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Credit Union Association
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August 28, 2015

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

Via e-mail: regcomments@ncua.gov

RE: Comments on Proposed Rulemaking 12 CFR Part 723 - Member Business Loans; Commercial Lending

Dear Mr. Poliquin:

The MD|DC Credit Union Association is a trade organization which represents 148 credit unions and nearly 2.2 million member-owners across Maryland and the District of Columbia. Our credit unions are part of the communities they serve as member-owned financial cooperatives, whose 'profits' accrue not to a few stockholders through dividends but are returned to their member-owners in the form of better rates on loans and deposits along with more affordable service offerings compared to other competing financial institutions.

I am writing on behalf of our members in strong support of the proposed changes in the Member Business Lending (MBL) rule, part 723. We believe in meeting the prudent borrowing needs of member-owned businesses and fully support regulatory changes that give our member credit unions the additional flexibility to competitively provide these services in a safe and sound manner. Overall, the changes we find most beneficial are:

- The elimination of the personal guarantee requirement on member business loans. While personal guarantees are an important requirement on many member business loans, they should not be required by regulation at all. Eliminating the requirement will give credit unions more flexibility to attract higher quality/lower risk loans which should improve the financial strength of well-run credit unions.

- Elimination of the regulatory mandated maximum loan to value requirement. As with the above, while collateral positons and loan to value calculations are an important part of the underwriting process, loan to value maximums are best determined by individual credit unions who can effectively evaluate the loan to value position in combination with other factors associated with underwriting credit union member business loans (i.e., cash flow, financial trends, depth of management, etc.).

- The exclusion of purchased participation from the MBL calculation and 12.25% cap. This will allow credit unions with seasoned programs to consider purchasing a portion of participations from other credit unions without impacting their cap. This will foster greater collaboration within the credit union movement, allowing for a more robust participation market and allowing credit unions a greater ability to manage the statutory cap while serving member businesses.

That said, we do believe there is room for additional improvement in the proposed rule which we respectfully submit below for your additional review and comment:

- We are appreciative of your exclusion of any non-member participation interest in a commercial loan from the MBL cap (page 21). Presently, including participations against the cap of both credit unions (buyer and seller) unnecessarily suppresses the amount of loanable capital. However, any given member can and often does belong to multiple financial institutions. Therefore, we need a clear line of clarification on what the impact would be on a credit union participating in a loan where the borrower, or guarantor, is a member of both the originating and the participating credit union. While not intentional on the part of the participating credit union, we need clarification as to whether this loan would now be included in the MBL cap for that credit union as well.

- Your footnote of the proposed changes briefly discusses 'swapping or trading MBLs' between credit unions in order to circumvent the limit (page 21). Buying and selling participations is an effective way to mitigate credit, balance sheet and concentration risk. Often, credit unions that are participating in loans are of a similar risk-mindset, will look to buy and sell participation interests in order to strengthen their risk profiles. Additionally, most credit unions involved in MBL originations become 'expert' in one or two specific types of participations, however they also have ALM risk mitigation and management responsibility as well. By buying and selling loans they can diversify their MBL portfolios and lower overall risk. Again, we need additional clarification and information based on this footnote, as this is not a small issue for many credit unions.

  We would better understand your concern if two credit unions were swapping similar types of loans, however when the participations are completed to reduce risk, swapping one asset class for another shouldn't be restricted. Limiting participations between two credit unions due to a concern over trading and swapping may well increase the overall risk profile of the credit union since this would shrink loan funding sources and put a chilling effect on working with known, trusted partners.

- For purposes of complying with the statutory cap (page 28), we need additional specific information on the calculation of net member business loan balances. Would they need to be only recalculated every quarter on the submission schedule of 5300 reporting, or over some other time period? What would the timing and enforcement of this requirement look like? These are important concerns and questions to understand in more detail. Additional review and comment from the NCUA in this area is needed.

- The regulation states that *"NCUA will 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"* (page 36). In our members' experience, Supervisory Guidance is cited by examiners as equivalent to the regulations and the rule of law. Further, Supervisory Guidance does not undergo the public comment period typically associated with the promulgation of a regulation.

Additional written detail in the rule is highly needed as to how extensive the Supervisory Guidance would be (level of detail and areas covered, for instance). What would be the degree of enforcement/enforceability of supervisory guidance vs. the published rule, which states that the credit union is responsible for establishing LTV and concentration limits, for example? Our concern is that the areas being de-centralized would simply migrate over into the Supervisory Guidance, thereby nullifying the ability of the individual credit union to establish reasonable policy limits based on their risk appetite and book of business.

- Finally, we would encourage the NCUA to take extra care and due caution with respect to the proposed regulations (Options A, B, C) covering state supervisory authority (SSA) as listed under State Regulation of Business Lending (page 15).

The NCUA's proposed regulations in MBL along with our continued advocacy on behalf of our membership will improve the final MBL regulations. We understand that some of our friends in the banking industry may resort to unproductive name calling by referring to the NCUA as "enablers" for our industry. However, we believe that our industry must continue to work closely with the agency through this process and in the future to ensure that credit unions continue to serve as viable financial institutions, accessible by small businesses, individuals and families of all income levels.

Indeed, the rapid consolidation of local financial institutions that are increasingly absorbed, or disappear, in the face of large national and international institutions highlights the continued need for credit unions that are locally owned by their members.

Thank you for your consideration. Please do not hesitate to contact me at 443-325-0774 or jbratsakis@mddccua.org should you have any questions.

Sincerely,

John Bratsakis
President/CEO
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CC: Mr. Jim Nussle, President & CEO, CUNA