



6705 Sugarloaf Parkway, Suite 200
Duluth, GA 30097
(770) 476-9625 • (800) 768-4282 • (770) 497-9534 (Fax)



August 31, 2015

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

RE: Comments on Proposed Rule Part 723 (Member Business Lending); RIN 3133-AE37

Dear Mr. Poliquin,

The Georgia Credit Union League (GCUL) appreciates the opportunity to respond to Proposed Rule Part 723 (Member Business Lending). As a matter of background, GCUL is the state trade association and one member of the network of state leagues that make up the Credit Union National Association (CUNA). GCUL supports more than 120 Georgia credit unions that serve over 2 million members. This letter reflects the views of our Regulatory Response Committee, which has been appointed by the GCUL Board to provide input into proposed requests for comments such as this.

Georgia credit unions are extremely pleased that NCUA is taking a look at the Member Business Lending (MBL) rule in order to make it less burdensome and more flexible for credit unions. Credit unions have been restricted for far too long in meeting the lending needs of their business members. We believe that credit union members should not have to go to another financial institution to get a business loan. Credit unions' mission is to serve their members. They should be able to make business loans so they don't have to see their members walk out the door to do business elsewhere. Georgia credit unions have examples of loans they have had to lose to competitors because they were unable to grant a loan under the current lending rules. This puts credit unions at a disadvantage. However, the real loss is to credit union members who have had to get a loan at a bank, when they would have much rather had a loan with the credit union that they know and trust.

While we feel that the MBL proposed rule is a positive one for credit unions, we do not believe that it is perfect. We agree with several aspects of the proposal, but in doing so, we ask NCUA to make additional improvements, and address questions and uncertainties that would enhance this rule to allow credit unions to make business loans that their members want and need.

We believe that the switch from a prescriptive rule to a principle-based rule will provide credit unions more flexibility in making business loans. This change will allow credit unions to better serve their member's commercial lending needs on a timelier basis, while adhering to sound risk management practices for commercial lending. It will also provide credit unions with a more level playing field in regards to loan-to-value (LTV) and the requirement of guarantors.

We would like to make the following points regarding the proposal:

- We support the elimination of waivers, for the most part. The current member business rule has many requirements that necessitate obtaining a waiver, even though they are not mandated by statute. Waivers tend to stifle credit union member business lending. The waiver process is cumbersome, time consuming and does not give credit unions the ability to react to market conditions in a timely manner. The removal of the waiver process will allow credit unions to be more responsive to member needs. However, in the proposal one requirement remains in place that necessitates our request that NCUA continue to allow credit unions to request a waiver: the limitation that the aggregate dollar amount of commercial loans to anyone borrower or group associated borrowers may not exceed 15% net worth or \$100,000, whichever is greater. Credit unions currently can receive a waiver from this requirement, but in the proposal this waiver would not be available. This proposal would base the concentration limitation on a percentage of net worth, causing a substantial problem for smaller credit unions. NCUA should eliminate this provision, as it is prescriptive, or continue to allow credit unions to apply for waivers from the requirement.
- The proposal would express the MBL cap as a multiple of 1.75 times of net worth required to be well capitalized instead of a percentage of assets. We feel this modification to the rule aligns it more appropriately with the statutory language for the MBL cap. This will NOT be an increase in the cap for credit unions. This proposal does not alter the statutory cap. The ONLY way to alter the statutory cap is through a legislative amendment to the Federal Credit Union Act.
- Georgia credit unions generally support the new and updated definitions in the proposed rule. However, we ask that in the final rule and in any guidance provided that NCUA makes sure that ambiguous terms (such as less complex, relatively low debt, larger borrowing, significant loans outstanding, etc.) are clearly defined.
- We applaud NCUA for including a small credit union exemption for credit unions with both assets less than \$250 million and total commercial loans less than 15 % of net worth. However, we believe this exemption should be changed so that it is not just for small credit unions and not based on an asset size. The size of an institution does not determine complexity. Credit unions are not all the same and they have distinctly different loan portfolios, and commercial lending within those credit unions is no different. We feel that all credit unions that have simple member business lending portfolios should be extended the relief offered by the exemption. We would like to see the exemption based on a credit union's lending portfolio and not an asset threshold.

- The proposal would require credit unions to create and implement a credit risk rating system or credit grading system in order to comply with the rule. Most Georgia credit unions who are currently engaged in member business lending already have a credit risk rating system in place that includes the components contained in the guidance, so we believe this won't be an issue.
- We agree with the proposal to eliminate the portfolio limit of 15 % of net worth for construction and development loans in the current rule. This would put credit unions more in line with what for-profit financial institutions are currently doing and should help to expand this business for credit unions.
- We support the elimination of the specific two-year staff experience requirement.
- While not addressed in NCUA's proposal, we request that NCUA increase the limit on MBL vehicle loans from \$50,000 to \$75,000, and then adjusted periodically to cover the increased manufacturer's costs. The \$50,000 limit has been in place for several years. The limit does not align with current costs and purchase amounts for vehicles, especially those used in rural communities.

We appeal to NCUA to reconsider the 18 month implementation period proposed by NCUA. Credit unions that seek the relief offered by the proposal do not want to wait an additional 18 months to obtain that relief. We would like to see a much shorter implementation period so that credit unions don't continue to lose loans to banks for the next 18 months. At a minimum, we would request that NCUA consider allowing immediate implementation of the personal guarantee requirement and moving the non-member business loan participations out of the 12.25% cap limitation.

And finally, we believe the guidance imposed by NCUA on this rule will be very important. NCUA should draw heavily on existing guidance related to commercial lending produced by the federal banking agencies. Not only is it important for NCUA to rely on existing guidance that has been vetted by other regulatory agencies and used by banks and even credit unions actively engaged in commercial lending; we believe it would be beneficial for NCUA to release a draft version of its guidance in conjunction with the publication of the final rule.

As was mentioned in the proposal, the NCUA Board recognizes that the proposed shift to a principle-based rule represents a significant change in approach that will require a period of adjustment for both credit unions and examiners. Because of that, NCUA is proposing an 18 month delayed implementation to allow for that adjustment, including training of the state and federal examination staff and to allow affected credit unions to make necessary changes to their commercial lending policies, processes, and procedures. However, a delayed implementation alone will not suffice to help examiners and credit unions adjust unless they are also provided the guidance that will frame supervisory evaluation of the final rule.

By publishing the draft guidance with the final rule, state and federal examiners and federally insured credit unions will be able to evaluate the full meaning of NCUA's final MBL/commercial lending rule. In addition to being able to commence adjusting to the new regulatory framework during the

implementation period, credit unions will be able to provide feedback to state and federal regulators on the proposed guidance to ensure a vetted supervisory framework is in place come the delayed effective date.

There are still many questions and unknowns regarding how this rule will ultimately affect credit unions. Therefore, credit unions are concerned that this rule may not bring as much regulatory relief as they anticipate. We hope that during the training period for examiners that NCUA will provide uniform training on the 'guidance to their examiners' so that the guidance is not 'subject to interpretation' by individual examiners.

GCUL appreciates the opportunity to present comments on behalf of Georgia's credit unions. Thank you for your consideration. If you have questions about our comments, please contact Cindy Connelly or Selina Gambrell at (770) 476-9625.

Respectfully submitted,

A handwritten signature in black ink that reads "Cindy Connelly". The signature is written in a cursive style with a horizontal line under the name.

Cynthia A. Connelly
Senior Vice President/ Government Influence