

BOARD ACTION MEMORANDUM

TO: NCUA Board

DATE: February 18, 2016

FROM: Office of Examination and Insurance
Office of General Counsel

SUBJ: Final Rule: Member Business
Loans; Commercial Lending (Part 723)

ACTION REQUESTED: NCUA Board approval to issue the attached final rule.

DATE ACTION REQUESTED: February 18, 2016

OTHER OFFICES CONSULTED: Regional Offices, Office of National Examinations and Supervision

BUDGET IMPACT, IF ANY: No additional funds will be budgeted to implement this final rule. An incremental one-time cost of \$0.96 million in 2016 for staff training is already included in the NCUA Board-approved 2016 Operating Budget. Another \$0.56 million is a one-time opportunity cost of training associated with this rule, which will be incorporated into the customary training time allocated to field staff in 2016 and 2017 and therefore not incrementally increase the budget.

Introductory training on the final rule will be provided to all attendees at the National Exam Program Training conference in April 2016. Field staff customarily assigned to be in charge of examinations of credit unions engaged in business lending, and their supervisors, will receive some additional training to reinforce how business lending properly fits into a credit union's business model. Additional in-depth technical training for this transition will be provided to relevant program staff in the third quarter of 2016 and in early 2017.

The final rule necessitates changes to supervisory guidance, examination procedures, and the core examiner training curriculum. The changes to guidance and exam procedures are in process and will be completed by the final rule's effective date of January 1, 2017. The Office of Examination and Insurance is also currently in the process of revising the credit portion of the core examiner training curriculum. Ongoing specialized technical training will be provided to regional lending specialists and lending subject matter examiners to ensure the depth of technical expertise necessary to examine business lending with respect to the greater flexibility incorporated into the final rule. NCUA will utilize existing staff resources to implement these changes in the normal course of business.

SUBMITTED TO INSPECTOR GENERAL FOR REVIEW: Yes

RESPONSIBLE STAFF MEMBERS: Larry Fazio, Director Office of Examination and Insurance; Vincent Vieten, Member Business Loan Program Officer; Lin Li, Credit Risk Program Officer; Office of Examination and Insurance; and Pamela Yu, Senior Staff Attorney, Office of General Counsel.

SUMMARY: Consistent with NCUA’s Regulatory Modernization Initiative, staff recommends the Board amend its member business loan (MBL) rule to provide federally insured credit unions with greater flexibility and individual autonomy in safely and soundly providing business loan services to their members. The final rule modernizes the regulatory requirements that govern credit union business lending activities by replacing the current rule’s prescriptive requirements and limitations—such as collateral and security requirements, equity requirements, and loan limits—with a principles-based regulatory approach. As such, the amendments also eliminate the current MBL waiver requirements.

Staff notes that the final rule represents a significant change in regulatory approach. Thus, supervisory expectations for safe and sound business lending will evolve accordingly. Prior to the final rule becoming effective on January 1, 2017, NCUA will publish updated supervisory guidance to examiners, which will be shared with credit unions.¹

The final rule also contains a provision, new section 723.10, which allows federally insured state-chartered credit unions to be exempt from Part 723 if they are subject to a commercial and member business loan rule adopted by their state supervisory authority. The exemption becomes effective upon NCUA’s determination that the state supervisory authority has adopted a rule that at least covers all the provisions of NCUA’s final rule and is no less restrictive.²

RECOMMENDED ACTION: NCUA Board issue the attached final rule.

ATTACHMENT: Final rule

¹ Section 723.5(b) of the final rule concerning personal guarantees will become effective 60 calendar days after publication in the *Federal Register*. Thus, while credit unions will continue to follow all other aspects of the current rule until the final rule becomes effective on January 1, 2017, credit unions will not need to obtain a personal guarantee as required by section 723.7(b) of the current rule.

² Section 723.10 of the final rule also grandfathers any state rules previously approved by NCUA in accordance with Section 723.20 of the current rule if the state supervisory authority maintains the specific provisions of that rule as approved by NCUA.