SEFCU

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August 31, 2015

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

Re: Member Business Loans Regulation Part 723

Dear Mr. Poliquin,

On behalf of SEFCU, we would like to thank the National Credit Union Administration (NCUA) Board for inviting us to comment on the proposal to amend NCUA's Member Business Loan regulation.

SEFCU has seen steady and positive growth in its commercial loan portfolio over the last several years, although at times compliance with the strict, one-size-fits-all limitations in the regulation has been difficult to navigate. We generally support the proposal as issued and are pleased that NCUA is showing its commitment to decrease regulatory burden and remove the barriers in the MBL regulation that created a severe competitive disadvantage and perpetuated an unlevel playing field with other commercial lenders.

We support the proposed changes to a principle-based rule that allows each credit union to set its own criteria and concentration limits and key ratios by policy. Each credit union is uniquely capable of understanding its members as well as its own risk tolerance and appetite. The changes will provide greater flexibility in making member business loans and will allow SEFCU to focus on setting our own policies and procedures rather than spending time and effort complying with arbitrary limitations and ratios that no longer make good business sense.

Supervisory Guidance

We would like to comment specifically on NCUA's intent to "incorporate expectations regarding risk management practices, such as LTV ratios and portfolio concentration limits, into supervisory guidance issued with any final rule adopted by the board." While we appreciate NCUA's desire to provide such guidance, in our experience, supervisory guidance is sometimes cited by examiners as the functional equivalent of regulations and the rule of law. Additionally, supervisory guidance does not undergo the public comment period typically associated with new or amended regulations. We would ask NCUA to be very clear in the final rule just how this examiner guidance is intended to be utilized and how NCUA will define the degree of enforcement and enforceability of supervisory guidance versus the published rule, which states that the credit union is responsible for establishing LTV and concentration limits, for example. We are concerned that the regulatory oversight would simply migrate over to the supervisory guidance, thereby risking the ability of individual credit unions to establish and properly defend their own reasonable policy limits.

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Below are a few additional items SEFCU would like to comment on.

1. **Personal Guarantees –** The current regulation requiring personal guarantees on business loans limits credit unions' ability to be competitive in the market. There are several instances when the use of non-recourse and/or limited recourse would allow credit unions to attract and offer loans to certain professional organizations. For example, in the instance of a credit rated (BBB+ or better) tenant, the competitive marketplace typically does not seek any type of recourse to the sponsor of the loan since all the risk is with the tenant, which is already credit rated. There are also situations where professionals, including doctors, lawyers, and CPAs, each own a percentage of their firm/business and while they are willing to guarantee up to their ownership percentage, they are not willing to guarantee the full dollar amount of the loan. Finally, it is common practice in the financial arena to eliminate the guarantee on a loan when the loan to value reaches a certain threshold, and while the threshold may differ from one financial institution to another, credit unions do not have this option.
2. **Inclusion of soft costs for construction and development loans –** Currently, credit union construction and development loans are "sized" based on 75% of land, hard costs, and applicable soft costs – costs that "add value" to the real estate. This is not common practice for other financial institutions. What typically happens is other lenders look at the total budget and then determine how much can be borrowed based on the full budget rather than just select items. If inapplicable soft costs represent 10% of the total budget and SEFCU is requiring the business to provide 25% of all remaining costs, we are asking for 35% day one cash outlay. Changing the soft cost requirement would level the playing field and allow credit unions to do more construction and development lending, leading to more permanent opportunities once construction is complete.
3. **Loan to value/loan to cost on construction and development transactions –** Building off the previous point, currently SEFCU can lend the lesser of 75% of land, hard costs, and applicable soft costs, or 80% of the as completed and stabilized value, putting us at a competitive disadvantage. For example, why would a business build a location that costs $100 if the value was only $100? In this example, businesses want the building to cost $100 and the final value to be close to $120. Based on our current lending requirements, SEFCU can offer construction and development loans for $75 which equals a 75% loan to cost and a 63% loan to value. Ideally, the loan to cost should exceed the loan to value. In this instance, if the loan to cost were increased to 85%, this would result in an $85 construction and development loan and a 71% loan to value which is well within guidelines and would allow the borrower to inject less equity up front and would put us in line with other financial institutions.

Once again, we would like to thank the NCUA Board for the opportunity to comment. We would be happy to further discuss this matter, if you so desire.

Sincerely,

John T. DeCelle

John DeCelle, Chief Marketing Officer

cc: Michael J. Castellana, President and CEO, SEFCU