

September 2, 2014

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

Re: 2014 Regulatory Review Part 723

Dear Mr. Poliquin,

On behalf of SEFCU, I would like to thank the National Credit Union Administration for inviting us to submit comments during the 2014 Regulatory Review process. We appreciate that NCUA reviews one third of its regulations each year and invites public examination and comment. We are happy to provide input and suggestions as to the current level of regulatory burden and possible ways to decrease it for credit unions.

In this comment letter, we will be commenting on and offering suggested changes specifically to NCUA's Member Business Loan Regulation, Part 723. All recommended changes are in bold below.

Construction and Development Lending
Section 723.3(a)

Current:

The aggregate of the net member business loan balances for all construction and development loans must not exceed 15% of net worth.

Proposed:

The aggregate of the net member business loan balances for all construction and development loans **"must not exceed 20% of net worth."**

Rationale:

SEFCU believes it is more appropriate to manage such concentrations within the credit union's member business lending policy, as it should be based upon multiple factors including, but not limited to, overall CAMEL rating and financial strength of the credit union, commercial portfolio concentrations and internal availability of resources to appropriately manage and monitor the risks.

In addition, SEFCU believes there is a competitive disadvantage in the marketplace as banks are not subject to this regulatory restriction.

In the commercial loan industry, it is commonplace for the lender to do both the construction and development phase and then the permanent financing once construction is complete. Because SEFCU is limited by the cap on construction and development lending, it often loses out on financing opportunities to other lenders that are not subject to a regulatory cap on construction and development lending and thus are awarded these loans.

Section 723.3(a)

Current:

A credit union may exclude any loan made to finance the construction of a single-family residence if a prospective homeowner has contracted to purchase the property.

Proposed:

A credit union may exclude any loan made to finance the construction of a single-family residence if a prospective homeowner has contracted to purchase the property **as well as financing land for residential builders where the infrastructure was already in place at the time of financing. Such property should be considered “developed” land and thus not considered construction and development.**

Rationale:

In cases where the infrastructure is already in place or the infrastructure has been fully financed, and fully funded, such property should no longer be considered construction and development.

After construction and development is complete, the loan is now subject to a structured repayment plan, including principal reductions as lots are sold and released, thus we believe that this should no longer be considered construction and development.

Collateral and Security Requirements

Section 723.7(b)

Current:

Principals, other than a not for profit organization as defined by the Internal Revenue Service Code (26 U.S.C. 501) or those where the Regional Director grants a waiver, must provide their personal liability and guarantee.

Proposed:

Principals, other than a not for profit organization as defined by the Internal Revenue Service Code (26 U.S.C. 501), **real estate held in trust where the trust guarantees, single purpose credit tenant (Bbb+) where a corporate guaranty exists within the**

lease, a stabilized multi-family property or those where the Regional Director grants a waiver must provide **at least their limited** personal liability and guarantee **based upon their ownership interest**.

Rationale:

SEFCU believes there is a competitive disadvantage in the marketplace as banks are not subject to this regulatory restriction.

The limited liability and guarantee language SEFCU proposes to add would include professional partnerships such as, but not limited to, physicians, attorneys and accountants, because they seek to limit their guarantee to their ownership interest in the partnership. SEFCU believes this proposed change would sufficiently address the borrowers' concerns with providing unlimited personal guarantees while, at the same time, adequately mitigating the risk to SEFCU.

SEFCU also believes that commercial loans provided to "credit tenants" are based upon the strength of the credit and the creditworthiness of the entity, not necessarily on the repayment ability of specific sponsors and/or guarantors.

Section 723.7(c)(2)

Current:

The aggregate of the unsecured outstanding member business loans to any one member or group of associated members does not exceed the lesser of \$100,000 or 2.5% of your net worth.

Proposed:

The aggregate of the unsecured outstanding member business loans to any one member or group of associated members does not exceed the lesser of **\$500,000** or 2.5% of your net worth. **In the event the loan transitions to a "Special Asset" and appropriate reserves are established, this provision no longer applies.**

Rationale:

Due to a potential shift in the collateral value of a "Special Asset," there are times when a financial institution may be required, for example by a court decision, to restructure the original loan into separate "A" and "B" notes. As is often the case, the "B" note represents the collateral shortfall and is typically unsecured. In this case, SEFCU believes the unsecured limit should not apply.

Additionally, residential builders require Letters of Credit (LCs) for various municipalities in order to ensure completion of a residential development. LCs are typically unsecured in nature as no funds are advanced unless the LC is drawn upon. Due to the unsecured nature of LCs, raising the limit to \$500,000 would ease the compliance burden on credit unions, while also making them more competitive in the marketplace.

Definitions
Section 723.21

Current:

Construction and development loan includes a financing arrangement for the major renovation or development of property already owned by the borrower that will convert the property to income producing property or convert the use of income producing property to a different use from its use before the major renovation or development or is a major expansion of its current use.

Proposed:

Construction and development loan includes a financing arrangement ~~for the major renovation~~ or development of property already owned by the borrower that will convert the property to income producing property or convert the use of income producing property to a different use ~~from its current use before the major renovation or development or is a major expansion of its current use.~~

Rationale:

SEFCU believes the term “major renovation” is open to the interpretation of the reader and could be construed in many ways. Given the potential for conflicting interpretations, SEFCU recommends removing the verbiage altogether or, at a minimum, defining “major renovation” more clearly to alleviate confusion.

General Changes

SEFCU would also like to propose a more streamlined, electronic application process with standardized documents and forms for submission of waiver requests. This will help ensure consistency while expediting turnaround time of such requests.

Lastly, it would also be helpful if opinion letters were cross-referenced in the regulations. This would help ensure compliance with the various regulatory requirements.

Once again, I would like to thank the NCUA for the opportunity to comment. If you have any questions regarding this information, please contact me at 518-831-2005.

Sincerely,



Jerilee Beaudoin
Director of Commercial Services
Cc: Michael J. Castellana