



August 31, 2015

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

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

Dear Secretary,

On behalf of GECU, the largest locally owned credit union in El Paso, TX, this letter is in response to the request for comments regarding the proposed Member Business Lending (MBL) rule. We appreciate the opportunity to comment on the National Credit Union Administration (NCUA) Board's proposal, and commend the NCUA for its efforts in providing regulatory relief to credit unions offering MBL products and services to its membership to allow credit unions the opportunity to better meet the needs of business members.

The proposed MBL rule would completely revitalize the NCUA's MBL's regulation and eliminate nearly all requirements not proscribed in the Federal Credit Union Act. Further, the proposal would modernize the MBL regulatory requirements and limitations by eliminating strict underwriting criteria and waiver requirements in favor of a principles-based approach. Such revisions provide credit unions with more flexibility in the administration of an MBL program that best fits the needs of their membership.

GECU currently serves a membership of over 334,000 with assets greater than \$2 billion. In summary, GECU overwhelmingly agrees with the majority of the revisions provided in the MBL proposal. The proposed rule would provide greater opportunity to serve our membership and increase the availability of capital to small businesses, particularly in our low-income and underserved community. Further, the replacement of a standard approach with a more performance based methodology will allow GECU to be more competitive in the business lending market and provide consumers with products and services to meet their specific business needs. This approach will also aid in creating jobs and encouraging growth throughout our local community while maintaining compliance with regulatory requirements, and safety and soundness standards.

Our specific comments regarding the provisions of the proposal are provided in detail below.

**§723.1 Purpose and Scope**

The expansion of the proposal allowing loans made under SBA-guaranteed loan programs to follow the SBA requirements if less restrictive than the MBL rule for any federal or state guaranteed loan programs. This change allows for greater flexibility to include other federal or state-guaranteed business lending programs available to credit unions, thereby creating additional opportunities for credit unions to participate in loan programs that benefit their membership and community. Such revisions provide GECU and other credit unions additional opportunity to participate in loan programs that not only benefit the community and membership, but also lower the risk exposure of the institution.

**§723.2 Definitions**

The modification and addition of new definitions provides additional clarification and expands member service abilities. Specifically, the revised definitions differentiating between a commercial loan and an MBL to distinguish commercial lending activities in which a credit union may engage, and the statutory

defined MBL which are subject to the MBL cap provides GECU and other credit unions with additional opportunity to grow the MBL portfolio while maintaining risk management techniques appropriate for the loan. However, the requirements currently outlined in the proposed rule are complex with multiple exceptions outlined. Therefore, it is recommended the table found in the Preamble to the Proposed Regulation be included in the rule to provide the necessary guidance to both credit unions and regulators when determining underwriting standards and call report classification of a loan.

#### **§723.3 Board of Directors and Management Responsibility**

The proposed removal of the explicit two-year experience requirement in favor of a more flexible principles-based approach that considers the overall experience of the staff involved in the credit union's commercial lending program allows GECU to provide adequate oversight of the MBL program based on the size and complexity of its portfolio. However, GECU is concerned over the level of oversight and monitoring required of its Board of Directors, especially given the lack of *minimum* requirements outlined in the NCUA's proposal. The ambiguity of the shift in oversight of the MBL program to the Board makes it difficult to determine how this aspect of the proposal will ultimately affect GECU and other credit unions. While we realize it is important for the Board to be involved in the overall direction of the Credit Union's MBL program, it is unclear the level of Board oversight that will be required if the proposal is finalized as provided. We are concerned that the vagueness will create confusion about the Board's involvement in the daily operations of the Credit Union.

#### **§723.4 Commercial Loan Policy**

The proposal requires a significant number of changes to the requirements of the required content of the Credit Union's commercial loan policy to align with the removal of specific underwriting requirements. However, additional direction is needed to address the specific level of detail required in policy concerning underwriting requirements and risk management processes. To expand on the comments previously provided concerning the level of Board oversight, without outlined requirements concerning the detail of credit union practices required in policy, we are concerned there may be misinterpretations by credit unions and examiners alike concerning how much oversight the Board should have in determining underwriting requirements and risk management processes. While we maintain that Board oversight is imperative to the overall success of the MBL program, we are also concerned that the policy requirements provided in the proposal may require Board involvement in the daily operations of the credit union, which is not feasible for an all-volunteer Board.

Further, as the proposal removes most detailed requirements, the availability of waivers has also been eliminated. However, one requirement still remains: the aggregate dollar amount of commercial loans to any one borrower or group of associated borrowers may not exceed 15 percent of net worth or \$100,000, whichever is greater. Currently, credit unions can apply for and receive a waiver for this requirement; however, this ability would be removed under the proposal. NCUA should eliminate this provision, or continue to allow credit unions to apply for waivers from this requirement.

#### **§723.5 Collateral and Security**

The proposed rule replaces the current rules' prescriptive loan-to-value requirements, and unsecured lending limit, with the principle that sufficient collateral is obtained when warranted and in relation to the risk. Removal of these requirements allows credit unions to establish risk tolerances based on the individual needs of the community while ensuring practices are consistent with standards and within the managerial and financial capacity of the credit union.

Additionally, the proposed rule replaces the requirement for a personal guarantee or waiver with the requirement that the credit union document mitigating factors that offset the risk of not having the personal guarantee. Giving credit unions the opportunity to evaluate whether a personal guarantee is necessary through the risk analysis of a particular business loan will enable credit unions to compete for loans where the personal guarantee requirements previously disqualified credit unions from promising lending opportunities.

**§723.6 Construction and Development (C&D) Loans**

The proposed rule eliminates the prescriptive portfolio limit of 15 percent of net worth for C&D loans in the current rule. The change provides credit unions with flexibility in setting their own prudent limit for their C&D portfolio to better serve their membership.

**§723.7 Aggregate MBL Limit; Exclusions and Exceptions**

The proposal would replace the current expression of the MBL cap as 12.25 percent of assets with a cap expressed as 1.75 times the amount of net worth up to the amount of net worth required to be well capitalized. This would not raise the MBL cap from 12.25 percent of assets to 17 percent of assets as purported by many bankers' comments. The proposed amendment would have almost no effect on the aggregate cap.

**Modification of State MBL Laws**

NCUA has requested comments on how to handle the seven states currently maintaining approved MBL rules. As a federally-insured state-chartered credit union (FISCU) in Texas and an advocate of the dual-chartering system, GECU is very concerned with the impact this proposal will ultimately have on the aforementioned states. While we believe Option C, allowing these seven states the option of continuing to use the approved state regulation is likely the best option provided, there is no explanation provided in the proposal concerning *how* any of the options will ultimately affect FISCUs. Without being able to determine impact, it is difficult to provide an answer as to which of the options provided is best for GECU and other FISCUs and for ensuring the dual-chartering system remains intact.

Of most concern is how these revisions will impact the joint examination process with NCUA and our state regulators. As presented, it is difficult to determine how both our regulators will ultimately determine compliance if there are multiple rules with which we are required to comply. Additionally, it is unclear what provisions of both the NCUA rule and the state rule credit unions will have to comply with should the two rules ultimately differ. Similarly, it is not reasonable to discern examiner expectations in such a situation based on the information provided. Additional information is needed to truly determine the impact such revisions would have on FISCUs.

**Supervisory Guidance**

Additionally, the ambiguous nature of the rule requires NCUA to issue additional supervisory guidance outlining specific risk management expectations in addition to significant training of examiners to ensure examiner expectations are aligned with the modifications to the MBL rule and supervisory expectations. Without a review of the supervisory guidance to be issued to examiners and shared with credit unions at a later date, it is difficult to determine whether the revisions incorporated into the proposal are to be implemented as outlined. Further, given that examiners will be unable to rely on the regulation for compliance requirements, a comprehensive understanding of commercial lending requirements to properly evaluate and examine commercial loan programs is essential. It would benefit the NCUA and credit unions alike to be able to review and comment on the supervisory guidance prior to its finalization.

Thank you again for the opportunity to comment on the NCUA's MBL proposal. If you have questions regarding our comments, please contact me at (915) 774-8203.

Sincerely,



Crystal Long  
President/CEO

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