

August 27, 2015

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

emailed: [regcomments@ncua.gov](mailto:regcomments@ncua.gov)

**RE: Proposed Rulemaking for Part 723 – Member Business Lending**

Dear Mr. Poliquin:

The New Jersey Credit Union League (NJCUL) is the non-profit trade association representing the interests of 116 credit unions providing financial services to their members in the state of New Jersey. NJCUL is committed to the development of the credit union movement by creating a collaborative environment in New Jersey that adds value through shared services, consumer awareness, and innovative market development. We thank the Board of the National Credit Union Administration (NCUA) for the opportunity to share our views and recommendations on the recent proposal addressing the Member Business Lending (MBL) rules for Part 723; RIN 3133-AE37.

NJCUL commends NCUA for the greater flexibility the much needed rule improvements would afford federally-insured credit unions offering MBLs to their qualifying members; especially considerations of regulatory relief intended for small asset credit unions under \$250 million. We specifically support many of the waiver eliminations, the new commercial loan definition, clarification of nonmember participations and NCUA's shift from a prescriptive regulation to a principles based rule; regulation that gives credit unions greater flexibility in the formation of business lending programs, crafted to best fit their members' needs.

The NCUA MBL proposal to eliminate waivers would have an overall positive effect on credit unions. For example, the proposed changes will return to credit unions the authority to make their own underwriting decisions, such as whether a personal guarantee should be required on every business loan. This proposed rule would allow credit unions to determine whether a personal guarantee is required and exceptions be addressed through the supervisory process. Credit unions, overall, have a proven record of making safe and sound loans. Unlike others in the financial industry, credit unions regularly secure appropriate documentation from their members, shore up security and collateral to support the loan, even obtain personal guarantees when the credit union feels it's needed to protect the position of the loan. Safety and soundness are at the forefront of credit union leaders minds as they manage the risk in their lending

portfolio. NJCUL cautions NCUA to not place unnecessary regulatory limits on lending and time consuming waiver requirements, placing credit unions at a competitive disadvantage as the agency considers all comments put forth regarding the revision of the MBL rules. NJCUL supports NCUA in finalizing the removal of arbitrary personal guarantee requirement. By doing so NCUA will show that it recognizes credit unions proven underwriting standards and would go a long way to ensure credit unions place in the business and commercial lending market.

NJCUL supports the proposed changes to remove the current 80% loan-to-value cap on collateral used to secure a business loan. We feel strongly that this is a decision that should be made by the credit union on a loan-by-loan basis and would be addressed by the credit union's underwriting criteria and standards in its commercial loan policy. This is not the type of decision that should be mandated by federal regulation. Doing so would hamper a credit union's decision making process and could lead to ineffectively underwriting the loan and the credit union being placed at a competitive disadvantage should this change not take place as proposed.

NCUA's addition of the definition of commercial loans as well as the distinction between what is a commercial loan and what is a member business loan, subject to being included in the MBL cap calculation, better aligns the MBL regulations with the Federal Credit Union Act. This is an important change that NJCUL supports, which positions credit unions to develop commercial loan programs that are structured to meet the memberships needs while recognizing the importance of sound policies and procedures in order to manage the commercial loan portfolio.

We are a state with a preponderance of small asset credit unions under \$250 million and appreciate NCUA's intentions to exempt this group from the risk management policy and infrastructure requirements if the credit union has both; assets less than \$250 million and total commercial loans less than 15% of net worth. NJCUL also understands and supports NCUA's intention to provide regulatory relief for small credit unions. Nevertheless, we think the asset size threshold may be unnecessary and not necessarily a good measure for determining the risk of a credit union. NJCUL recommends should this proposed rule move forward these credit unions should still be required to address the types of commercial loans authorized, the complexities of this type of lending, underwriting requirements, lending limits, staff ability to manage the risks associated with this type of lending, etc., in their loan policies. As NCUA examines these credit unions, the same review of these loans will occur based on the supervisory guidance.

NCUA's proposal MBL rule Part 723.3 looks to place ultimate responsibility for a safe and sound commercial lending program on credit unions' board of directors. We have concerns that this section is more prescriptive with respect to credit union board requirements than the current § 723.5 that it would replace. The proposed board requirements would require boards to be much more involved in the details of a credit union's commercial lending program. These additional board duties could make developing and running a commercial lending program more burdensome because of the increased reliance on volunteer boards for approval and monitoring of all aspects of a program.

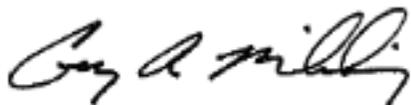
Although in principal NJCUL supports this proposed rule, we are concerned it requires too much ongoing supervision from volunteer credit union boards. Furthermore, without guidance to review with this section, credit unions will not know the true burden a board would face in the supervision of a commercial lending program. These additional board responsibilities may also cause credit union boards to become overly involved in operations instead of setting policies for management to execute.

The NCUA has requested comments on three options relating to state chartered credit unions to transition existing regulatory schemes maintained by seven states that currently have NCUA Board approved MBL rules. NJCUL has chosen to recommend “Option C”, which in our opinion is the best option to provide maximum flexibility for states in this regard. It allows states to continue with their existing schemes and will ease the transition while maintaining federally insured state chartered credit unions (FISCUS) in compliance with existing law. It would also allow a mechanism for states to update their scheme if they deem it appropriate and for new states to adopt their own schemes if they so choose.

Finally, NCUA’s willingness to reform the MBL rule is a significant step in the right direction. Overall the proposal is positive for credit unions. NJCUL recognizes that the move from a prescriptive to a principles based rule means that the examination of credit unions commercial loans and lending practices will likely be much more thorough because of the increased flexibility that credit unions will have to operate their business lending programs. For that reason, NJCUL would appreciate credit unions be given the opportunity to comment on the guidance NCUA will provide to its examiners.

Thank you for the opportunity to comment on the proposed MBL rule. The New Jersey Credit Union League appreciates NCUA’s effort to remove specific requirements that are not required by the Federal Credit Union Act. Also, while NJCUL respectfully submits that the asset size threshold is unnecessary and not a good proxy for determining the risk of a credit union’s small amount and size of commercial loans, we appreciate that the proposal offers some measure of regulatory relief to small asset credit unions under \$250 million and allows credit unions more flexibility to serve their members’ business lending needs.

Sincerely,



Greg Michlig  
President/CEO

cc: Deborah Matz, NCUA Chairman  
Richard Metsger, NCUA Vice Chairman  
J. Mark McWatters, NCUA Board Member