



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

ANDREW M. CUOMO
Governor

LINDA A. LACEWELL
Superintendent

ORDER ISSUED UNDER SECTION 12-a OF THE NEW YORK BANKING LAW

WHEREAS, pursuant to Section 12-a of the Banking Law, the Superintendent of Financial Services (the "Superintendent") may issue an order authorizing one or more New York State-chartered banking institutions to exercise a federally permitted power (as such term is used in Section 12-a), subject to such terms and conditions as the Superintendent shall find necessary and appropriate; and

WHEREAS, Section 456.4 of the Banking Law provides that no New York State-chartered credit union shall permit any officer or employee to borrow directly or indirectly on an unsecured basis, or become surety for an unsecured loan or advance made by such credit union, where such loan or advance or aggregate loans or advances exceed \$20,000 ("Covered Loans"), without approval by a majority of the entire board of directors; and

WHEREAS, a federally chartered credit union is not required by federal law to obtain the approval of its board of directors to make Covered Loans to its officers or employees unless the Covered Loan is to a person, as borrower or surety, who is a member of its board of directors, credit committee, or supervisory committee.; and

WHEREAS, it is deemed prudent that the relief granted by this order be limited to New York State-chartered Qualified Credit Unions (as defined below) and be subject to lending policies and procedures approved by the Qualified Credit Union's board of directors and acceptable to the New York State Department of Financial Services (the "Department"); and

WHEREAS, the intent of the Superintendent to issue this order has been posted upon the bulletin board of the Department and such intent has been published in the weekly bulletin of the Department, which is available on the internet, pursuant to Section 42 of the Banking Law and at least thirty (30) days have passed since such posting and publication; and

WHEREAS, the Superintendent hereby finds that issuance of this order is consistent with the policy of the State of New York as declared in Section 10 of the Banking Law and thereby protects the public interest, including the interests of depositors, creditors, shareholders, stockholders and consumers, and is necessary to achieve or maintain parity

between New York State-chartered credit unions and federally chartered credit unions with respect to rights, powers, privileges, benefits, activities, loans, investments or transactions;

NOW, THEREFORE, BE IT ORDERED THAT

Notwithstanding anything in law or regulations to the contrary, pursuant to Section 12-a of the Banking Law:

A Qualified Credit Union may make Covered Loans to its officers or employees without regard to the requirement for approval by a majority of its entire board of directors as set forth in Section 456.4 of the Banking Law as long as: (i) any such Covered Loan is made pursuant to lending policies and procedures approved by the board of directors of the Qualified Credit Union and acceptable to the Department; and (ii) Covered Loans to executive officers of the Qualified Credit Union, including those functioning in the capacity of the chief executive officer, president, treasurer, and chief financial officer, do not have more favorable rates, terms or conditions than those available to the Qualified Credit Union's members and are subject to review by the board of directors at the time they are made or amended.

As used herein, a "Qualified Credit Union" means a New York State-chartered credit union which:

- (i) has assets of at least \$10,000,000;
- (ii) at its most recent prior examination, had received a CAMEL rating of 1 or 2 in both the management component as well as the composite rating;
- (iii) is "well capitalized" in accord with the regulations of the National Credit Union Administration at 12 CFR Part 702; and
- (iv) is not operating under a formal or informal enforcement action or administrative order, including, but not limited to, a memorandum of understanding, cease and desist order, letter of understanding and agreement, preliminary warning letter or prompt corrective action directive.

Any Covered Loan to an officer or employee of a Qualified Credit Union who is a member of the board of directors, credit committee, or the supervisory committee of the Qualified Credit Union will continue to be subject to the requirements of Section 456.4 of the Banking Law.



Linda A. Lacewell
Superintendent
of Financial Services

Dated: October 9, 2019