



August 24, 2015

Mr. Gerard S. Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3429

Re: NCUA's Proposed Rule on Member Business Loans (MBL); Commercial Lending

Dear Mr. Poliquin:

Desert Schools Federal Credit Union (Desert Schools) appreciates the opportunity to provide insight to the proposed changes to the NCUA's MBL rule. Desert Schools is a \$3.8 billion, federally insured credit union that has been providing small business solutions to our Phoenix, Arizona community for many years. We commend the NCUA for the proposed changes to the regulation which will enable Desert Schools to better serve the Phoenix business community.

In general, Desert Schools supports moving to a principles-based approach that will enable credit unions to strategically develop and manage their MBL programs. While it is Desert Schools' position there should be no arbitrary caps/limits on a credit union's ability to serve its business community, the proposed changes will enable Desert Schools to increase its level of business lending from where it is under the current regulation. Outlined below are Desert Schools' recommendations for early implementation and areas identified that require further clarification or simplification.

Desert Schools supports the early implementation of the following recommendations, as the proposed rule is clear and can be easily integrated into credit union policies and procedures:

- Personal Guarantees
 - The removal of requiring a waiver from the NCUA for personal guarantees is one of the most important opportunities for credit unions. The elimination of the waiver will allow credit unions to compete with other lenders and to better serve businesses within their communities. In recent years, Desert Schools has missed opportunities to originate quality loans due to the waiver requirement. The time it takes to gain NCUA approval creates a service level that is not competitive in the market place.
- Credit Risk Rating System
 - Most credit unions already utilize this tool to manage/monitor risk in the business portfolio. It would be relatively easy for credit unions to comply with this guideline if they didn't already have this system in place.
- Construction Loan Soft Costs
 - The regulatory definition provides sufficient clarity that can easily be implemented by credit unions.
- Loan to Value Definitions for Construction Loans
 - The regulatory definition provides sufficient clarity that can easily be implemented by credit unions.
- Unsecured Lending
 - The regulatory definition provides sufficient clarity that can easily be implemented by credit unions.

Mr. Gerard S. Poliquin

August 24, 2015

Page 2

- Loans to One Borrower Limit
 - The regulatory definition provides sufficient clarity that can easily be implemented by credit unions. The ability to exceed the limit if borrowings are secured by cash or marketable securities is also easy to implement.

The following items require further consideration or clarification:

- Common Enterprise and Control
 - The definition of Common Enterprise and element of control (under Associated Borrower definition) appears to be too restrictive and contrary to the principals-based goal of the proposed rule. Credit unions should have the ability to utilize any party that has a joint interest in an entity and to determine who has controlling interests in a particular entity as long as doing so would be prudent under the credit union's commercial loan policy and makes sense from a safety and soundness perspective.
- Classification of an MBL vs. Commercial Loan
 - While the proposed rule defines Commercial Loan, there is an opportunity for the NCUA to clarify what is excluded from the definition. Ensuring that regulators and credit unions are interpreting these definitions consistently is critical from a call reporting and underwriting position. For example, the proposal provides that any commercial, industrial, agricultural, or professional loan in which a federal or state agency (or its political subdivision) **fully** insures repayment, **fully** guarantees repayment, or provides an advance commitment to purchase the loan **in full** are commercial loans but not MBLs for purposes of the aggregate MBL limit. Loans that are only partially insured or guaranteed, or that have only a partial commitment to purchase, are Commercial Loans but should be specifically excluded from the definition, and therefore the cap, to the extent of the amount insured, guaranteed, or purchase commitment.
- Examination Consistency
 - The principles-based approach proposed by the rule will rely in large part on subsequent "Supervisory Guidance" that will be used by examiners to interpret the Final Rule and carry out MBL exams. The industry will have no input on how this guidance is put together and may not understand or interpret the guidance in the same way examiners do. It is imperative for credit unions to fully understand the areas of emphasis and expectations examiners will be focusing on in their work.

Overall, Desert Schools appreciates and supports the changes the NCUA is making to amend its MBL rule. Proposed changes, such as, the MBL cap calculation, the waiver requirement elimination, and the Commercial Loan definition are positive first steps and will enable credit unions to better serve the businesses of their communities. As described above, however, clarification is still needed in some key areas so that credit unions, examiners and the like are consistently applying the principles envisioned by the NCUA. Thank you for your time and consideration.

Sincerely,



Susan C. Frank
Chief Executive Officer

cc: Credit Union National Association
Mountain West Credit Union Association
National Association of Federal Credit Unions