

STATEMENT OF SCOPE

Department of Financial Institutions

Rule No.: DFI-CU 72

Relating to: State-Chartered Credit Union Member Business Loans

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

The objective of the proposed rule is to revise the existing member business loan (MBL) rule for state-chartered credit unions to incorporate recent changes made to the federal MBL rule. The proposed rule would provide consistency as between federal- and state-chartered credit union MBL rules.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Existing policies are set forth in the rule. The proposed rule would update definitions, strengthen credit union board of director and management responsibilities, replace current loan-to-value and portfolio limits with a risk-based approach, and modify waiver requirements and process. The proposed rule would provide regulatory relief for state-chartered credit unions.

If the rule is not revised, the state MBL rule does not provide state-chartered credit unions the same flexibility as federally-chartered credit unions will have under the federal MBL rule. If the rule is not revised some state-chartered credit unions may seek to change charter to become federally-chartered so as to be governed by the federal MBL rule rather than by DFI-CU 72.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 227.11 (2) (a), Stats., provides: "Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute..."

Section 186.115(2), Stats., provides: "The activities, powers, products and services that may be undertaken, exercised or offered by credit unions ... are limited to those specified by rule of the office of credit unions."

Section 186.235 (8), Stats., provides: "The office of credit unions shall, with the approval of the credit union review board, promulgate rules relating to the business of credit unions."

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

DFI estimates that it will take approximately 500 hours to develop this rule. This includes the amount of time required for investigation and analysis, compliance with rulemaking procedures, substantial rule drafting, preparing related documents, coordinating stakeholder meetings, communicating with affected entities, holding public hearings, responding to public input, legislative review and adoption. DFI will use existing staff to develop this rule.

6. List with description of all entities that may be affected by the proposed rule:

The proposed rule would affect all Wisconsin state-chartered credit unions.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

Federally-chartered credit unions may extend member business loans in accordance with federal regulator National Credit Union Administration's (NCUA's) MBL rule, 12 CFR Part 723. In March 2016, NCUA issued a final rule which revised its MBL rule to provide credit unions "with greater flexibility and individual autonomy in safely and soundly providing commercial and business loans to serve their members." The final rule substantially changed Part 723. State-chartered credit unions may extend member business loans in accordance with the Office of Credit Union's DFI-CU 72 rule. Prior to NCUA's 2016 rule change, DFI-CU 72 and NCUA's Part 723 were substantially similar to each other. NCUA's revised MBL rule becomes effective January, 1, 2017.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule would have no significant economic impact on small businesses, as defined in s. 227.114 (1) Stats.

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