

From: [David Araujo](#)
To: [Regulatory Comments](#)
Subject: Re: 12 CFR Part 723 - Member Business Loans & Commercial Lending Proposal
Date: Monday, August 31, 2015 5:00:40 PM

Re: 12 CFR Part 723 - Member Business Loans & Commercial Lending Proposal

Dear Mr. Poliquin,

I am the Vice President of Information Systems at Digital Federal Credit Union (DCU) in Massachusetts. I appreciate the opportunity to comment on proposed changes to Member Business Loan regulations.

I do have some specific comments regarding the proposal:

Loan-to-value:

“...lesser of purchase price or market value for collateral held 12 months or less...” I believe that purchase price should be used for the loan-to-value only when the funds of a loan are used to purchase the collateral. The 12 month requirement should be eliminated. If the collateral is already owned, even if only owned for less than 12 months, market value should be used in the denominator. Here is an example when the proposed rule would not fit: I buy a piece of land for \$100,000 with cash, do some site preparation, get permits to subdivide, and obtain leases all in the first 6 months. The value of the land is most likely significantly higher than \$100,000. The market value in this case would be the appropriate value for lending purposes. I believe the intent of the NCUA is to prevent valuing collateral at an appraisal amount if the business buys it at a discount. Or refinancing the collateral within a year without an improvement to the asset. By requiring business lending expertise in 723.3(b) management will know the risks of this situation and act accordingly. The 12 month limit is being too granular.

Also, as written in the proposal valuing inventory collateral may be challenging. A plastics’ molding company buys resin at \$1 per pound and adds \$2 of labor and \$1 of overhead for the total cost of goods of \$4 per item. As the proposed regulations now read; the collateral value would be \$1 because the resin is less than 12 months old. The added costs will not count. If the item stays in inventory for a year then the value jumps to the market value of \$4. Clearly the intent of the NCUA is not to apply the rule to the above situation.

If the proposed rule is held at 12 months at least the collateral value should be changed to “purchase price plus any cost of improvements”.

Control:

“...has the power to vote 25 percent or more...” Someone with only 25% control really can have no control. I have two suggestions for change: Option 1 is to change it to “over 50%”. Or option 2 is to delete it entirely and use points 2 and 3 in this section to cover the situations where an individual owning less than 50% really controls the company. Also I think you need to eliminate situations where there has been a receiver assigned or an attorney has Power of Attorney due to death or other situations where the “person in control” is only temporary and/or a non-beneficiary.

We believe that the overall change to member business lending being proposed is positive and will allow credit unions to better serve their members. The flexibility will allow credit unions to create a well thought out program that best meets their needs.

Thank you for the chance to share my views.

David Araujo

Vice President, Information Systems

Digital Federal Credit Union