



DBF GUIDANCE FOR GEORGIA STATE-CHARTERED BANKS, BANK HOLDING COMPANIES, CREDIT UNIONS, AND TRUST COMPANIES

TO: Supervision Staff

CC: Georgia State-Chartered Credit Unions

FROM: Melissa Sneed
Deputy Commissioner for Supervision

SUBJECT: LOW INCOME CREDIT UNIONS

DATE: May 25, 2018

Low Income Credit Union (LICU) is a designation defined in detail within Section 701.34 of NCUA Rules and Regulations. The designation is available to both state and federal credit union charters. State-chartered credit unions that meet the eligibility requirement may obtain LICU designation from the NCUA, subject to the Department's approval. NCUA policy as outlined in NCUA Letter No. 13-CU-04 is that "State regulators have the sole authority to make the low-income designation for FISCUs." Accordingly, no LICU designation will be conferred upon a Georgia state-chartered credit union by the NCUA without the Department's prior approval.

LICU designation confers access to specified benefits and expanded authority so long as the credit union continues to meet the eligibility requirement. The Department supports LICU designation for state-chartered credit unions that are well managed and in a satisfactory financial condition so long as the expanded authority conferred by the designation is based on conditions consistent with standards of safety and soundness to include a clearly defined business plan outlining appropriate mitigating controls over the use of the expanded authorities and incremental implementation of the authorities subject to the Department's prior approval at specified checkpoints.

Benefits and Expanded Authorities of LICU Designation

- Accept non-member deposits from any source;
- Offer secondary capital that counts towards the credit union's net worth as defined by the NCUA, including for Prompt Corrective Action purposes;

- Qualify for exception from the aggregate loan limit for Member Business Loans (MBLs); and
- Access NCUA support programs including community development loans, technical assistance grants, and economic development consulting services.

Eligibility Requirement for LICU Designation

A credit union with a majority of its membership (50.01%) determined by the NCUA to be low-income is eligible for LICU designation.

Members living inside a metropolitan area are low income for LICU designation purposes if they earn 80% or less than the median family income for the metropolitan area where they live or the national metropolitan area, whichever is greater. Median earnings may be substituted for median family income if it is more beneficial to the analysis.

Members living outside a metropolitan area are low income for LICU designation purposes if they earn 80% or less than the median family income for the statewide or national non-metropolitan area where they live, whichever is greater. Members enrolled as students in a college, university, high school, or vocational school are also low income for LICU designation purposes.

Obtaining LICU Designation

When the Department uploads a report of examination to the NCUA, geographic member data should be included in that upload as part of the database. NCUA routinely uses this geographic member data to perform analysis determining whether a credit union meets the eligibility requirement for LICU designation. Alternatively, the credit union at any time can contact the NCUA directly and provide this geographic member data requesting an analysis to determine eligibility for LICU designation. To do so or make other inquiries regarding LICU designation, the credit union may contact the NCUA Office of Consumer Protection.

The Department's policy is to review any request for LICU designation made by a state-chartered credit union that is considered by the Department to be well managed and in a satisfactory financial condition. A credit union that does not meet this standard but which makes a request for LICU designation will only be considered on an exception basis subject to the review and approval of the Commissioner. A request for LICU designation made by a state-chartered credit union should be presented in writing and include (at a minimum):

- Documentation demonstrating the credit union's board of directors' approval of the request for LICU designation (subject to regulatory approval);
- A clearly defined business plan identifying the alignment of LICU designation to the credit union's strategy and business model, which details the incorporation of LICU designation benefits and expanded authorities to specific strategic initiatives;
- Policies and procedures addressing appropriate mitigating controls over LICU designation benefits and expanded authorities that the credit union intends to implement such as limits, controls, systems, and staffing expertise to support member business lending as well as exit strategies related to the maturity or runoff of supplemental capital and/or community development loans and the planned or unplanned loss of LICU designation; and

- Pro-forma financial statements covering at least a three (3) year period that incorporate the projected impact of LICU designation benefits and expanded authorities including net worth implications.

Any approval by the Department of LICU designation would be expected to contain limiting conditions that promote safety and soundness through incremental implementation of LICU designation benefits and expanded authority such as:

- Specifying that acceptance of non-member deposits remain subject to the statutory limitations set forth in Section 7-1-650(2) of the Financial Institutions Code of Georgia including, but not limited to, the deposits being insured by the NCUA;
- Obtaining prior approval of the Department before issuing any supplemental capital, with such request specifying the intended purpose, source, terms, and exit strategy;
- Initial and subsequent limits (based on track record of satisfactory performance) relative to the credit union's net worth on the growth and aggregate exposure to MBL appropriate to the credit union's financial condition, policies, underwriting standards, control environment, system capabilities, and staffing expertise; and
- Timely notification to the Department of the credit union's use of NCUA support programs including a brief outline of the program used and its intended purpose.

Maintaining and Losing LICU Designation

In order to retain LICU designation, the credit union must continue to meet the eligibility requirement. Changes in the credit union's membership demographics, field of membership, or completion of a merger are among the circumstances which may result in the credit union no longer meeting the eligibility requirement. It should be noted that some of these factors may not be within the control of the credit union. Accordingly, the credit union should be mindful and prepare for the possibility of losing LICU designation. The NCUA will periodically assess whether the LICU continues to meet the eligibility requirement. If a LICU is found to no longer meet the eligibility requirement, the credit union will have up to five (5) years in order to either restore itself to eligibility or lose the LICU designation and related benefits.

Examination of LICUs

Examination of LICUs should include a risk-focused examiner review of compliance with any Department approval condition(s) along with a safety and soundness assessment of the adequacy of controls over the implementation of LICU designation benefits and expanded authorities. Confirmation should also be obtained that the credit union continues to qualify for LICU status.

RESOURCES

NCUA Letter No. 13-CU-04 – Streamlined Process for Evaluating Low-Income Designation
 NCUA Frequently Asked Questions on Low-Income Credit Union Eligibility and Designation
 Section 701.34 of NCUA Rules and Regulations – Designation of low income status;
 Acceptance of secondary capital accounts by low-income designated credit unions