

August 26, 2015

Gerard Poliquin  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria, VA 22314

Subject: Comment Letter on the Proposed Amendments to MBL Rule, RNN 3133-AE37

Dear Mr. Poliquin,

TAPCO Credit Union is a federally insured, state chartered credit union in Washington State. Our current MBL portfolio is \$38 million equating to 1.48 times net worth. In 2014, after a full review of our lending policies, practices, portfolio and strategic plan, our cap was increased to two times net worth. This increase has been critical in assisting TAPCO to grow and return to a profitable state.

On behalf of TAPCO Credit Union, I commend the NCUA for analyzing the current rule and assessing how the rule could be written in light of the current economic and regulatory environment. The shift from a prescriptive regulation to a principles-based approach is prudent and welcome. Credit union management must be allowed, and held accountable by the elected Board of Directors, to provide members with lending options that serve their needs and that of the community. In addition, this approach enables credit unions to tailor their MBL portfolios to fit their strategic needs and risk tolerances.

The proposed regulation notes specific areas that are positive for individual credit union and industry growth. We encourage NCUA to maintain the following in the final rule.

- Allow credit unions to determine the need for a personal guarantee
- Removal of the 80 percent loan to value cap
- Removal of the limit on unsecured MBLs
- Removal of the requirement for staff to have two years of experience
- Removal of the detailed limits regarding construction/development loans
- The new definition of associated borrower
- The increase in loans to one borrower to 25 percent of net worth
- The redefinition of the MBL cap as a percentage of net worth
- The breakout of commercial loans from the MBL loans
- Excluding non-member participation loans from the MBL cap

Of strong concern to TAPCO, is ensuring that consideration be given to the exemptions provided to State regulators in maintaining their authority and ability to update and submit new rules. We recommend NCUA incorporate into the final revised MBL rule the existing provision of current § 723.20(a) as follows:

The NCUA Board may exempt federally insured state chartered credit unions in a given state from NCUA's member business loan rule if NCUA approves the state's rule for use for state chartered federally insured credit unions. In making this determination, the Board is guided by safety and soundness considerations and reviews whether the state regulation minimizes the risk and accomplishes the overall objectives of NCUA's member business loan rule.

Incorporating the above portion of existing § 723.20(a) into a final MBL rule would allow the states with existing state specific rules to maintain, repeal, or amend those rules while also allowing any state to come forward in the future with a state specific rule.

If we are limited to one of the three choices outlined in the proposal, we support "Option C" as noted in section 723.9 ii – Transitional Provisions, State Regulation of Business Lending. This is not just a matter of states' rights, but also a competitive matter. Current regulation enables the Washington State regulator to address needs specific to Washington State. The Department of Financial Institutions is a highly respected authority regionally and nationally. Any attempt to reduce their ability to regulate Washington credit unions harms the dual chartering system. Additionally, a preemption of states' rights is counter to Executive Order 13132 issued by President Obama in May 2009.

Regardless of the regulatory approach taken by NCUA in a final commercial lending rule, FISCUs in the states with state specific rules must grandfathered in to their current exemptions and waivers.

TAPCO Credit Union members and our community would benefit from the removal of non-member participation loans from the calculation. Currently TAPCO has \$13.7 million of participation loans in the portfolio. We currently only have \$13.5 million available to lend until we reach our current cap. In light of this situation, we are limited in our ability to provide loans to members in the coming years. The removal of our participation portfolio would provide addition flexibility. This change also allows credit unions to invest in loans that provide geographic diversity and increase balance sheet management opportunities. We support the continued expectation that a credit union be held accountable for underwriting each loan based on internal guidelines.

We commend NCUA for removing the two year experience requirement for personnel dedicated to business lending. While this guidance may have been appropriate as the industry entered the marketplace, it is no longer relevant. The removal of the requirement in no way removes responsibility for prudent management and execution of member business lending activity. In our opinion, it increases that accountability. Further, it encourages the development of talented credit union personnel.

Section 2 D of the proposal indicates that NCUA will delay implementation for 18 months. We generally support this delay and encourage NCUA to aggressively address the required need for training examination personnel. As the Board is aware, disparate interpretation of regulation from one exam cycle to the next is counter-productive and impedes a credit unions ability to serve its members.

Additionally, we encourage the Board to consider publishing guidance in conjunction with the final rule. This ensures the intent of the rule is implemented in a manner that is congruent and consistent with the Board's action. We understand that the Board does not intend that guidance be more restrictive than the rule and encourage the Board to direct staff to author it in such manner. By publishing the draft guidance with the final rule, state and federal examiners and federally insured credit unions will be able to evaluate the full meaning of NCUA's final MBL/commercial lending rule. In addition to being able to commence an adjustment to the new regulatory framework during the 18 month period, credit unions will be able to provide feedback to state and federal regulators on the proposed guidance to ensure a vetted supervisory framework is in place come the delayed effective date. It is our preference that guidance be comprehensive and limited to a minimal number of documents.

On behalf of TAPCO Credit Union, I sincerely appreciate the opportunity comment on the proposed rule. Further, I applaud the Board for proactively addressing a rule in manner that creates opportunity for members to receive services within the context of the Act.

Sincerely,

  
Carlyn J. Roy  
CEO