



August 15, 2015

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

Delivered Electronically

Subject: Member Business Loans; Commercial Lending; RIN 3133-AE37

Dear Mr. Poliquin,

I would like to take this opportunity to express the views of Verity Credit Union, located in Seattle, Washington, on the proposal that would amend the member business loan (MBL) rule.

Overall, we are very pleased with the MBL proposals move from a prescriptive approach to a more principles-based rule approach. We believe the proposed rule will allow credit unions to more effectively manage business loan originations and portfolios. Especially we commend the removal of the requirement for personal guarantees, the strict two years of direct experience for staff and the flexibility on the 15 percent of net worth limit on loans to one borrower. These proposed changes recognize the maturity of the credit union commercial lending programs and the need for credit unions to have flexibility in order to compete in the marketplace.

We do have some specific comments that we will share below:

Comments on Preemption:

In the MBL proposal, the NCUA asked for comments on how to deal with state regulations in light of the proposed changes to the NCUA Regulation. As a Washington State chartered credit union, we feel very strongly that Washington and the other six states should have the ability to continue to use their approved state regulations if they so choose. Preemption is an important issue to all credit unions—state chartered, federally chartered, and credit unions in states that do not have their own MBL rules, because all credit unions benefit from a regulatory environment that promotes innovation. Washington state credit unions, and I would argue the entire credit union system, have benefited from this ability to innovate.

Recently NCUA has shown a troubling trend of preempting states. Examples include the CUSO rule, taking away states' ability to issue the primary CAMEL rating with the troubled condition rule, and creating a derivatives rule that overrules state supervisory authorities ability to grant derivative powers beyond the scope of the NCUA rule. These are just some of the preemptive rules that the NCUA has issued over the last three years. I hope that the NCUA will not continue this trend with the MBA rule.

Washington has a superb Department of Financial Institutions. They are leaders with a tradition and commitment to updating their charters and improving the regulatory framework on an annual basis. Working closely with the NCUA, this commitment has allowed state chartered credit unions to achieve economies of scale and to thrive. State chartered credit unions in Washington have six times the assets of the average federal charter. . This is in large part due to the unique advantages of the statutory and regulatory frameworks that Oregon and Washington state chartered credit unions enjoy.

State-specific MBL rules allow state supervisory authorities to interpret a rule differently from the way that the NCUA interprets a section of a rule, even if the rule is substantially the same as the NCUA rule.

We ask that the NCUA remove from the commentary on State Regulation of Business Lending that indicates state supervisory authorities do not have the ability to interpret their own MBL rules granted by the NCUA board, in relation to the Federal Credit Union Act. While the commentary has no regulatory impact it demonstrates a lack of respect for SSA's and provides a basis for challenging a state rule not just by the NCUA but by outside interests as well. Existing state-specific rules allowed for proof of concept and provided the NCUA a road map for improving their MBL regulation.

Therefore, it is imperative that States be allowed to maintain previously adopted state rules and to retain the ability to update or submit new state rules to the NCUA Board for approval. **We are specifically asking that the NCUA not make any adverse changes to part 741.** The current proposal includes a change to part 741.203 that would eliminate an important state carve out that must be maintained.

Current part 741.203

a) Adhere to the requirements stated in part 723 of this chapter concerning member business loans, §701.21(c)(8) of this chapter concerning prohibited fees, and §701.21(d)(5) of this chapter concerning non-preferential loans. State-chartered, NCUSIF-insured credit unions in a given state are exempt from these requirements if the state supervisory authority for that state adopts substantially equivalent regulations as determined by the NCUA Board or, in the case of the member business loan requirements, if the state supervisory authority adopts member business loan regulations that are approved by the NCUA Board pursuant to §723.20. In nonexempt states, all required NCUA reviews and approvals will be handled in coordination with the state credit union supervisory authority; and

Proposed part 741.203

(a) Adhere to the requirements stated in part 723 of this chapter concerning commercial lending and member business loans, §701.21(c)(8) of this chapter concerning prohibited fees, and §701.21(d)(5) of this chapter concerning non-preferential loans; and

The NCUA should focus on fostering healthy state regulatory regimes rather than preempting state regulatory authorities. We would encourage the NCUA to draft language that allows SSAs to keep previously approved rules and retains all states' ability to apply for a new rule. Furthermore, we would encourage the NCUA to specifically state in the commentary that states with their own rules retain the flexibility to interpret their rules.

Prohibited Activities – Section 723.7(c)-Conflict of Interest

This section prevents a third party that is providing business loan advice to a credit union from receiving compensation contingent upon closing of a loan. While we understand the concern of NCUA as to some third parties that provide advice to credit unions, we respectfully disagree that CUSOs pose the same conflict risks. We recommend that the rule be clarified to exempt from the prohibition engagements between credit unions and the CUSOs that are owned by those credit unions for origination support irrespective of the timing or methodology of payment. In our case, we own part of a CUSO that has allowed us to afford the expertise to offer commercial loans to our members.

Once again, we thank you for the opportunity to comment on this proposed regulatory change.

Sincerely,

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