

December 8, 2005

John A. Davis, Jr., Chairman  
The Cypress Group, LLC  
921 North Mills Avenue  
Orlando, Florida 32803

Re: Member Business Loan (MBL); Meaning of Fleet.

Dear Mr. Davis:

NCUA's Region III has asked us to respond to your letter requesting guidance on the vehicle exception to the loan-to-value (LTV) requirements in NCUA's MBL rule. Specifically, you have asked us to clarify what constitutes a "fleet" of vehicles. A fleet will cover two or more vehicles used in a business if the business, itself, is transportation, but the meaning of "fleet" may also include two or more vehicles used to support the operations of a business.

The MBL rule provides that a credit union may make MBLs secured by certain consumer-type vehicles without complying with the rule's LTV ratios, provided the vehicle is not part of a fleet of vehicles. 12 C.F.R. 723.7(e). In the preamble to the final rule creating this exception, the NCUA Board explained:

[T]he Board intends this exclusion to be used to finance business use or combined personal/business use vehicles and not, for example, to finance fleet purchases. One commenter asked the Board to clarify the concept of a fleet of cars. A fleet is defined as "a group of vehicles, as taxicabs . . . , owned or operated as a unit." *Webster's II New Riverside University Dictionary* (1994) at 486. The final rule clarifies that a fleet of vehicles is not included in the vehicle exception to the LTV requirements because, when a business requires the use of a fleet of vehicles, it is likely these vehicles will depreciate far more quickly than vehicles used for personal use or a combined personal/business use.

68 Fed. Reg. 56537, 56543 (Oct. 1, 2003) (emphasis added).

Based on the definition of fleet used in the preamble, a fleet is a group of two or more vehicles operated as a unit to produce income. A "group" is defined as "two or more figures comprising a unit or design" or "a number of things considered together because of similarities." *Webster's II New Riverside University Dictionary* (1994) at 551. Using this plain English definition and intent of the NCUA Board as indicated in the preamble to the final rule, a fleet, for

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purposes of the MBL rule, will generally mean two or more vehicles used in a business that requires the use of multiple vehicles.

Where the business, itself, is some form of transportation, for example, taxis, limousines, or vans used for delivery companies, those vehicles clearly will be considered a fleet and subject to the MBL rule. As noted by the NCUA Board, these vehicles depreciate at a faster rate than personal use vehicles.

A determination is not always easy where the vehicles support a business operation but transportation, itself, is not the purpose or service the business provides. The facts presented by the borrower will dictate if vehicles are part of a fleet, and credit unions will need to make a case-by-case determination consistent with the rule. As guidance, we provide some examples that may be helpful. Our view is that, where using a vehicle to deliver a product or provide services is integral to the business, two or more vehicles will be considered a fleet. Examples in this category include, for example: a catering or florist business, a plumbing or electrical company using vehicles to make home service calls, or a supply business of any sort that features delivery of its product to a location identified by the customer.

Finally, we note a credit union may request a waiver of the general LTV requirements under the MBL rule for a fleet of vehicles. 12 C.F.R. §§723.10-12. The discussion in the final rule's preamble highlights the NCUA Board's concern that there may be more risk in financing fleets at 100% of their value than for other vehicle MBLs. The MBL rule, however, does not restrict a region's authority to grant waivers from the LTV requirements imposed on a fleet of vehicles, if the region determines a waiver is appropriate.

Sincerely,

/s/

Sheila A. Albin  
Associate General Counsel

GC/CJL/SAA:bhs  
05-1038

cc: Region III