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August 24, 2015

Mr. Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Re: Comment Letter on the Proposed Amendments to NCUA's Member Business Loan Regulation

Mr. Poliquin,

Thank you for the opportunity to comment on the National Credit Union Administration's (NCUA) proposed Member Business Loan (MBL) regulatory changes. Logix Federal Credit Union (Logix) has served its members since 1937 and as of June 2015, has $4 Billion in assets, and serves approximately 150,000 members. Business lending is a clear need in the community we serve, and among our members. Historically, Logix has offered a safe and sound MBL program, which has benefited our membership and the credit union as a whole. We commend and appreciate the NCUA's timely initiative for regulatory relief and modernization of MBL regulations.

Our comment letter has the following categories

1. Proposed changes that will provide relief
2. Timing of Implementation
3. Additional clarification, considerations and/or modernizations

1. Proposed changes that will provide needed relief and clarity for credit unions as a whole

- Clarifications in the detailed definitions, and table of comparisons of MBLs and Commercial Loan definitions
    - Including the fact that 1-4 family residential property is not classified as a commercial loan, and loan balances up to $50,000 in the aggregate are not considered an MBL
- Modification of the experience and expertise requirements for personnel involved in member business lending, and delineation of qualifications required for business lending management
- The shift from prescriptive regulation to a principles-based approach so that each credit union can tailor their program to match its strategic goals and risk tolerances
- Removal of the 80 percent limit on Loan-to-Value ratios
- Elimination of the limit on unsecured MBLs
- Details regarding Board of Directors and Management oversight, and the need for senior executives to have a comprehensive understanding of the risks of a commercial lending program
- Relaxing requirements for collateral and security requirements, with elimination of an absolute requirement for personal guarantees when adequate mitigating factors exist
- Exclusion of MBL Participation Loans from the MBL Cap

2. Timing of Implementation

The proposed regulation provides an 18 month implementation period before the regulation is effective. We agree with that proposed timing, but recommend that credit unions be given flexibility to follow these new guidelines in advance of the official implementation date. The proposed changes are positive and will provide federally insured credit unions with significant regulatory relief via greater flexibility,* * * without a significant adverse impact on operation of credit unions currently offering MBLs.

Credit Risk Rating System – Most credit unions already have a credit risk rating system in place and simply need to shore up measurement and reporting. Those without a robust system can establish and implement one as an integral part of their MBL policy update.

Unsecured Lending – Credit unions can easily define circumstances where appropriate and well-supported unsecured lending limits may be utilized. Unsecured limits for loans to one borrower and portfolio limits can be tied to net worth, for example. These can be established in a credit union's policy and practices in a relatively quickly.

Personal Guarantees -While eliminating the absolute requirement for personal guaranties could pose additional risk, we believe this change can be implemented in a safe and sound manner, including a graduated guarantee matrix, where other guarantee options would be used before waiving a personal guaranty altogether. The options might include proportional guaranties when a business or property is owned by several individuals; a graduated-scale option to allow "carve-out" guaranties that would give the credit union the ability to pursue the limited guaranties for certain acts of default; or a guaranty required only from the guarantor who is key to the success of the applicable business.

We believe an implementation period of 90-120 days would be sufficient time to implement the proposed guidelines for credit unions with existing MBL programs.

3. Additional Clarification, Considerations and/or Modernizations

Clarification Requested on Exceptions to the Aggregate Loan Limit

Credit union chartered for the purpose of making member business loans to its members

In researching the legislative intent applicable to the Aggregate Loan Limit for MBLs, Pursuant to §1757a(b)(1), (§107A) of the Federal Credit Union Act, (the Act) the "limitation on member business loans does not apply in the case of, "an insured credit union chartered for the purpose of making member business loans to its members."

In the Article-by-Article Analysis of Comments for Federal Credit Union Bylaws, Article I, Name—Purposes Section 2, provision states the purpose of the credit union is ''to promote thrift among its members * * * and to create for them a source of credit for provident or productive purposes.'' One commenter suggested changing it to ''provident, productive or business purposes'' because the member business loan rule exempts from its limitations credit unions that are chartered for the purpose of making business loans.[1]

The Board agrees that, if a federal credit union (FCU) determines, in compliance with the Act, one of its purposes is to make member business loans, it should be permitted to add this language to its bylaws. 12 U.S.C. 1757a(b)(1). This provision is optional. The final bylaws indicate that FCUs wishing to include the ''business purposes'' language in their bylaws may do so. [2]

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[1] 64 FR 55761-62, October 14, 1999

[2] 64 FR 55761, October 14, 1999

Based on the above discussion and the continued inclusion in 12 CFR 701.2 Appendix A, providing FCUs the option, by two-thirds vote of the FCU's Board, a FCU can include in their Bylaws the optional purpose provision, "**business**,"[3] the credit union is chartered for the purpose of making member business loans to its members, thus qualifying under one of the exceptions provided in the Act.

We would ask for clarification of this point.

Second Clarification Requested on Exceptions to the Aggregate Loan Limit

In every year since Logix Federal Credit Union was chartered in 1937, we have reported positive income. We have operated as prudent lender, and offered Member Business Loans for nearly three decades. MBLs benefit our members, the community we serve, and our credit union. Within the last 15 years, Logix has created many new and valuable MBL programs only to find that we are approaching our MBL lending cap.

Another exception to the MLB Cap is, "a history of primarily making member business loans".
In 1999, NCUA defined this condition as either:

(1) Member business loans comprise at least 25% of the credit union's outstanding loans; or
(2) Member business loans comprise the largest portion of the credit union's loan portfolio.[4]

We recommend a revision to the definition of "a history of primarily making member business loans," so that it also includes a significant history of successfully operating a business lending program. Experience, prudent lending, and a history of profitable operation of a loan program all align with safety and soundness. In addition, the intent of the legislation was and is, "to allow credit unions with a history of beneficial business lending to continue the practice."[5] We believe interpretation of this intent should be expanded to include credit unions that now have such a history, or will have in the future.

Additional Considerations

It is important that credit unions understand the guidance, and that credit unions and examiners have the same understanding of the requirements. Improved NCUA examiner expertise as well as exam consistency has been apparent recently. It is essential that NCUA continue to develop commercial lending expertise in examiners, and ensure consistency in all credit union examinations.

We appreciate this opportunity to provide comment and input during the rule making process. Please feel free to contact me with any questions about this comment letter.

Sincerely,

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3 12 CFR 701 Appendix A, Federal Credit Union Bylaws, Article II, Section 2
4 64 FR 28724 May 27, 1999
5 64 FR 28725, May 27, 1999