



August 27, 2015

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

**RE: RIN 3133-AE37 -- Member Business Loans; Commercial Lending**

Dear Mr. Poliquin:

On behalf of our more than 170 commercial, co-operative and savings banks and federal savings banks and savings associations located throughout Massachusetts and New England, the Massachusetts Bankers Association (MBA) appreciates the opportunity to comment on the National Credit Union Administration's (NCUA) proposal **RIN 31133-AE37 -- Member Business Loans; Commercial Lending**. MBA has serious concerns that the proposal is an attempt to circumvent statutory requirements on credit union business lending activities and poses significant safety and soundness risks to the industry.

In Massachusetts, our member institutions compete with more than 200 state and federally chartered credit unions every day for consumer and commercial business. With more than 70 percent of our member banks organized in mutual form, there are significant similarities in the governance of the majority of Massachusetts banks and credit unions. In addition, Massachusetts state-chartered credit unions are subject to the Community Reinvestment Act (CRA), which measures their performance in serving low- and moderate-income individuals and small businesses.

Despite their legislatively mandated mission to make credit available to individuals of modest means, only 19 percent of Massachusetts credit unions examined from 2012 through 2014 earned an outstanding/high satisfactory CRA rating versus 31 percent of state-chartered banks examined in the Commonwealth during the same time period. Rather than encouraging the growth of large credit unions through expanded business lending powers, the NCUA should be focused on ensuring that the credit union industry is meeting its statutory mandate to serve traditionally underserved populations.

### **Specific Comments**

As you know, in 1998, Congress established the current 12.25 percent member business loan (MBL) cap as part of the Credit Union Membership Access Act (CUMAA). In enacting this statute, Congress noted that credit unions should be focused on providing consumer loans to their members, in particular those members of "modest means." The proposal ignores these statutory restrictions and creates loopholes whereby aggressive, bank-like federal credit unions (FCUs) will be empowered to make larger and riskier loans with little oversight from their regulator potentially resulting in taxpayer losses if these loans default.

Under the NCUA's MBL proposal credit unions can circumvent the 12.25 percent MBL cap, raising it to 17.5 percent of assets or even higher for certain credit unions through a variety of avenues. Our specific concerns and objections are detailed below.

- Removes the requirement that a credit union member must personally guarantee a member business loan: This is a longstanding requirement that has been a foundation of credit union lending for decades. The proposal removes the guarantee requirement, making member business loans simply ordinary business loans.
- Undermining the MBL cap: The current MBL cap already contains a number of exceptions that undermine its purpose and integrity. For example, whole loans and loan participations purchased from other credit unions do not count toward the cap. The NCUA proposal greatly expands this loophole by removing the requirement that credit unions seek a waiver for such lending. This would allow large credit unions to engage in hundreds of millions and possibly billions of dollars of business loans outside of the MBL cap.
- Weakens prudential protections and creates safety and soundness risks: The proposal removes or significantly weakens a number of prudential restrictions on member business lending. These include loan-to-value caps on collateral used to secure loans and loan-to-a-single-borrower limits as well as the borrower guarantee requirement noted above. This weakening of lending standards is unwarranted since credit unions have a poor record of underwriting MBLs.

The NCUA itself concedes that: "Poorly managed business lending activities were a contributing factor in the failure of at least five credit unions since 2010. They account for roughly \$141 million, or 25 percent of total share insurance fund losses over the last five years." In addition, the agency has stated that MBLs are delinquent at 2.5 times the rate of all loans, and imprudent business lending has led to the weakening or failure of hundreds of credit unions.

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 proposing to relax these regulatory standards, MBA believes that the NCUA is abdicating its responsibility to protect the health of the National Credit Union Share Insurance Fund (NCUSIF) and placing depositor and ultimately taxpayer funds at risk. The agency is ignoring recent trends in an effort to provide the industry they regulate with almost unfettered business lending authority.

August 27, 2015

Page 3

- No economic need analysis: The NCUA has failed to demonstrate that economic need exists to justify its sweeping proposal. In fact, recent studies have shown that small businesses are not having difficulty obtaining credit in the current economy and that most credit unions don't take advantage of their existing commercial lending authority. Under the current credit conditions, the NCUA proposal is unlikely to result in net new loans. Rather, it would allow tax exempt credit unions to siphon business loans from taxpaying community banks. In Massachusetts, a study of small business lending through the recession demonstrated that local Massachusetts banks increased small business lending throughout the economic downturn. The study also showed how Massachusetts banks, both large and small, were responsible for 80% of all small business lending during this period.

For the reasons detailed above, MBA and our member banks strongly oppose the NCUA's proposal regarding Member Business Loans and Commercial Lending. We believe that the proposal seeks to circumvent federal law and that any changes to MBL policies should be addressed by Congress. We urge you to withdraw the proposal.

Thank you for your considering our views on this issue. If you have any questions or need additional information, please contact me at (617) 523-7595 or via email: [jskar@massbankers.org](mailto:jskar@massbankers.org).

Sincerely,

A handwritten signature in black ink, appearing to read 'Jon K. Skarin', with a long horizontal flourish extending to the right.

Jon K. Skarin  
Senior Vice President