August 31, 2015

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

Regarding: Comments on Proposed Rulemaking for Part 723 (RIN 3133-AE37)

Dear Mr. Poliquin

The Community Bankers Association of Illinois ("CBAI"), which proudly represents 360 Illinois community banks, welcomes this opportunity to comment on what the National Credit Union Administration ("NCUA") has unfortunately mischaracterized as a regulatory modernization initiative. CBAI vigorously opposes this proposed rule, which would comprehensively rewrite the rules governing credit union member business lending, and recommends its withdrawal.

Member business lending is a highly contentious issue which has been debated in Congress for more than a decade. This proposed rule represents an attempted end-around Congress and an attempt by the NCUA to accomplish by regulatory fiat what it has been unable to accomplish by legislation in Congress. In addition, and more troubling, is that certain provisions in the proposal are clearly circumventing the plain language of the Federal Credit Union Act ("Act").

CBAI's specific objections to the NCUA proposal include:

- Flouting the statutory cap on member business loans. The Federal Credit Union Act's statutory calculation clearly and unambiguously sets the member business lending ("MBL") cap at 12.25 percent of assets. However, the NCUA MBL proposal, together with their proposal to apply risk based capital standards under Basel III to credit unions, could be used to circumvent the 12.25 percent MBL cap, raising it to 17.5 percent of assets or even higher for certain credit unions. This proposal simply cannot be reconciled with the plain language of the Act. According to the legislative history, the current MBL cap reflects the will of Congress that credit unions serve persons of modest means "through an emphasis on consumer rather than business loans." The legislative history also states that the MBL cap is intended to limit the risk of taxpayer losses as a result of "large commercial loans" by credit unions.

- Taking "member" out of member business loans. Under the current rule, the borrower - a credit union member - must personally guarantee a member business loan. This is quite honestly what makes a loan a member business loan. Nevertheless, the proposal would remove the member guarantee requirement. A member business loan would become an ordinary business loan - a radical departure from the credit union lending model and clearly not intended by the Act.

- 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 would greatly expand 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.

- No analysis showing economic need. The NCUA has failed to show economic need exists to justify its sweeping proposal. A recent survey published by the National Federation of Independent Businesses found that only four percent of small business owners reported not having all of their credit needs met, a historically low percentage. In addition, only two percent of small businesses reported that obtaining credit was their main problem. Under these 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. This in turn would reduce tax revenues at the federal, state, and local levels.

- Reckless weakening of prudential protections. The NCUA proposal would discard or significantly weaken a series of prudential restrictions on member business lending such as 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. As discussed below, this weakening of lending standards is completely unwarranted by credit unions' dismal record of failed member business loans.

In the background to the proposal, 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." Elsewhere, the NCUA 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.

CBAI urges the NCUA to explain why it proposes to weaken critical prudential safeguards, given its frank lack of confidence in credit union member business lending by using such uninspiring terms in the proposal such as: credit unions [are] “generally” conducting business lending safely, and that supervision has been “largely” successful in addressing “most” of the credit unions that did not perform well, which suggests that only the minimum thresholds of accomplishment have been achieved. Reckless business lending has already jeopardized the credit union system. Credit unions lack the experience and the expertise to safely conduct business lending, and the NCUA lacks experience in supervising business lending.

NCUA concedes the proposal would make “substantial changes” to credit union business lending procedures. Policy making of this significance should come from Congress and not from a regulator during the August Congressional recess. NCUA should withdraw this misguided proposal and let Congress decide whether or not to expand credit union member business lending.

CBAI thanks you for considering our comments. Please contact me at davids@cbai.com or 847-909-8341 with any questions that you may have.

Sincerely,

/s/

David G. Schroeder
Vice President Federal Governmental Relations

cc: Illinois Congressional Delegation