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August 27, 2015

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

Re: Comments on Proposed Rulemaking for Part 723

Dear Mr. Poliquin:

The Carolinas Credit Union League (CCUL), a trade association representing the interests of 140 credit unions in North and South Carolina, appreciates the opportunity to comment on the National Credit Union Administration's (NCUA) proposed regulation to amend member business lending (MBL) regulations. CCUL understands that credit unions are more than financial institutions, they are community institutions built on a philosophy of people helping people. With that in mind, CCUL works to protect and advocate for credit unions that provide financial services to their member-owners.

The current MBL regulation is prescriptive in nature with numerous specific requirements for waivers, personal guarantees and other limiting provisions. CCUL supports the switch to a principle-based rule because the regulation allows credit unions to create a program that is (1) based on their risk appetite and (2) provides credit unions the opportunity to better serve their membership. Since adoption of the MBL regulation, credit unions have demonstrated their ability to manage a MBL program with seasoned staff. While this proposal reflects NCUA's acknowledgement of the strong commercial lending programs in the industry, CCUL has several concerns with the proposed rule.

- Uncertainty about the updated supervisory guidance
- Small credit union exemption
- Board member and management responsibilities
- Maximum loan amounts to any one borrower or group of associated borrowers

Supervisory Guidance

The preamble to the proposed MBL rule states "with the adoption of a final rule, NCUA would publish updated supervisory guidance to examiners." The supervisory guidance will provide standards examiners will apply to credit union commercial lending programs to ensure safe and sound commercial lending programs. However, some credit unions have expressed concerns that: (1) NCUA will incorporate prescriptive elements of the current regulation into the supervisory guidance; (2) examiners' individual opinions of risk open the rule to varying, subjective interpretations, leading to differing "rules" from one exam to another; and (3) examiners frequently cite supervisory guidance as equivalent to regulations.

NCUA acknowledges the need for more training for examiners, who no longer will have a regulatory requirement framework on which to rely. Qualified examiners are vital in commercial loan review and to success of the proposed MBL regulation. If not addressed, these concerns may defeat the purpose of the proposed rule. For these reasons CCUL recommends NCUA (1) publish the updated guidance for comment before finalizing the regulation, and (2) provide consistent training ensuring examiners have the proper tools to evaluate and examine commercial lending programs.

Small Credit Union Exemption

As proposed under §723.4, credit unions with less than \$250 million in assets and a commercial loan portfolio less than 15% of their net worth with minimal participation in commercial loans would be exempt from the board of directors and management responsibilities (§723.3) and the required commercial loan policy (§723.4). We commend NCUA's intent to provide regulatory relief to small credit unions. However, CCUL believes the exemption should apply to any credit union with a commercial loan portfolio less than 15% of net worth. By removing the less than \$250 million asset requirement, larger credit unions that meet the less than 15% of net worth standard and are not regularly originating and selling or participating out commercial loans would be eligible for this exemption.

Board Member and Management Responsibilities

According to §723.5, "the board of directors must adopt specific business loan policies and review them at least annually." Proposed board responsibility under §723.3 adds more prescriptive requirements to the regulations, including: (1) approve and review a policy annually, prior to any material change in commercial lending program and in response to changes in the commercial lending portfolio performance or economic conditions; (2) ensure credit union is appropriately staffed to meet the requirements of the regulation; and (3) understand and remain informed about the nature and level of risk and its potential impact on the credit union's earnings and net worth.

While ultimate responsibility for a safe and sound commercial lending program is appropriate for the board of directors, the extent of their involvement and real burden in light of the prescriptive elements are unknown without supervisory guidance. As a result, the board of directors may become overly involved in operations instead of setting policies for management execution. CCUL recommends NCUA clearly state related board roles and again publish the supervisory guidance before finalizing the regulation, helping credit unions fully understand NCUA expectations for a safe and sound commercial lending program.

Maximum Loan Amounts to Any One Borrower or Group of Associated Borrowers

NCUA's proposed rule prescribes more restrictive rules on loans to one borrower or group of associated borrowers than the current §723.8. Currently, loans to one borrower or group of associated borrowers are restricted to the greater of 15% of credit union net worth or \$100,000. However, the current rule also provides a waiver process for exceeding the aggregate amount limit. The proposed rule (§723.4) maintains the current aggregate amount but deletes the waiver opportunity, instead allowing an additional 10% (25% total) limit of net worth on loans to one borrower or group of associated borrowers if the extra 10% is secured by readily marketable collateral. CCUL recommends that NCUA remove the more restrictive limits on the proposed §723.4 and provide a principles-based approach such as a straightforward one-borrower loan limit of 25%.

Conclusion

CCUL commends NCUA's effort to modernize the MBL regulations by shifting from a prescriptive regulation to a more principle-based regulation with more credit union flexibility for developing and maintaining a commercial lending program that best serves members. We encourage the agency to finalize the proposed rule with consideration for the concerns expressed herein.

Sincerely,



Jeanne Couchois
VP Compliance and Regulatory Counsel