

112TH CONGRESS  
1ST SESSION

# H. R. 1418

To amend the Federal Credit Union Act to provide certain credit unions with the authority to make additional member business loans, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 7, 2011

Mr. ROYCE (for himself, Mrs. MCCARTHY of New York, Mr. JOHNSON of Georgia, Mr. PETERS, and Mr. CARNAHAN) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Federal Credit Union Act to provide certain credit unions with the authority to make additional member business loans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Lend-  
5 ing Enhancement Act of 2011”.

6 **SEC. 2. LIMITS ON MEMBER BUSINESS LOANS.**

7 (a) IN GENERAL.—

8 (1) REVISED LIMITATION AND CRITERIA.—Ef-  
9 fective 6 months after the date of enactment of this

1 Act, section 107A(a) of the Federal Credit Union  
2 Act (12 U.S.C. 1757a(a)) is amended to read as fol-  
3 lows:

4 “(a) LIMITATION.—

5 “(1) IN GENERAL.—Except as provided in para-  
6 graph (2), an insured credit union may not make  
7 any member business loan that would result in the  
8 total amount of such loans outstanding at that cred-  
9 it union at any one time to be equal to more than  
10 the lesser of—

11 “(A) 1.75 times the actual net worth of  
12 the credit union; or

13 “(B) 12.25 percent of the total assets of  
14 the credit union.

15 “(2) ADDITIONAL AUTHORITY.—The Board  
16 may approve an application by an insured credit  
17 union upon a finding that the credit union meets the  
18 criteria under this paragraph to make 1 or more  
19 member business loans that would result in a total  
20 amount of such loans outstanding at any one time  
21 of not more than 27.5 percent of the total assets of  
22 the credit union, if the credit union—

23 “(A) had member business loans out-  
24 standing at the end of each of the 4 consecutive  
25 quarters immediately preceding the date of the

1 application, in a total amount of not less than  
2 80 percent of the applicable limitation under  
3 paragraph (1);

4 “(B) is well capitalized, as defined in sec-  
5 tion 216(c)(1)(A);

6 “(C) can demonstrate at least 5 years of  
7 experience of sound underwriting and servicing  
8 of member business loans;

9 “(D) has the requisite policies and experi-  
10 ence in managing member business loans; and

11 “(E) has satisfied other standards that the  
12 Board determines are necessary to maintain the  
13 safety and soundness of the insured credit  
14 union.

15 “(3) EFFECT OF NOT BEING WELL CAPITAL-  
16 IZED.—An insured credit union that has made mem-  
17 ber business loans under an authorization under  
18 paragraph (2) and that is not, as of its most recent  
19 quarterly call report, well capitalized, may not make  
20 any member business loans, until such time as the  
21 credit union becomes well capitalized, as reflected in  
22 a subsequent quarterly call report, and obtains the  
23 approval of the Board.”.

24 (b) IMPLEMENTATION.—

1           (1) TIERED APPROVAL PROCESS.—The Board  
2 shall develop a tiered approval process, under which  
3 an insured credit union gradually increases the  
4 amount of member business lending in a manner  
5 that is consistent with safe and sound operations,  
6 subject to the limits established under section  
7 107A(a)(2) of the Federal Credit Union Act (as  
8 amended by this Act). The rate of increase under  
9 the process established under this paragraph may  
10 not exceed 30 percent per year.

11           (2) RULEMAKING REQUIRED.—The Board shall  
12 issue proposed rules, not later than 6 months after  
13 the date of enactment of this Act, to establish the  
14 tiered approval process required under paragraph  
15 (1). The tiered approval process shall establish  
16 standards designed to ensure that the new business  
17 lending capacity authorized under the amendment  
18 made by subsection (a) is being used only by insured  
19 credit unions that are well-managed and well capital-  
20 ized, as required by the amendments made under  
21 subsection (a) and as defined by the rules issued by  
22 the Board under this paragraph.

23           (3) CONSIDERATIONS.—In issuing rules re-  
24 quired under this subsection, the Board shall con-  
25 sider—

1 (A) the experience level of the institutions,  
2 including a demonstrated history of sound  
3 member business lending;

4 (B) the criteria under section 107A(a)(2)  
5 of the Federal Credit Union Act, as amended  
6 by this Act; and

7 (C) such other factors as the Board deter-  
8 mines necessary or appropriate.

9 (c) REPORTS TO CONGRESS ON MEMBER BUSINESS  
10 LENDING.—

11 (1) REPORT OF THE BOARD.—

12 (A) IN GENERAL.—Not later than 3 years  
13 after the date of enactment of this Act, the  
14 Board shall submit a report to Congress on  
15 member business lending by insured credit  
16 unions.

17 (B) REPORT.—The report required under  
18 subparagraph (A) shall include—

19 (i) the types and asset size of insured  
20 credit unions making member business  
21 loans and the member business loan limita-  
22 tions applicable to the insured credit  
23 unions;

1           (ii) the overall amount and average  
2 size of member business loans by each in-  
3 sured credit union;

4           (iii) the ratio of member business  
5 loans by insured credit unions to total as-  
6 sets and net worth;

7           (iv) the performance of the member  
8 business loans, including delinquencies and  
9 net charge-offs;

10          (v) the effect of this section on the  
11 number of insured credit unions engaged  
12 in member business lending, any change in  
13 the amount of member business lending,  
14 and the extent to which any increase is at-  
15 tributed to the change in the limitation in  
16 section 107A(a) of the Federal Credit  
17 Union Act, as amended by this Act;

18          (vi) the number, types, and asset size  
19 of insured credit unions that were denied  
20 or approved by the Board for increased  
21 member business loans under section  
22 107A(a)(2), as amended by this Act, in-  
23 cluding denials and approvals under the  
24 tiered approval process;

1 (vii) the types and sizes of businesses  
2 that receive member business loans, the  
3 duration of the credit union membership of  
4 the businesses at the time of the loan, the  
5 types of collateral used to secure member  
6 business loans, and the income level of  
7 members receiving member business loans;  
8 and

9 (viii) the effect of any increases in  
10 member business loans on the risk to the  
11 National Credit Union Share Insurance  
12 Fund and the assessments on insured  
13 credit unions.

14 (2) GAO STUDY AND REPORT.—

15 (A) STUDY.—The Comptroller General of  
16 the United States shall conduct a study on the  
17 status of member business lending by insured  
18 credit unions, including—

19 (i) trends in such lending;

20 (ii) types and amounts of member  
21 business loans;

22 (iii) the effectiveness of this section in  
23 enhancing small business lending;

1 (iv) recommendations for legislative  
2 action, if any, with respect to such lending;  
3 and

4 (v) any other information that the  
5 Comptroller General considers relevant  
6 with respect to such lending.

7 (B) REPORT.—Not later than 3 years after  
8 the date of enactment of this Act, the Comp-  
9 troller General shall submit a report to Con-  
10 gress on the study required by subparagraph  
11 (A).

12 (d) DEFINITIONS.—In this section—

13 (1) the term “Board” means the National  
14 Credit Union Administration Board;

15 (2) the term “insured credit union” has the  
16 meaning given that term in section 101 of the Fed-  
17 eral Credit Union Act (12 U.S.C. 1752);

18 (3) the term “member business loan” has the  
19 meaning given that term in section 107A(c)(1) of  
20 the Federal Credit Union Act (12 U.S.C.  
21 1757a(c)(1));

22 (4) the term “net worth” has the meaning  
23 given that term in section 107A(c)(2) of the Federal  
24 Credit Union Act (12 U.S.C. 1757a(c)(2)); and



1           (5) the term “well capitalized” has the meaning  
2           given that term in section 216(c)(1)(A) of the Fed-  
3           eral Credit Union Act (12 U.S.C. 1709d(e)(1)(A)).

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