



LIMITATIONS ON CREDIT UNIONS COMPARED TO THE POWERS OF NATIONAL BANKS¹

(Updated March 30, 2012)

POWER/LIMITATIONS	CREDIT UNIONS	BANKS ²
Member Business Loans	<p>A federally insured credit union's member business lending is restricted.</p> <ul style="list-style-type: none"> Such lending may not exceed the lesser of 1.75% of its net worth or 12.25% of total assets, with some exceptions.³ 12 U.S.C. § 1757a; 12 C.F.R. §723.16(a). 	<p>National banks face no specific restrictions on commercial loans. 12 U.S.C. §24; 12 C.F.R. part 32.</p>
General Lending Limits	<p>A credit union's lending to one member is limited to 10% of the credit union's unimpaired capital and surplus. 12 C.F.R. §701.21(c)(5).</p> <ul style="list-style-type: none"> There is a 15-year maturity limit for loans except for lines of credit, that a mortgage on a principal residence may be up to 40 years and a second mortgage on the principal residence may be up to 20 years. Certain mobile home and home improvement loans may also be up to 20 years. 12 C.F.R. §701.21(c)(4); (f); (g). Federal credit union loans may not have prepayment penalties. 12 C.F.R. §701.21(g). 	<p>A national bank's total outstanding loans to one borrower may not generally exceed 15% of the bank's capital.</p> <ul style="list-style-type: none"> An additional 10% is permissible if secured by readily marketable collateral. 12 U.S.C. § 84(a); 12 C.F.R. part 32. National banks generally do not face maturity limits. Banks frequently impose prepayment penalties.

¹ Credit unions may be state or federally chartered. This document references provisions of the Federal Credit Union Act that generally apply to Federal credit unions. However, state chartered credit unions have generally similar provisions and limitations in a number of areas, but these may vary by state.

² A complete listing of the extensive powers of national banks prepared by the Office of the Comptroller of the Currency may be found [here](#).

³ Exceptions to this rule include credit unions that have a low-income designation and credit unions that were chartered primarily for the purpose of making member business loans.

<p>Authorized Investments⁴</p>	<p>Federal credit unions have limited investment authority:</p> <ul style="list-style-type: none"> • Obligations issued by or fully guaranteed by the U.S. Government; • Obligations of a State or political subdivision, up to 10% of unimpaired capital and surplus; • Obligations issued by banks for cooperatives, FHLBs, or guaranteed by GNMA, FNMA or FHLMC; • Loans to other credit unions; • Accounts of federally insured institutions; • Shares of a credit union service organization (CUSO)⁵ up to 1% of total paid-in and unimpaired capital and surplus; • Shares of the National Credit Union Central Liquidity Facility; • Certain other investments as regulated by NCUA such as certain mortgage note repurchase transactions. 12 U.S.C. § 1757; 12 C.F.R. Part 703-14. 	<p>Banks have broad investment authority.</p> <ul style="list-style-type: none"> • Securities issued or guaranteed by the U.S. Government, State, territory or Political Subdivision (including municipal obligations); • Obligations issued by wholly owned U.S. Government corporations (e.g., FHLBs) or in obligations guaranteed by GNMA, FNMA or FHLMC Mac and state housing corporations; • Banker's acceptances issued by another non-affiliated bank or thrift; • Deposit accounts of any insured institution; • Banker's banks or holding companies (up to 10% of capital and surplus); • Bank service companies (up to 10% of capital and surplus as long as all investments in bank service companies do not exceed 5% of assets); • The bank's own stock (for a legitimate business purpose); • Asset-backed investment grade securities or auction-grade securities; • Commercial real estate mortgage-backed securities; • Investment grade commercial paper; • Community development and public welfare projects; • Convertible securities; • Corporate debt bonds and securities; • Foreign government securities; • Insurance company products and investment funds; • Life insurance for business needs; • Money market preferred stock; • Mutual fund shares; <p style="text-align: right;"><u>MORE</u></p>
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⁴ These listings refer to statutory authority. Under federal bank regulations, national banks may engage in 29 different categories of permissible investments. See the OCC chart referenced above for the complete list.

⁵ A CUSO provides services to credit unions and their members, such as payroll processing and member loans. CUSOs are organized under state law.

		<ul style="list-style-type: none"> • Non-controlling minority investments in business entities; • Investment-grade small business securities or Investment-grade marketable trust-preferred securities. 12 U.S.C. § 24; 12 C.F.R. Part 1.
Broker/Dealer Activities	<p>Federal credit unions are not authorized to engage in broker-dealer activities, i.e., selling non-deposit investments directly to their members.</p> <ul style="list-style-type: none"> • Credit unions cannot register as broker-dealers. NCUA Letter to Federal Credit Unions 10-FCU-03 (Dec. 2010). • A federal credit union may act as a “finder,” to refer through a networking agreement or other means, a registered third party broker to its members for the sale of non-deposit investment products. 12 U.S.C. § 1757; 12 C.F.R. § 721.3(f). 12 C.F.R. § 721.6; OGC Op. 02-0523a (May 24, 2002). NCUA Letter to Federal Credit Unions 10-FCU-03 (Dec. 2010). 	<p>Banks may engage in broker-dealer activities.</p> <ul style="list-style-type: none"> • SEC regulations require banks that engage in securities activities to register as a broker-dealer. • However, there are specific exceptions to the registration requirements. • Banks that limit their activities to the exceptions are exempt from broker-dealer registration. • Banks may also act as finders to refer brokers to their customers. 15 U.S.C. § 78c(a)(4)(F); 12 C.F.R. part 218.
Related Organizations	<p>Credit unions do not have holding companies.</p> <ul style="list-style-type: none"> • However, in addition to being able to invest in a credit union service organization (CUSO, as indicated above), credit unions may also lend to a CUSO, up to 1% of their paid-in and unimpaired capital and surplus. 12 U.S.C. § 1757(7)(I); 12 C.F.R. § 712.2. • A CUSO is permissible for a credit union loan or investment only if it primarily serves credit unions, its membership or the members of credit unions contracting with the CUSO. 	<p>A well-capitalized and well-managed national bank may control or invest in a financial subsidiary, such as a holding company, subject to certain other limitations and safeguards.</p> <ul style="list-style-type: none"> • A financial subsidiary may engage: (1) in any activity closely related to banking (as determined under section 4(c)(8) of the Bank Holding Company Act); (2) in any activity in the United States that a bank holding company may engage in outside the United States; (3) in the underwriting, distributing, and dealing in of all three types of securities; (4) in acting as an insurance broker or agent; and (5) in any activity the Treasury and Federal Reserve determine to be financial in nature or incidental to a financial activity. • Financial subsidiaries may also engage in activities permissible for operating subsidiaries. 12 U.S.C. § 24a; 12 C.F.R. § 5.39(e).

Net Worth (Capital) Requirements⁶	<p>Federally insured credit unions are required to maintain at least 6% net worth to be considered adequately capitalized; 7% net worth is required to be well-capitalized. 12 U.S.C. §1790(d); 12 C.F.R. part 702.</p> <ul style="list-style-type: none"> • Credit unions may only build net worth through retained earnings. • Credit unions cannot issue stock or other capital instruments • Credit unions may not rely on supplementary capital to meet net worth requirements. 	<p>National banks must have capital equal to at least 4% of total assets. Because of their complexities, they are also subject to a total risk-based capital ratio of 8 % capital to risk-weighted assets and a Tier 1 risk-based capital ratio, requiring 4% Tier I capital to risk-weighted assets. 12 U.S.C. § 1831o; 12 C.F.R. part 325.</p> <ul style="list-style-type: none"> • Banks may raise capital through the issuance of stock. 12 U.S.C. § 51a; • Banks may rely on supplementary capital to meet risk-based requirements.
Usury	<p>Federal credit unions may not charge more than 18% APR for most loans and 28% for loans made under NCUA's Short-Term, Small Amount Loan program.⁷ 12 U.S.C. § 1757(5)(A)(vi); 12 C.F.R. § 701.21(c)(7)(ii)(B); NCUA Letter to Federal Credit Unions 11-FCU-04 (April 2011).</p> <ul style="list-style-type: none"> • Loans made by federal credit unions under the Short-Term, Small Amount Loan program must comply with the following conditions: <ul style="list-style-type: none"> ○ Principal amount between \$200 - \$1,000; ○ Term between 1 - 6 months; ○ Maximum application fee of \$20; ○ Recipient must have been a member for at least 1 month; ○ Fully amortized; and ○ Rollovers are prohibited. 	<p>The interest a national bank may charge is generally limited to the maximum permitted by the laws of the state in which the bank is located. 12 U.S.C. § 85.</p>

⁶ Credit unions and banks are subject to additional risk-based requirements, depending on their activities.

⁷ State chartered credit unions' are not allowed to make Short-Term, Small Amount loans under this NCUA program and are not covered by the federal usury ceiling but their interest rates are subject to the maximum allowed by state law.



STRUCTURE AND GOVERNANCE OF CREDIT UNIONS VS. BANKS
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	CREDIT UNIONS	BANKS
Member Voting Rights	<p>Credit unions are member-owned cooperatives.</p> <ul style="list-style-type: none"> Each member has one vote in selecting board members and in certain other decisions regarding corporate governance issues. 12 U.S.C. § 1760. 	<p>Banks are for-profit corporations which seek to maximize the return to their shareholders.</p> <ul style="list-style-type: none"> Banks allocate voting rights according to the amount of shares the customer owns. 12 U.S.C. § 61; 12 C.F. R. § 544.1.
Board of Directors	<p>Credit unions generally rely on volunteers and unpaid boards of directors.</p> <ul style="list-style-type: none"> No more than one board officer may be compensated as an officer of the board. 12 C.F.R. § 701.33. Provisions for state credit unions may vary. 	<p>Banks may compensate all directors for their service on the board. 12 U.S.C. § 1831p-1(c);</p>
Membership Qualifications	<p>Credit unions may accept as members only those individuals identified in the credit union's specific field of membership or geographic area. 12 C.F.R. § 701.1.</p> <ul style="list-style-type: none"> Credit unions can only accept deposits from, and provide services to, members.⁸ 	<p>Banks provide services to the general public.</p>

⁸ There are some exceptions to this for low-income designated credit unions.