August 28, 2015

National Credit Union Administration
1775 Duke St.
Board Secretary
Alexandria, VA 22314

RE: Comments on Proposed Rulemaking for Part 723; RIN 3133–AE37

Dear Gerard Poliquin,

Mr. Gerard Poliquin

Secretary of the Board

National Credit Union Administration

1775 Duke Street

Alexandria, VA 22314

Re: Comments on Notice of Proposed Rulemaking for Part 723; RIN 3133–AE37

Dear Mr. Poliquin:

I am writing on behalf of Summit Credit Union, a financial cooperative that serves over 130,000 members with over $2.2 billion in assets. Summit appreciates the opportunity to provide comments to the National Credit Union Administration (NCUA) on its proposed amendments to the member business lending (MBL) regulation. We support NCUA's efforts to modernize the MBL regulation, which would give credit unions much needed flexibility in running an MBL program.

The proposed rule would switch from a prescriptive to a principles based MBL regulation. This change modernizes the regulation by giving credit unions flexibility to develop MBL programs to best fit their members' needs. There have been many comments about the benefits of a principals based regulation in general, but I would like to emphasize some specific examples from our experience.

One prime example of the current prescriptive model is the 80% maximum loan to value rule. While most any lender would acknowledge this to be a sound guideline for lending, by codifying in the manner it currently is (723,7(a)(1)), a rigid rule like this can be very inefficient and even ineffective.

For example, our credit union recently made a commercial loan on a property where the seller agreed, as part of the transaction, to take back a second mortgage of 5% of the sale price. We were fully aware of the second, knew the terms, and included that debt service in our calculations. Only later did we find this was considered a violation, since the rule reads the maximum LTV for all liens cannot exceed 80%--even though our exposure was limited to 80%. (We did have significant discussion with our regulators on this issue, and this position was confirmed). There is nothing that prevents a borrower from going to another lender and getting such a second mortgage one day after our loan closes, but in a case such as this—where we know of the second and include it in our analysis—it is not permissible. Under a principles based arrangement, we could make such a loan and support that decision based upon the merits of the situation.

Another common case this would apply is in renewals and refinances of existing debt. After the economic downturn of the recent years, we had many properties that had declined in value, yet the borrower remained strong and fully capable of generating sufficient cash flow and continuing payment. However, when the loan came up for renewal, the new property valuation showed the LTV would now exceed 80% and be a violation. All parties, including regulators, agree we are much better off to renew the loan and continue to collect payments on such a performing loan rather that foreclose in such a circumstance, but the regulations currently require a time consuming exercise of requesting authorization from regulators prior to proceeding. Again, a principles based regulation, without a prescriptive LTV, would allow us to proceed much more efficiently.

Based upon our experiences with our examiners, the principle based rule would still provide more than sufficient oversight to commercial lending operations. Examinations currently look closely into all elements of underwriting, and look to confirm we understand and monitor the risks and characteristics of the loans in our portfolio. The prescriptive elements currently in place in the regulation appear to have been emplaced as a substitute for fully understanding the principles behind a credit decision. They can become a hindrance to sound lending, when compared to fully understanding a credit and being principal based—just because a loan is under 80% LTV, for example, doesn't mean it is sound. Both our loan departments and the examination teams are better than that.

With a principles based regulation management and boards of directors will bear a greater responsibility in developing and maintaining an MBL or commercial lending program that is safe and sound. We believe we do so now, and are up for the continued challenge.

I do note that there has been some trade press commentary focusing on commentary from outside of the credit union movement (primarily from the banking industry) decrying some of these proposed changes, attempting to portray the changes as removing industry standards. I would point out that bank regulations do not have the prescriptive regulatory requirements that this proposal suggests removing, yet they have managed to operate (generally) safely. Regulatory oversight and best practices still remain; the proposed changes allow reasonable flexibility for situations where justified.

Again, we support the NCUA's efforts to modernize the MBL rule. Thank you for the opportunity to comment on this proposed rule and for considering our views.

Sincerely,

Daniel L Milbrandt

Chief Lending Officer,

Summit Credit Union

4800 American Parkway

Madison WI 53718

Sincerely,

Daniel Milbrandt
Chief Lending Officer
Summit CU

cc: CUNA, CCUL