

**From:** [J. Kimbrough Davis](#)  
**To:** [Regulatory Comments](#)  
**Subject:** Comments on Proposed Rulemaking for Member Business Loans, Part 723.  
**Date:** Wednesday, August 12, 2015 2:21:15 PM

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Gerard Poliquin  
National Credit Union Administration  
Alexandria DC 22314

### Comments on Proposed Rulemaking for Member Business Loans, Part 723.

Dear Gerard Poliquin:

I am the EVP & CFO for Capital City Bank, which is headquartered in Tallahassee, Florida. We serve a few small metro and many rural communities in north Florida and south Georgia. Our bank is heavily involved in lending small business clients and we focus intently on serving their needs. Capital City's effect tax rate is 34% and I am sure you can understand the unfair competitive advantage I face when trying to compete in the small business lending arena against a competitor who pays no federal or state taxes. Not only is unfair competition, but it is inequitable in ever aspect. Furthermore, Capital City has been serving these clients for 120 years and we have the talent, resources, infrastructure and history to safely engage in the business of small business lending without subjecting the FDIC or American taxpayer to undue risk.

NCUA's proposal poses serious safety and soundness concerns. NCUA has not established that it is prepared to supervise institutions with expanding business loan portfolios, and the credit union industry has proven ill-equipped to make such loans. At least five credit unions since 2010 have failed at the hands of poorly run business loan programs, accounting for a quarter of all losses to the insurance fund during that period. In 2010, member business loans were the primary or secondary contributing factor for the supervisory concern for nearly half of the credit unions with CAMEL ratings of 3, 4 or 5 that made business loans. The level of delinquent member business loans dramatically rose from 0.53 percent in 2006 to 4.29 percent in 2010; compared to a total loan delinquency of 1.74 percent, this is a clear indication that credit unions, and NCUA itself, were ill-prepared for the additional responsibilities and risks associated with commercial lending. Losses could quickly multiply under this proposed rule.

In addition, relaxing the regulatory standards is contrary to NCUA's charge of protecting the industry's insurance fund, and effectively places the taxpayer at risk. NCUA is willfully ignoring lessons from their history and encouraging credit unions to divert funds from consumer lending to commercial lending.

NCUA is overstepping its regulatory reach by expanding business lending loopholes. This proposal is contrary to congressional intent to limit business lending by credit unions. In 1998, Congress made it clear that credit unions should be focused on consumer lending, not commercial lending. 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 proposing this rule, the NCUA Board has blatantly disregarded congressional intent. NCUA should not undermine specific limitations by Congress nor expand the taxpayer liability.

In conclusion, I strongly encourage you to reject the NCUA's proposal to expand business lending. It is neither prudent, equitable or operating in good faith with the mission for which credit unions were established.

Sincerely,  
J. Kimbrough Davis  
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Tallahassee, FL 32301