merchants BANK

August 20, 2015

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

Re: Merchants Bank's Comments on Proposed Rulemaking for Member Business Loans, Part 723

Dear Mr. Poliquin:

I am writing to you on behalf of Merchants Bank concerning the National Credit Union Administration's (NCUA) proposed rule to expand credit unions' authorities for member business loans and commercial lending. By way of background, Merchants Bank is the sole remaining independent statewide commercial banking operation headquartered in Vermont, with deposits totaling $1.35 billion, gross loans of $1.20 billion, and total assets of $1.67 billion (as of June 30, 2015).

Credit unions have demonstrated a great commitment to their members through the member business loan programs. Such efforts have benefited the individual members and their commitments, and we would like to see credit unions' member business loan programs continue to prosper.

Merchants Bank has serious concerns, however, with certain provisions of NCUA's proposal, which would undermine the intent of congressional limitations. Such changes to these limitations should be left for Congress to determine.

NCUA's Proposal Poses Serious Safety and Soundness Concerns.

The proposal removes important safety and soundness checks and balances by eliminating the requirement for personal guarantees, loan-to-value limitations and collateral requirements, which are key safety and soundness safeguards that have effectively limited the credit risk associated with these types of loans. This encourages credit unions to divert resources to financing large commercial enterprises while relaxing the safety and soundness regulations associated with such loans.

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 have failed since 2010 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. Without the collateralization and personal guarantees, one would expect the future credit loss experience of member business lending to be relatively greater.

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 should consider expanding on the impact of allowing an ill-prepared lender into a new market and what could occur in an economic downturn if these loans are not properly underwritten, especially given the rule's liberal allowance of loan participations which could cause bad loans to be syndicated broadly.

NCUA is Overstepping its Regulatory Reach by Expanding Business Lending Loopholes.

The proposal widens loopholes to the member business lending cap by clarifying that non-member business loan participations do not count towards the statutory cap and by eliminating regulatory oversight of the concentrations of these loans. This will not only allow, but also encourage, credit unions to enter into more multimillion-dollar commercial lending deals. The proposal also makes the statutory cap meaningless by allowing certain credit unions to exceed the member business loan statutory authority. If both the proposed business lending and pending capital rules are adopted as proposed, the statutory cap could nearly double without Congressional approval.

The 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 disregarded congressional intent. NCUA should not undermine specific limitations by Congress nor expand the taxpayer liability.

Merchants Bank's Efforts to Serve Small Businesses.

Expanding the credit union industry's authorities into commercial lending would impact Merchant Bank's ability to meet the needs of small business customers.

Conclusion

It is our position that NCUA's proposed rule is counter to Congressional intent. In 1998, Congress made it clear that credit unions should be focused on consumer lending, not commercial lending. However, the NCUA's proposed rule would divert credit union resources to financing commercial enterprises, while relaxing safety and soundness regulations associated with member business loans.

On behalf of Merchants Bank, I would again like to thank the NCUA for the opportunity to voice our concerns about this proposed rule.

Sincerely,

Geoffrey R. Hesslink
President and Chief Executive Officer

cc: Representative Peter Welch
Senator Patrick Leahy
Senator Bernie Sanders