Rules and Regulations

Federal Register

Vol. 64, No. 25

Monday, February 8, 1999

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Loan Interest Rates

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The current 18 percent per year federal credit union loan rate ceiling is scheduled to revert to 15 percent on March 9, 1999, unless otherwise provided by the NCUA Board (Board). A 15 percent ceiling would restrict certain categories of credit and adversely affect the financial condition of a number of federal credit unions. At the same time, prevailing market rates and economic conditions do not justify a rate higher than the current 18 percent ceiling. Accordingly, the Board hereby continues an 18 percent federal credit union loan rate ceiling for the period from March 9, 1999 through September 8, 2000. Loans and lines of credit balances existing prior to May 18, 1987 may continue to bear their contractual rate of interest, not to exceed 21 percent. The Board is prepared to reconsider the 18 percent ceiling at any time should changes in economic conditions warrant.

EFFECTIVE DATE: March 9, 1999.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia, 22314–3428.

FOR FURTHER INFORMATION CONTACT: Dan Gordon, Senior Investment Officer, Office of Investment Services, at the above address or telephone: (703) 518–6620.

SUPPLEMENTARY INFORMATION:

Background

Public Law 96–221, enacted in 1979, raised the loan interest rate ceiling for federal credit unions from 1 percent per month (12 percent per year) to 15 percent per year. It also authorized the Board to set a higher limit, after consulting with the Congress, the Department of Treasury and other federal financial agencies, for a period not to exceed 18 months, if the Board determined that: (1) money market interest rates have risen over the preceding 6 months; and (2) prevailing interest rate levels threaten the safety and soundness of individual credit unions as evidenced by adverse trends in growth, liquidity, capital, and earnings.

On December 3, 1980, the Board determined that the foregoing conditions had been met. Accordingly, the Board raised the loan ceiling for 9 months to 21 percent in the unstable environment of the first-half of the 1980s. The Board lowered the loan rate ceiling form 21 percent to 18 percent effective May 18, 1987. This action was taken in an environment of falling market interest rates from 1980 to early 1987. The ceiling has remained at 18 percent to the present.

The Board believes that the 18 percent ceiling will permit credit unions to continue to meet their current lending programs, permit flexibility so that credit unions can react to any adverse economic developments, and ensure that any increase in the cost of funds would not affect the safety and soundness of federal credit unions.

The Board would prefer not to set loan interest rate ceilings for federal credit unions. Credit unions are cooperatives that balance loan and share rates consistent with the needs of their members and prevailing market interest rates.

The Board supports free lending markets and the ability of federal credit unions boards of directors to establish loan rates that reflect current market conditions and the interests of their members. Congress has, however, imposed loan rate ceilings since 1934. In 1979, Congress set the ceiling at 15 percent but authorized the Board to set a ceiling in excess of 15 percent, if conditions warrant.

The following analysis justifies a ceiling above 15 percent, but at the same time does not support a ceiling above the current 18 percent. The Board is prepared to reconsider this actions at any time should changes in economic conditions warrant.

Money Market Interest Rates

Interest rates and the expectations about the future level of economic activity have recently been dominated by concerns in worldwide financial markets. The downfall of many Asian economies and the unprecedented recession in Japan required the Federal Reserve, as the central bank most capable of preventing a world-wide economic downturn, to substantially lower interest rates in early October of last year. There are now indications that the actions taken at that time had the intended effect. Several of the Asian economics have recently shown signs of recovery and Japan, recognizing its vulnerability, has undertaken a massive fiscal stimulus package.

The result is that inflation fears in the United States, which only recently were overshadowed by the Asian economic crisis, are reemerging. With the economy still growing in excess of 3.5 percent per annum, and recovery now underway in foreign economies, there are concerns that conditions exist for further inflationary pressures. The recent credit squeeze in financial markets, reflected by tighter bank credit standards and wider credit spreads, has reduced capital expenditures, and thus future productivity gains. Yet the strong productivity gains were a primary factor preventing price increase in the last few years.

The potential scarcity of capital, the prospective improvement in the world economies, and the expectation that oil prices could recover from their now 12-year lows and commodity prices from their 22-year lows will increase inflationary expectations. In addition, strong consumer confidence, a strong housing market and continued expansion in consumer spending will continue to put pressure on the economy. With unemployment remaining in the 4.5 percent range, and the continued strong demand for workers, wage pressures will increase. In addition, as less skilled workers are employed and firms are required to use more scarce resources, the pressures on costs, and thus on prices, will intensify. The result may well be further increases in interest rates.

Reinforcing the expectation of higher rates, the Federal Reserve has strongly suggested it will not lower rates again in the near term. The result has been an expectation in financial markets that interest rates could rise above current levels. Already there have been substantial increases in yields since lows reached in early October. For example, on October 1, 1998, the rate on the 6-month Treasury was 4.36 percent, and on January 5, 1999, it was 4.54 percent. The 5-year Treasury rate was 4.55 percent on January 4, 1999. This was 48 basis points above the rate on October 1, 1998, while the 10-year Treasury rate increased 39 basis points in the same interval. Therefore, although the current rates are below the rates of six months ago, there is every indication that by March 9, 1999, rates will be higher than they were on October 1.

TABLE 1.—TREASURY RATES

Maturity	Yields as of October 1, 1998 (percent)	Yields as of January 4, 1999 (percent)	Change in basis points
3-month	4.22	4.67	25
6-month	4.36	4.54	18
1-year	4.27	4.57	30
2-year	4.15	4.56	41
5-year	4.07	4.55	48
10-year	4.29	4.67	38
30-year	4.88	5.15	27

The fact that long-term rates exceed short-term rates (for example, the 30-year rate is 61 basis points above the 6-month rate) is more evidence that the market expects rates to rise in the months ahead. Investors are unwilling to hold longer term investments unless they are compensated for these potentially higher future rates.

Further declines in the unemployment rate, rising consumer confidence, continued income growth and a strong equity market have led many to be concerned that consumer demand may rise at a faster pace in the months ahead. We need to be aware of these potential inflationary pressures which could result in higher interest rates. Therefore, it is important to maintain the 18 percent ceiling. Lowering the interest rate ceiling at this time could cause an unnecessary burden on credit unions.

Financial Implications for Credit Unions

For at least 873 credit unions, representing 28 percent [1] of the reporting federal credit unions, the most common rate on unsecured loans was above 15 percent. While the bulk of credit union lending is below 15 percent, small credit unions and credit unions that have instituted risk-based lending programs require interest rates above 15 percent to maintain liquidity, capital, earnings, and growth. Loans to members who have not yet established a credit history or have weak credit histories have more credit risk. Credit unions must charge rates to cover the potential of higher than usual losses for such loans. There are undoubtedly more than 873 credit unions charging over 15 percent for unsecured loans to such members. Many credit unions have ''Credit Builder'' or ''Credit Rebuilder'' loans but only report the ''most common'' rate on the Call Report for unsecured loans. Lowering the interest rate ceiling for credit unions would discourage credit unions from making these loans. Credit seekers' options would be reduced and most of the affected members would have no alternative but to turn to other lenders who will charge much higher rates.

Small credit unions would be particularly affected by a lower loan ceiling since they tend to have a higher level of unsecured loans, typically with lower loan balances. Thus, small credit unions making small loans to members with poor or no credit histories are struggling with far higher costs than the typical credit union. Both young people and lower income households have limited access to credit and, absent a credit union, often pay rates of 24 to 30 percent to other lenders. Rates between 15 and 18 percent are attractive to such members.

Table 2 shows the number of credit unions in each asset group where the most common rate is more than 15 percent for unsecured loans.

TABLE 2.—FEDERAL CREDIT UNIONS WITH MOST COMMON UNSECURED LOAN RATES GREATER THAN 15 PERCENT

[June 1998]

Peer group by asset size	Total all FCUs	Number FCUs w/ loan rates >15%
$0–2 mil	1,940	214
$2–10 mil	2,390	334
$10–50 mil	1,735	214
$50 mil+	842	111
Total [1]	6,907	873

[1] Of this total, 4,083 had either a zero balance or did not report rate balances 15 percent and above.

Among the 871 credit unions where the most common rate is more than 15 percent for unsecured loans, 242 have 20 percent or more of their assets (Table 3) in this category. For these credit unions, lowering the rates would damage their liquidity, capital, earnings, and growth.

TABLE 3.—FEDERAL CREDIT UNIONS WITH MOST COMMON UNSECURED LOAN RATES GREATER THAN 15 PERCENT AND MORE THAN 20 PERCENT OF ASSETS IN UNSECURED LOANS

[June 1998]

Peer group by asset size	Avg. percentage of loan rates >15% to assets	Number FCUs meeting both criteria
$0–2 mil	38.31	95
$2–10 mil	28.46	61
$10–50 mil	25.62	22
$50 mil+	23.34	7

[1] Of the 6,907 FCUs, 4,083 had zero balances in the 15 percent and above category or did not report a balance for the June 1998 reporting period.

TABLE 3.—FEDERAL CREDIT UNIONS WITH MOST COMMON UNSECURED LOAN RATES GREATER THAN 15 PERCENT AND MORE THAN 20 PERCENT OF ASSETS IN UNSECURED LOANS—Continued

[June 1998]

Peer group by asset size	Avg. percentage of loan rates >15% to assets	Number FCUs meeting both criteria
Total	32.99	185

In conclusion, the Board has continued the federal credit union loan interest rate ceiling of 18 percent per year for the period from March 9, 1999, through September 9, 2000. Loans and line of credit balances existing on May 16, 1987 may continue to bear interest at their contractual rate, not to exceed 21 percent. Finally, the Board is prepared to reconsider the 18 percent ceiling at any time during the extension period, should changes in economic conditions warrant.

Regulatory Procedures

Administrative Procedure Act

The Board has determined that notice and public comment on this rule are impractical and not in the public interest. 5 U.S.C. 553(b)(3)(B). Due to the need for a planning period prior to the March 9, 1999, expiration date of the current rule, and the threat to the safety and soundness of individual credit unions with insufficient flexibility to determine loan rates, final action of the loan rate ceiling is necessary.

Regulatory Flexibility Act

For the same reasons, a regulatory flexibility analysis is not required. 5 U.S.C. 604(a). However, the Board has considered the need for this rule, and the alternatives, as set forth above.

Paperwork Reduction Act

There are no paperwork requirements.

Executive Order 12612

This final rule does not affect state regulation of credit unions. It implements provisions of the Federal Credit Union Act applying only to federal credit unions.

List of Subjects in 12 CFR Part 701

Credit, Credit unions, Loan interest rates.

By the National Credit Union Administration Board on January 28, 1999.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends 12 CFR ch. VII as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*; 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Section 701.21(c)(7)(ii)(C) is revised to read as follows:

§ 701.21 Loans to members and lines of credit to members.

* * * * *

(c) * * *

(7) * * *

(ii) * * *

(C) *Expiration.* After September 9, 2000, or as otherwise ordered by the NCUA Board, the maximum rate on federal credit union extensions of credit to members shall revert to 15 percent per year. Higher rates may, however, be charged, in accordance with paragraph (c)(7)(ii)(A) and (B) of this section, on loans and line of credit balances existing on or before May 16, 1987.

* * * * *

[FR Doc. 99–2843 Filed 2–5–99; 8:45 am]

BILLING CODE 7535–01–U

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 904

[No. 99–7]

RIN 3069–AA71

Revisions to the Freedom of Information Act Regulation

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is adopting the interim final rule that revised its Freedom of Information Act (FOIA) regulation to comply with new statutory requirements and to clarify the Finance Board's practices and procedures in responding to requests for information as a final rule with one minor procedural change. The change makes clear that the Office of Resource Management is the agency component responsible for collecting FOIA fees.

EFFECTIVE DATE: The final rule will become effective on March 10, 1999.

FOR FURTHER INFORMATION CONTACT: Elaine L. Baker, Secretary to the Board and Associate Director, Executive Secretariat, Office of the Managing Director, by telephone at 202/408–2837 or by electronic mail at bakere@fhfb.gov, or Janice A. Kaye, Attorney-Advisor, Office of General Counsel, by telephone at 202/408–2505 or by electronic mail at kayej@fhfb.gov, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Congress amended the FOIA by enacting the Electronic Freedom of Information Act Amendments of 1996 (EFOIA). *See* 5 U.S.C. 552, *as amended by* Pub. L. 104–231, 110 Stat. 3048 (Oct. 2, 1996). Among other procedural changes, the EFOIA increases the time for responding to a FOIA request from 10 to 20 days, specifically applies the FOIA disclosure requirements to electronic records, and adds frequently requested records as a category of reading room records. The EFOIA also requires an agency to promulgate regulations that provide for the expedited processing of FOIA requests.

In July 1998, the Finance Board published an interim final rule with request for comments that amended its FOIA regulation to comply with these statutory changes. *See* 63 FR 37483 (July 13, 1998), *codified at* 12 CFR part 904. The interim final rule also reorganized and streamlined the FOIA regulation to clarify the Finance Board's practices and procedures in responding to requests for information. The 60-day public comment period closed on September 11, 1998. *See id.*

II. Analysis of Public Comments and the Final Rule

The Finance Board received no comments in response to the interim final rule. Thus, for the reasons set forth in detail in the interim final rulemaking, the Finance Board is adopting the interim final rule amending its FOIA regulation to comply with new statutory requirements and to clarify the Finance Board's practices and procedures in responding to requests for information with one minor procedural change. The procedural change makes clear that the Office of Resource Management is the agency component responsible for collecting FOIA fees. More specifically, in § 904.9(f), which concerns the collection of FOIA fees, the Finance