From: John Klebba
To: _Regulatory Comments
Subject: John Klebba -- Comments on Proposed Rulemaking for Member Business Loans, Part 723
Date: Wednesday, July 29, 2015 1:31:03 PM

I am writing to express my deep concerns about the proposed rulemaking of the NCUA regarding expanding the ability of credit unions to make business loans.

As president of a $300 million community bank serving rural areas of mid Missouri, I compete every day with credit unions on mostly consumer credits. In fact there are no fewer than nine credit unions within 20 miles of our main offices in Linn, Missouri. As these credit unions have grown as a result of the virtual elimination of the common bond requirement, it has become more and more difficult to compete with their below market pricing, made possible by the fact that they pay no income taxes. In addition, since they are not subject to the Community Reinvestment Act requirements that banks must meet, credit unions also are able to save expenses by not being active in community development efforts. Thus credit unions can and do come in, compete for the better consumer loans in our community and essentially leave it to the local banks to alone take care of the needs of the local community through the banks' CRA activities and the banks' payment of taxes to pay for the governmental services that all of us, including the credit unions, benefit from but for which credit unions refuse to pay.

As I have always understood it, one of the primary reasons for the tax exempt status of credit unions is so that they could serve people of modest means who are connected by a common bond. While studies have shown that tax paying banks do a better job of accomplishing such than credit unions, the fact remains that the substantial benefits of the tax exempt status of credit unions has never been based upon these credit unions being able to make business loans. Congress has specifically limited the ability of credit unions to make business loans, and has specified that credit unions should be focused on consumer lending, not business loans. To quote the congressional record, Congress instituted restrictions on business lending deliberately: "to ensure that credit unions continue to fulfill their specified mission of meeting the credit and savings needs of consumers, especially persons of modest means, through an emphasis on consumer rather than business loans."

By attempting to expand business lending by credit unions in contravention of explicit Congressional intent, the NCUA is overstepping its regulatory authority. Such an expansion would be met with an immediate legal challenge and almost certainly would ultimately be found to be unauthorized. Along the way those in opposition to the expansion would have additional ammunition in support of their argument that credit unions have become so much like banks that their tax exemption should be permanently revoked.

The proposed rulemaking also raises serious safety and soundness concerns for credit unions. During the most recent downturn, the level of delinquent member business loans was almost three times the level of total delinquencies of all loans at credit unions. For this and other reasons, including that credit unions have little expertise in underwriting and administering business loans, it is clear that the NCUA would be putting its insurance fund at risk. In addition, it would be putting the US taxpayer at risk should the NCUA fund be exhausted from credit union industry losses, which

would be the ultimate injustice in that the NCUA could be taking from Treasury funds to support an industry that pays nothing into the Treasury. It should also be noted that given the current level of business loans by the industry, the NCUA itself has little expertise on staff to adequately monitor and examine business lending by its members. Reports I have read indicate that during the latest economic downturn, at least five credit unions failed at the hands of poorly run business loans programs, accounting for a quarter of all losses to the insurance fund during that time. Poorly run business loan programs were also a primary or secondary contributing factor in the downgrading of nearly half of the credit unions with CAMEL ratings worse than 2. Clearly, neither credit unions nor the NCUA itself are prepared to enter into what is a riskier side of lending relative to consumer lending.

Banks such as ours have a long history of making business loans in our communities, in our case for 102 years. Our business lending programs provides broad discretion to our loan committee to take into account unique characteristics and circumstances of our small business customers in determining whether to approve and how to structure their loans. Accordingly, our business communities are well served by the existing network of tax paying banks and other financial services companies and are not in need of additional providers. This is especially true of those potential entrants into the market who do not play by the same rules as the rest of us, in that they do not support the government services that are made possible only through tax paying entities and they are not held to the same CRA responsibilities of banks. If credit unions wish to compete on the business lending side, they have two avenues to take – have Congress pass a law to allow such, or convert to a bank. Absent those two methods, they need to keep to their Congressionally mandated mission of serving consumers.

In summary, I believe that NCUA's proposed rulemaking is both ill-advised and unauthorized. The proposed rule should be withdrawn.

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