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July 6, 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 for Part 723

Dear Mr. Poliquin,

Thank you for taking on the arduous task of modernizing the Member Business Loan rule. The efforts of the NCUA Board will do much to support growth of MBL's in a safe and sound manner. Overall, I am supportive of your changes, however there are a number of areas that may need further review:

I am in agreement with your strategy to add the definition of a Commercial Loan and your description of the difference between a Commercial Loan and a Member Business Loan. You indicate that a vehicle used to carry fare-paying passengers is a commercial loan and not necessarily an MBL. Would a personal vehicle used to transport fare-paying passengers on a part-time basis using an application developed by a Transportation Network Company such as Uber or Lyft qualify as a commercial loan (these vehicles could exceed $50,000 in cost)? If so, how would we police such use and what would be the impact of this business use of a vehicle on our compliance with these revised rules? Should we include language in our member loan agreements prohibiting such use, if that was our preference?

I am 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, in this day and age when a borrower could be a member of multiple credit unions, what would be the impact of 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, would this loan now be included in the MBL cap for that credit union as well?

Your footnote on page 21 of the proposed changes briefly discusses 'swapping or trading MBLs' between credit unions in order to circumvent the limit. Participating in and out loans 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, they 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. I would understand your concern if two credit unions were swapping similar types of loans, however when the participations are done to reduce risk, swapping one asset class for another, they shouldn't be restricted. Limiting participations between two credit unions due to a concern over trading and swapping may 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), would the calculation of net member business loan balances only be 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?

Finally, on page 36 of the proposal you state 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"***. In our 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. How extensive would the Supervisory Guidance 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? My fear 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.

Thank you for considering these issues and your desire to make credit unions more relevant to America's small business owners.

Very Truly Yours,

Thomas J O'Shea
President/CEO