP) will be sufficient for less complex borrowing relationships, such as those that are limited to a single operation of the borrower and principal with relatively low debt. For more complex and larger borrowing relationships, such as those involving borrowers or principals with significant loans outstanding or multiple or interrelated operations, the credit union should require borrowers and principals to provide either:
 - i) An auditor's review of the financial statements prepared consistent with GAAP to obtain limited assurance (i.e., a "review quality" financial statement); or

- ii) an independent financial statement audit under generally accepted auditing standards (GAAS) for the expression of an opinion on the financial statements prepared in accordance with GAAP (i.e., an "audit quality" financial statement).
 - B) Credit unions should address the criteria and thresholds for the required financial reporting in their policies. Credit unions should allow exceptions in their credit policies if they determine the relationship does not require the same level of assurance and they are satisfied that the lesser quality still provides them with accurate reporting of the borrower's financial performance. Credit unions will be expected to address the issue of exceptions in their loan policies. Any exception should be documented by credit union staff and approved by the appropriate designated internal authority.
- 8) "Immediate family member" means a spouse or other family member living in the same household.
- 9) "Loan secured by a 1 to 4 family residential property" means a loan that, at origination, is secured wholly or substantially by a lien on a 1 to 4 family residential property for which the lien is central to the extension of the credit; that is, the borrower would not have been extended credit in the same amount or on terms as favorable without the lien. A loan is wholly or substantially secured by a lien on a 1 to 4 family residential property if the estimated value of the real estate collateral at origination (after deducting any senior liens held by others) is greater than 50% of the principal amount of the loan.
- 10) "Loan secured by a vehicle manufactured for household use" means a loan that, at origination, is secured wholly or substantially by a lien on a new or used passenger car or other vehicle such as a minivan, sport-utility vehicle, pickup truck or similar light truck or heavy-duty truck generally manufactured for personal, family or household use and not used as a fleet vehicle or to carry fare-paying passengers, for which the lien is central to the extension of credit. A lien is central to the extension of credit if the borrower would not have been extended credit in the same amount or on terms as favorable without the lien. A loan is wholly or substantially secured by a lien on a vehicle manufactured for household use if the estimated value of the collateral at origination (after deducting any senior liens held by others) is greater than 50% of the principal amount of the loan.

- 11) "Loan-to-value ratio" means, with respect to any item of collateral, the aggregate amount of all sums borrowed and secured by that collateral, including outstanding balances plus any unfunded commitment or line of credit from another lender that is senior to the credit union's lien position, divided by the current collateral value. The current collateral value must be established by prudent and accepted commercial lending practices and comply with all regulatory requirements. For a construction and development loan, the collateral value is the lesser of cost to complete or prospective market value, as determined in accordance with subsection (f).
 - 12) "Net worth" means a credit union's net worth, as defined in Section 190.2.
 - 13) "Readily marketable collateral" means a financial instrument or bullion that is salable under ordinary market conditions with reasonable promptness at a fair market value determined by quotations based upon actual transactions on an auction or similarly available daily bid and ask price market.
 - 14) "Residential property" means a house, condominium unit, cooperative unit, manufactured home (whether completed or under construction) or unimproved land zoned for 1 to 4 family residential use. A boat or motor home, even if used as a primary residence, or timeshare property is not residential property.
- c) Board of Directors and Management Responsibilities
Prior to engaging in commercial lending, a credit union must address the following board responsibilities and operational requirements:
- 1) Board of Directors. A credit union's board of directors, at a minimum, must:
 - A) Approve a commercial loan policy that complies with subsection (d). The board must review its policy on an annual basis, prior to any material change in the credit union's commercial lending program or related organizational structure, and in response to any material change in portfolio performance or economic conditions, and update it when warranted.
 - B) Ensure the credit union appropriately staffs its commercial lending program in compliance with subsection (c)(2).
 - C) Understand and remain informed, through periodic briefings from responsible staff and other methods, about the nature and level of

risk in the credit union's commercial loan portfolio, including its potential impact on the credit union's earnings and net worth.

- 2) Required Expertise and Experience. A credit union making, purchasing or holding any commercial loan must internally possess the following experience and competencies:
 - A) Senior Executive Officers. A credit union's senior executive officers overseeing the commercial lending function must understand the credit union's commercial lending activities. At a minimum, senior executive officers must have a comprehensive understanding of the role of commercial lending in the credit union's overall business model and establish risk management processes and controls necessary to safely conduct commercial lending.
 - B) Qualified Lending Personnel. A credit union must employ qualified staff with experience in the following areas:
 - i) Underwriting and processing for the type of commercial lending in which the credit union is engaged;
 - ii) Overseeing and evaluating the performance of a commercial loan portfolio, including rating and quantifying risk through a credit risk rating system; and
 - iii) Conducting collection and loss mitigation activities for the type of commercial lending in which the credit union is engaged.
 - C) Options to Meet the Required Experience. A credit union may meet the experience requirements in subsections (c)(2)(A) and (c)(2)(B) by conducting internal training and development, hiring qualified individuals or using a third-party, such as an independent contractor or a credit union service organization. However, with respect to the qualified lending personnel requirements in subsection (c)(2)(B), use of a third-party is permissible only if the following conditions are met:
 - i) The third-party has no affiliation or contractual relationship with the borrower or any associated borrowers;

- ii) The actual decision to grant a loan must reside with the credit union;
 - iii) Qualified credit union staff exercises ongoing oversight over the third party by regularly evaluating the quality of any work the third party performs for the credit union; and
 - iv) The third-party arrangement must otherwise comply with subsection (g).
- d) **Commercial Loan Policy**

Prior to engaging in commercial lending, a credit union must adopt and implement a comprehensive written commercial loan policy and establish procedures for commercial lending. The board-approved policy must ensure the credit union's commercial lending activities are performed in a safe and sound manner by providing for ongoing control, measurement and management of the credit union's commercial lending activities. At a minimum, a credit union's commercial loan policy must address each of the following:

 - 1) Type of commercial loans permitted.
 - 2) Trade area.
 - 3) Maximum amount of assets, in relation to net worth, allowed:
 - A) in secured, unsecured and unguaranteed commercial loans;
 - B) in any given category or type of commercial loan; and
 - C) to any one borrower or group of associated borrowers, provided:
 - i) the policy must specify that the aggregate dollar amount of commercial loans to any one borrower or group of associated borrowers may not exceed the greater of 15% of the credit union's net worth or \$100,000, plus an additional 10% of the credit union's net worth if the amount that exceeds the credit union's 15% general limit is fully secured at all times with a perfected security interest by readily marketable collateral, as defined in subsection (b);
 - ii) any insured or guaranteed portion of a commercial loan made through a program in which a federal or state agency (or its political subdivision) insures repayment, guarantees

repayment or provides an advance commitment to purchase the loan in full, is excluded from this limit; and

- iii) the maximum limit on commercial loans is in addition to the secured and unsecured limits established in Sections 190.140 and 190.160; provided, however, in no event shall all loans to any borrower or group of associated borrowers exceed in the aggregate 10% of the credit union's unimpaired capital and surplus.
- 4) Qualifications and experience requirements for personnel involved in underwriting, processing, approving, administering and collecting commercial loans.
 - 5) Loan approval processes, including establishing levels of loan approval authority commensurate with the individual's or committee's proficiency in evaluating and understanding commercial loan risk, when considered in terms of the level of risk the borrowing relationship poses to the credit union.
 - 6) Underwriting standards commensurate with the size, scope and complexity of the commercial lending activities and borrowing relationships contemplated. The standards must, at a minimum, address the following:
 - A) The level and depth of financial analysis necessary to evaluate the financial trends and condition of the borrower and the ability of the borrower to meet debt service requirements;
 - B) Thorough due diligence of the principals to determine whether any related interests of the principals might have a negative impact or place an undue burden on the borrower and related interests with regard to meeting the debt obligations with the credit union;
 - C) Requirements of a borrower-prepared projection when historic performance does not support projected debt payments. The projection must be supported by reasonable rationale and, at a minimum, must include a projected balance sheet and income and expense statement;
 - D) The financial statement quality and the degree of verification sufficient to support an accurate financial analysis and risk assessment;

- E) The methods to be used in collateral evaluation, for all types of collateral authorized, including loan-to-value ratio limits. These methods must be appropriate for the particular type of collateral. The means to secure various types of collateral, and the measures taken for environmental due diligence, must also be appropriate for all authorized collateral; and
 - F) Other appropriate risk assessment, including analysis of the impact of current market conditions on the borrower and associated borrowers.
 - 7) Risk management processes commensurate with the size, scope and complexity of the credit union's commercial lending activities and borrowing relationships. These processes must, at a minimum, address the following:
 - A) Use of loan covenants, if appropriate, including frequency of borrower and guarantor financial reporting;
 - B) Periodic loan review, consistent with loan covenants, sufficient to conduct portfolio risk management. This review must include a periodic reevaluation of the value and marketability of any collateral;
 - C) A credit risk rating system. Credit risk ratings must be assigned to commercial loans at inception and reviewed as frequently as necessary to satisfy the credit union's risk monitoring and reporting policies and to ensure adequate reserves as required by GAAP; and
 - D) A process to identify, report and monitor loans approved as exceptions to the credit union's loan policy.
- e) Collateral and Security
 - 1) A credit union must require collateral commensurate with the level of risk associated with the size and type of any commercial loan. Collateral must be sufficient to ensure adequate loan balance protection, along with appropriate risk sharing with the borrower and principals. A credit union making an unsecured loan must determine and document in the loan file that mitigating factors sufficiently offset the relevant risk.

- 2) A credit union that does not require the full and unconditional personal guarantee from the principals of the borrower who has a controlling interest in the borrower must determine and document in the loan file that mitigating factors sufficiently offset the relevant risk.
- f) **Construction and Development Loans**
In addition to the requirements of subsections (a) through (e), the following requirements apply to a construction and development loan made by any credit union.
- 1) For the purposes of this subsection (f), a construction or development loan means any financing arrangement enabling the borrower to acquire property or rights to property, including land or structures, with the intent to construct or renovate an income producing property, such as residential housing for rental or sale, or a commercial building, such as may be used for commercial, agricultural, industrial or other similar purposes. It also means a financing arrangement for the construction, major expansion or renovation of the property types referenced in this subsection (f). The collateral valuation for securing a construction or development loan depends on the satisfactory completion of the proposed construction or renovation when the loan proceeds are disbursed in increments as the work is completed. A loan to finance maintenance, repairs or improvements to an existing income producing property that does not change its use or materially impact the property is not a construction or development loan.
 - 2) A credit union that elects to make a construction or development loan must ensure that its commercial loan policy includes adequate provisions by which the collateral value associated with the project is properly determined and established. For a construction or development loan, collateral value is the lesser of the project's cost to complete or its prospective market value.
 - A) For the purposes of this subsection (f), "cost to complete" means the sum of all qualifying costs necessary to complete a construction project and documented in an approved construction budget. Qualifying costs generally include on-site or off-site improvements, building construction, other reasonable and customary costs paid to construct or improve a project, including general contractor's fees, and other expenses normally included in a construction contract, such as bonding and contractor insurance. Qualifying costs include the value of the land, determined as the lesser of appraised market value or purchase price plus the cost of

any improvements. Qualifying costs also include interest, a contingency account to fund unanticipated overruns, and other development costs such as fees and related pre-development expenses. Interest expense is a qualifying cost only to the extent it is included in the construction budget and is calculated based on the projected changes in the loan balance up to the expected "as-complete" date for owner-occupied non-income producing commercial real estate or the "as-stabilized" date for income producing real estate. Project costs for related parties, such as developer fees, leasing expenses, brokerage commissions and management fees, are included in qualifying costs only if reasonable in comparison to the cost of similar services from a third party. Qualifying costs exclude interest or preferred returns payable to equity partners or subordinated debt holders, the developer's general corporate overhead, and selling costs to be funded out of sales proceeds, such as brokerage commissions and other closing costs.

- B) For the purposes of this subsection (f), "prospective market value" means the market value opinion determined by an independent appraiser in compliance with the relevant standards set forth in the USPAP. Prospective value opinions are intended to reflect the current expectations and perceptions of market participants, based on available data. Two prospective value opinions may be required to reflect the time frame during which development, construction and occupancy occur. The prospective market value "as-completed" reflects the property's market value as of the time that development is to be completed. The prospective market value "as-stabilized" reflects the property's market value as of the time the property is projected to achieve stabilized occupancy. For an income producing property, stabilized occupancy is the occupancy level that a property is expected to achieve after the property is exposed to the market for lease over a reasonable period of time and at comparable terms and conditions to other similar properties.
- 3) A credit union that elects to make a construction and development loan must also assure its commercial loan policy meets the following conditions:
 - A) Qualified personnel representing the interests of the credit union must conduct a review and approval of any line item construction budget prior to closing the loan;

- B) A credit union approved requisition and loan disbursement process is established;
 - C) Release or disbursement of loan funds occurs only after on-site inspections, documented in a written report by qualified personnel representing the interests of the credit union, certifying that the work requisitioned for payment has been satisfactorily completed, and the remaining funds available to be disbursed from the construction and development loan are sufficient to complete the project; and
 - D) Each loan disbursement is subject to confirmation that no intervening liens have been filed.
- g) Prohibited Activities
- 1) Ineligible Borrowers. A credit union shall not grant a commercial loan to the following:
 - A) Any senior management employee directly or indirectly involved in the credit union's commercial loan underwriting, servicing and collection process, and any of their immediate family members;
 - B) Any person meeting the definition of an associated borrower with respect to persons identified in subsection (g)(1)(A); or
 - C) Any compensated director, unless the credit union's board of directors approves granting the loan and the compensated director was recused from the board's decision making process.
 - 2) Equity Agreements/Joint Ventures. A credit union shall not grant a commercial loan if any additional income received by the credit union or its senior management employees is tied to the profit or sale of any business or commercial endeavor that benefits from the proceeds of the loan.
 - 3) Conflicts of Interest. Any third party used by a credit union to meet the requirements of this Section must be independent from the commercial loan transaction and shall not have a participation interest in a loan or an interest in any collateral securing a loan that the third party is responsible for reviewing, or an expectation of receiving compensation of any sort that is contingent on the closing of the loan, with the following exceptions:

- A) A third party may provide a service to the credit union that is related to the transaction, such as loan servicing.
 - B) The third party may provide the requisite experience to a credit union and purchase a loan or a participation interest in a loan originated by the credit union that the third party reviewed.
 - C) A credit union may use the services of a credit union service organization that otherwise meets the requirements of subsection (c)(2)(C) even if the credit union service organization is not independent from the transaction, provided the credit union has a controlling financial interest in the credit union service organization as determined under GAAP.
- h) **Aggregate Member Business Loan Limit; Exclusions and Exceptions**
This subsection (h) incorporates the statutory limits on the aggregate amount of member business loans that may be held by a federally insured credit union and establishes the method for calculating a federally insured credit union's net member business loan balance for purposes of the statutory limits and NCUA form 5300 reporting.
- 1) **Statutory Limits.** The aggregate limit on a federally insured credit union's net member business loan balances is the lesser of 1.75 times the actual net worth of the credit union, or 1.75 times the minimum net worth required under section 1790d(c)(1)(A) of the Federal Credit Union Act (12 USC 1790d(c)(1)(A)).
 - 2) **Definition.** For the purposes of this subsection (h), "member business loan" means any commercial loan as defined in subsection (b), except that the following commercial loans are not member business loans and are not counted toward the aggregate limit on a federally insured credit union's member business loans:
 - A) Any loan in which a federal or state agency (or its political subdivision) fully insures repayment, fully guarantees repayment, or provides an advance commitment to purchase the loan in full; and
 - B) Any non-member commercial loan or non-member participation interest in a commercial loan made by another lender, provided the federally insured credit union acquired the non-member loans and participation interests in compliance with all relevant laws and regulations and is not, in conjunction with one or more other credit

unions, trading member business loans to circumvent the aggregate limit.

- C) Any loan that is fully secured by a lien on a 1 to 4 family dwelling.
- 3) Exceptions. Any loan secured by a vehicle manufactured for household use that will be used for a commercial, corporate or other business investment property or venture, or agricultural purpose, is not a commercial loan but is a member business loan (if the outstanding aggregate net member business loan balance is equal to or greater than \$50,000) and must be counted toward the aggregate limit on a federally insured credit union's member business loans.
- 4) Statutory Exemptions. A federally insured credit union that has a low-income designation, or participates in the U.S. Department of the Treasury's Community Development Financial Institutions Program, or was chartered for the purpose of making member business loans, or that as of the date of enactment of the Credit Union Membership Access Act of 1998 (P.L. 105-219), had a history of primarily making commercial loans, is exempt from compliance with the aggregate member business loan limits in this subsection (h).
- 5) Method of Calculation for Net Member Business Loan Balance. For the purposes of NCUA form 5300 reporting, a federally insured credit union's net member business loan balance is determined by calculating the outstanding loan balance plus any unfunded commitments, reduced by any portion of the loan that is:
- A) secured by shares in the credit union;
 - B) secured by shares or deposits in other financial institutions;
 - C) secured by a lien on a member's primary residence;
 - D) insured or guaranteed by any agency of the federal government, a state or any political subdivision of that state;
 - E) subject to an advance commitment to purchase by any agency of the federal government, a state or any political subdivision of that state; or
 - F) sold as a participation interest without recourse and qualifying for true sales accounting under GAAP.

- i) **Transitional Provisions**
This subsection (i) governs circumstances in which, as of January 1, 2017, a credit union is operating in accordance with an approved waiver from the Division or NCUA or is subject to any enforcement constraint relative to its commercial lending activities.
- 1) **Waivers.** As of January 1, 2017, any waiver approved by the Division or NCUA concerning a credit union's commercial lending activity is rendered moot, except that waivers granted prior to January 1, 2017, for borrowing relationships (loans made to one borrower or group of associated borrowers), will be grandfathered. However, the debt associated with those relationships may not be increased.
 - 2) **Enforcement Constraints.** Limitations or other conditions imposed on a credit union in any written directive from the Division or NCUA, including, but not limited to, items specified in any Document of Resolution, any published or unpublished Letter of Understanding and Agreement, Regional Director Letter, Preliminary Warning Letter, or formal enforcement action, are unaffected by the adoption of this Section. Included within this subsection (i)(2) are any constraints or conditions embedded within any waiver issued by the Division or NCUA. As of January 1, 2017, all these limitations or other conditions remain in place until they are modified by the Division or NCUA.
- j) **Allowance for Loan Losses for Business Loans**
Allowance for loan losses for business loans will be determined in accordance with GAAP. The external auditor conducting the credit union's financial statement audit shall analyze the methodology employed by the credit union and conclude that the financial statements, including the allowance for loan losses, are fairly stated in all material respects in accordance with GAAP.

(Source: Amended at 41 Ill. Reg. 4764, effective May 1, 2017)