STATE OF IOWA

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IOWA DEPARTMENT OF COMMERCE
DIVISION OF CREDIT UNIONS
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Iowa Division of Credit Unions
Regulatory Advisory Bulletin

Nonmember Deposit Limits:

An Iowa state-chartered credit union has the power to "receive payments for ownership shares, for other shares, or as deposits from any or all of the following: b. Nonmembers as prescribed by rule where the state credit union is serving predominantly low-income members. Rules adopted allowing nonmember deposits in state credit unions serving predominantly low-income members shall be designed solely to meet the needs of the low-income members. . . . d. Federal, state, county, and city governments." Iowa Code § 533.301(1) (2019). The corresponding administrative rule expressly authorizes low-income credit unions to receive nonmember shares and deposits from any source; however, nonmember account holders do not have the rights and privileges afforded to members of the credit union and are limited in involvement with the credit union. Iowa Administrative Code § 189—7.4(533) (2019).

The applicable Iowa administrative code sets forth the maximum aggregate amount of public unit and nonmember accounts a low-income designated credit union may hold. A low-income designated credit union's public unit and nonmember accounts may not "exceed 20 percent of the total shares and deposits of the credit union or $1.5 million, whichever is greater." Iowa Administrative Code § 189—7.4(533) (2019). The rule is ambiguous as to whether public unit and nonmember accounts are included in the total shares and deposits of the credit union. As such, the Iowa Division of Credit Unions interprets "total shares and deposits of the credit union" to only include member shares and deposits. If the Division adopted a different interpretation, the rule would create a circular loop in which the maximum amount of public unit and nonmember shares would increase every time a credit union accepts additional public unit and nonmember shares. As such, the Division finds the rule to be ambiguous and determines the total share and deposits contemplated by the rule are limited to member shares and deposits.

The limitation set forth in 189—7.4(533) does not prohibit a low-income designated credit union from accepting public unit and nonmember shares in excess of 20 percent of total member shares and deposit or 1.5 million dollars. Rather the rule sets forth an application for additional approval, which must be submitted prior to the acceptance of additional funds over the 20 percent or 1.5 million dollar maximum. A credit union may submit an application for additional approval to the Iowa Division of Credit Unions via US mail or via email to Sara Larkin at sara.larking@iowa.gov. The information required to be included in an application for additional approval is set forth in 189—7.4(533) et. al. The Division will request additional information when necessary. The Division will approve or disapprove the requested maximum level of public unit and nonmembers share and deposits within 10 business days of a complete application.

The limitation set forth in the Iowa administrative rule is only applicable to low-income designated credit unions. Iowa Administrative Code § 189—7.4(533) (2019). Although the 20 percent limit set forth in Iowa's rule are not applicable to non-low-income designated credit unions, the federal NCUA limitation is applicable to all federally insured Iowa state-chartered credit unions. The federal NCUA limit set forth in 12 CFR § 701.32 is applied to federally insured state-chartered credit unions through 12 CFR § 741.204. The federal rule requires: "Any credit union that is insured, or that makes application for insurance, pursuant to title II of the Act must: (a) Adhere to the requirements of § 701.32 of this chapter regarding public unit and nonmember accounts, provided it has the authority to accept such accounts." 12 CFR § 741.204. The referenced rule, § 701.32, limits the acceptance of public unit and nonmember shares. NCUA amended the public unit and nonmember shares limit. This amended rule is effective January 29, 2020.

As of January 29, 2020, the applicable limit for non-low-income designated Iowa state-chartered credit unions under the applicable NCUA law is as follows:

> (b) Limitations—(1) Aggregate limit on public unit and nonmember shares. Except as permitted under paragraph (c) of this section, a federal credit union may not receive public unit and nonmember shares in excess of the greater of:
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> (i) 50 percent of the net amount of paid-in and unimpaired capital and surplus less any public unit and nonmember shares, as measured at the time of acceptance of each public unit or nonmember share . . . ; or
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> (ii) $3 million.
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> (2) Required due diligence. Before receiving public unit or nonmember shares that, taken together with any borrowings, exceed 70 percent of paid in and unimpaired capital and surplus, the board of directors must adopt a specific written plan concerning the intended use of these funds that is consistent with prudent risk management principles.

See Final Rule 12 CFR § 701.32.

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