§ 723.9 How do you calculate the aggregate 15% limit?

(a) *Step 1.* Calculate the numerator by adding together the total outstanding balance of member business loans to any one member, or group of associated members. From this amount, subtract any portion:

(1) Secured by shares in the credit union;

(2) Secured by deposits in another federally insured financial institution;

(3) Fully or partially insured or guaranteed by any agency of the Federal government, state, or its political subdivisions;

(4) Subject to an advance commitment to purchase by any agency of the Federal government, state, or its political subdivisions.

(b) *Step 2.* Divide the numerator by all reserves, excluding the Allowance for Loan Losses account.

§ 723.10 What loan limit waivers are available?

In addition to an individual waiver from the personal liability and guarantee requirement, you also may seek a waiver for a category of loans in the following areas:

(a) Loan-to-value ratios;

(b) Maximum loan amount to one borrower or associated group of borrowers; and

(c) Construction and development loan limits.

§ 723.11 How do you obtain a waiver?

To obtain a waiver, a federal credit union must submit a request to the Regional Director. A state chartered federally insured credit union must submit the request to its state supervisory authority. If the state supervisory authority approves the request, the state regulator will forward the request to the Regional Director. A waiver is not effective until it is approved by the Regional Director. The waiver request must contain the following:

(a) A copy of your business lending policy;

(b) The higher limit sought;

(c) An explanation of the need to raise the limit;

(d) Documentation supporting your ability to manage this activity; and

(e) An analysis of the credit union's prior experience making member business loans, including as a minimum:

(1) The history of loan losses and loan delinquency;

(2) Volume and cyclical or seasonal patterns;

(3) Diversification;

(4) Concentrations of credit to one borrower or group of associated borrowers in excess of 15% of reserves (excluding the Allowance for Loan Losses account);

(5) Underwriting standards and practices;

(6) Types of loans grouped by purpose and collateral; and

(7) The qualifications of personnel responsible for underwriting and administering member business loans.

§ 723.12 What will NCUA do with my waiver request?

Your Regional Director will:

(a) Review the information you provided in your request;

(b) Evaluate the level of risk to your credit union;

(c) Consider your credit union's historical CAMEL composite and component ratings when evaluating your request; and

(d) Notify you of the action taken within 45 calendar days of receiving the request from the federal credit union or the state supervisory authority. If you do not receive notification within 45 calendar days of the date the request was received by the regional office, the credit union may assume approval of the waiver request.

§ 723.13 What options are available if the NCUA Regional Director denies our waiver request, or a portion of it?

You may appeal the Regional Director's decision in writing to the NCUA Board. Your appeal must include all information requested in § 723.11 and why you disagree with your Regional Director's decision.

§ 723.14 How do I reserve for potential losses?

Non-delinquent loans may be classified based on factors such as the adequacy of analysis and supporting documentation. You must classify potential loss loans as either substandard, doubtful, or loss. The criteria for determining the classification of loans are:

(a) *Substandard.* Loan is inadequately protected by the current sound worth and paying capacity of the obligor or of the collateral pledged, if any. Loans classified must have a well-defined weakness or weaknesses that jeopardize the liquidation of debt. They are characterized by the distinct possibility that the credit union will sustain some loss if the deficiencies are not corrected. Loss potential, while existing in the aggregate amount of substandard loans, does not have to exist in individual loans classified substandard.

(b) *Doubtful.* A loan classified doubtful has all the weaknesses inherent in one classified substandard, with the added characteristic that the weaknesses make collection or liquidation in full, on the basis of currently existing facts, conditions, and values, highly questionable and improbable. The possibility of loss is extremely high, but because of certain important and reasonably specific pending factors which may work to the advantage and strengthening of the loan, its classification as an estimated loss is deferred until its more exact status may be determined. Pending factors include: proposed merger, acquisition, or liquidation actions; capital injection; perfecting liens on collateral; and refinancing plans.

(c) *Loss.* Loans classified loss are considered uncollectible and of such little value that their continuance as loans is not warranted. This classification does not necessarily mean that the loan has absolutely no recovery or salvage value, but rather, it is not practical or desirable to defer writing off this basically worthless asset even though partial recovery may occur in the future.

§ 723.15 How much must I reserve for potential losses?

The following schedule sets the minimum amount you must reserve for classified loans:

Classification	Amount required
Substandard	10% of outstanding amount unless other factors (for example, history of such loans at the credit union) indicate a greater or lesser amount is appropriate.
Doubtful	50% of the outstanding amount.
Loss	100% of the outstanding amount.

§ 723.16 What is the aggregate member business loan limit for a credit union?

The aggregate limit on a credit union's outstanding member business loans (including any unfunded commitments) is the lesser of 1.75 times the credit union's net worth or 12.25% of the credit union's total assets. Net worth is all of the credit union's retained earnings. Retained earnings normally includes undivided earnings, regular reserves and any other reserves.

§ 723.17 Are there any exceptions to the aggregate loan limit?

There are three circumstances where a credit union may qualify for an exception from the aggregate limit. The three exceptions are:

(a) Credit unions that have a low-income designation or participate in the Community Development Financial Institutions program;

(b) Credit unions that were chartered for the purpose of primarily making member business loans and can provide documentary evidence; or

(c) Credit unions that have a history of primarily making member business loans, meaning that either member business loans comprise at least 25% of the credit union's outstanding loans (as evidenced in a call report for 1998 or any of the three prior years) or member business loans comprise the largest portion of the credit union's loan portfolio. For example, if a credit union makes 23% member business loans, 22% first mortgage loans, 22% new automobile loans, 20% credit card loans, and 13% total other real estate loans, then the credit union meets this exception.