

From: [Carson, Frank L.](#)
To: [Regulatory Comments](#)
Subject: Proposed Rulemaking for Member Business Loans, Part 723" , Frank L. Carson, III
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Gerard S. Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

Dear Mr. Poliquin,

I write today to negatively comment on the proposed NCUA approval of increasing the cap on business loans. The NCUA, unable to get Congress to increase the cap, now purposely circumvents their authority, and spits in Congress's eye, by "clarifying" that non-member business loan participations do not count towards the statutory cap and by eliminating regulatory oversight of the concentrations of these loans.

Gentlemen, Ladies, it seems so simple, if you want to be a bank, just pay taxes and be regulated by regulators. My anger aside, I have watched over the past 40+ years the morphing of the Credit Union Industry into a behemoth tax exempt industry that has outlived its purpose and sanity. These are just a few safety and soundness issues that make this proposed change unacceptable. The NCUA's proposal would:

- **Widen loopholes to the member business lending cap** by "clarifying" that non-member business loan participations do not count towards the statutory cap and by eliminating regulatory oversight of the concentrations of these loans. This will not only allow, but also encourage, credit unions to enter into more multimillion-dollar commercial lending deals.
- **Make the statutory cap meaningless** by allowing certain credit unions to exceed the member business loan statutory authority. If both the proposed business lending and pending capital rules are adopted as proposed, the statutory cap could nearly double without Congressional approval.
- **Remove important safety-and-soundness checks and balances** by eliminating the requirement for personal guarantees, loan-to-value limitations and collateral requirements. This encourages credit unions to divert resources to financing large commercial enterprises while relaxing the safety and soundness regulations associated with such loans.
- **NCUA's proposal poses serious safety and soundness concerns.** NCUA has not established that it is prepared to supervise institutions with expanding business loan portfolios, and the credit union industry has proven ill-equipped to make such loans. At least five credit unions since 2010 have failed at the hands of poorly run business loan programs, accounting for a quarter of all losses to the insurance fund during that period. In 2010, member business loans were the primary or secondary contributing factor for the supervisory concern for nearly half of the credit unions with CAMEL ratings of 3, 4 or 5 that made business loans. The level of delinquent member business loans dramatically rose from 0.53 percent in 2006 to 4.29 percent in 2010; compared to a total loan delinquency of 1.74 percent, this is a clear indication that credit unions, and NCUA itself, were ill-prepared for the additional responsibilities and risks associated with commercial

lending. Losses could quickly multiply under this proposed rule.

In addition, relaxing the regulatory standards is contrary to NCUA's charge of protecting the industry's insurance fund, and effectively places the taxpayer at risk. NCUA is willfully ignoring lessons from their history and encouraging credit unions to divert funds from consumer lending to commercial lending. Consider expanding on the impact of allowing an ill-prepared lender into a new market and what could occur in an economic downturn if these loans are not properly underwritten, especially given the rule's liberal allowance of loan participations could cause bad loans to be syndicated broadly.

- **NCUA is overstepping its regulatory reach by expanding business lending loopholes.** This proposal is contrary to congressional intent to limit business lending by credit unions. In 1998, Congress made it clear that credit unions should be focused on consumer lending, not commercial lending. Congress instituted restrictions on business lending deliberately: "to ensure that credit unions continue to fulfill their specified mission of meeting the credit and savings needs of consumers, especially persons of modest means, through an emphasis on consumer rather than business loans." By proposing this rule, the NCUA Board has blatantly disregarded congressional intent. NCUA should not undermine specific limitations by Congress nor expand the taxpayer liability.

I truly cannot understand how you could usurp the authority that Congress has given and bend it so boldly to fit the mold that the largest Credit Union institutions demand; but do sincerely hope that it is met with proper vindication by promptly changing your tax exempt status to that of a taxpaying status, with the FDIC as your regulatory agency.

Most Sincerely,



FRANK L. CARSON

President and CEO, Carson Bank MLO# 629461

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