CORNING CREDIT UNION

Gary A. Grinnell, President and Chief Executive Officer

August 26, 2015

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

Re: Proposed Rule on Member Business Lending 12 CFR 723

Dear Mr. Poliquin:

On behalf of the Board and Management of Corning Federal Credit Union, I would like to take this opportunity to comment on the National Credit Union Administration's proposed rules for member business lending (MBL) and commercial lending.

By way of background, Corning Federal Credit Union is a $1.1 billion asset institution, serving over 96,000 members. Well-capitalized with a net worth ratio of 9.18%, our delinquency and charge-off ratios are currently 0.14% and 0.11%, respectively, as of June 30, 2015 call report data.

We commend NCUA on its much more modernized approach to safely and soundly regulate business lending as evidenced by the release of this proposed rule. The proposed rule seems to indicate a sincere willingness on the part of the agency in replacing the voluminous prescriptive requirements that, even though they go beyond what is required by federal statute, have long been a hallmark of MBL regulation with a new approach that is still safe and sound – but it is an approach more appropriately focused on broad principles rather than attempting to regulate business lending from a one-size-fits-all methodology. Such an approach would allow individual credit unions and their boards to decide on the specific details of their individual programs by incorporating, among others, such critical factors as institutional safety and soundness, relevant experience, market forces, and overall appetite for risk.

We support many of the changes proposed in the new rule, including:

- Removal of all prescriptive loan-to-value (LTV) and collateral requirements, including the 80% LTV rule;
- Removing the concentration limit for construction and development (C&D) loans;
- Removal of the one-size-fits-all two-year staff experience requirement, to be replaced by new, broader guidelines for board oversight, senior management responsibilities, and staff experience;

- Increasing the net worth limitation on loans to one borrower or associated borrower from 15% to 25% (if the amount above 15% is supported by readily marketable collateral); and
- Exclusion of non-member loan participations from the MBL cap.

Although welcomed and much appreciated, it should be noted that the proposed removal of the personal guarantee requirement is simply a reinstatement of credit union authority previously allowed for well-capitalized credit unions under the RegFlex program. Corning Credit Union had such authority under RegFlex, and when that program was repealed we were forced to apply for a new blanket waiver of the personal guarantee requirement in order to maintain such needed (albeit cautiously exercised) flexibility.

While we applaud these proposed changes and the spirit in which this proposed rule has been crafted, we would also like to share some additional suggestions where we believe further improvement is warranted and needed:

Member Participations Should Be Excluded From the MBL Cap

As mentioned above, we agree with the proposed removal of non-member participation loans from a credit union's MBL cap limit calculations. It makes sense to exclude such loans since a purchasing credit union does not originate the loans in which they participate, and this will encourage further collaboration and sharing of expertise within the industry. The inclusion of loan participations as member business loans under the statutory cap is not explicitly defined under the Federal Credit Union Act, and as such we feel strongly that they should not be included. In fact, NCUA has long allowed credit unions to apply for a waiver to exclude participation loans from their MBL cap calculations.

We do feel that NCUA could and should go further in this area while still remaining within both the letter and the spirit of the statute. Member participation loans differ from non-member loans only in that the borrower falls within the credit union's field of membership, and is thus counted as a member on the credit union's books. In practice, the nature of the relationship is no different from that of a non-member participation loan, in that the primary financial institution is the originator of the loan, and the participating credit union generally will have no direct relationship with the borrowing business at all.

Given that in both circumstances— non-member and member participations— the participating credit union does not originate the loan, we feel strongly that member participations should also be excluded from the MBL cap.

All Loans Secured By Liens on 1-4 Family Properties Should Be Excluded From the MBL Cap

We agree with NCUA's proposed exclusion of 1-4 family residential property loans from the commercial loan definition. In addition, we also concur with the agency that loans secured by liens on 1-4 family residential properties that are the borrower's primary residence should be excluded from the MBL cap.

However, we feel strongly that loans secured by liens on 1-4 family properties that are NOT the borrower's primary residence should also be excluded from the MBL cap. As NCUA has already recognized in its proposal, loans secured by liens on 1-4 unit residential properties share few risk characteristics with commercial loans, and industry-validated underwriting and portfolio management standards for such loans are closely aligned with those utilized for consumer real estate loans.

The banking industry has recognized this distinction for years, regularly excluding all 1-4 family residential property loans from their commercial lending policies, concentration limits, and risk management practices. NCUA has taken an important first step in excluding all 1-4 family loans from the commercial loan requirements. However, it defies logic that some such loans must continue to be counted toward a credit union's arbitrary MBL cap for no other reason than they are secured by a property that is not the borrower's primary residence.

We strongly urge NCUA to reconsider its proposed definition of an MBL loan, to exclude all 1-4 family residential loans from the cap.

The Rule is Overly Complex

We are concerned that in the name of regulatory relief, this proposed rule actually establishes a brand new, parallel set of policy and compliance requirements in addition to the member business lending requirements currently in place.

We understand and agree with the rationale behind establishing a separate definition of "commercial loan" and associated requirements. A specific MBL policy, with dedicated definitions, limits, and tracking is necessary in order to ensure that credit unions adhere to the statutory MBL cap. However, several of the types of loans included under the MBL umbrella (for example, loans secured by 1-4 family residential properties, and by vehicles manufactured for household use) are clearly not commercial-purpose loans and therefore should not be subject to commercial underwriting procedures and risk-management policies.

However, by creating a new category of "commercial loans," we are concerned that NCUA, perhaps unintentionally, is directing credit unions to craft a set of redundant policies, which must also be reviewed and approved by the credit unions' boards of directors. In addition, in order to ensure compliance with these new requirements and concentration limits (as specified in the individual credit union's commercial loan policy) they will need to be tracked and monitored, and reported to NCUA examiners as requested. This may require the purchase of new technological solutions and/or the addition of staff in order to meet the increased demand for monitoring and reporting, at a considerable expense. The establishment of these new guidelines, policies, and reporting methods will inevitably result in an onerous burden on credit union boards, management, and operational areas including the business lending and accounting departments, among others.

For these reasons we recommend that the new rule allow for these new commercial loan requirements to be merged into a credit union's existing MBL policy, for ease of use and implementation.

Examiner Training Expense Must Be Justified

NCUA has announced that if the proposed rule is enacted, it would spend $1.9 million on specialized business lending training for its examiners. Although we welcome this investment in the training and development of NCUA field personnel, we have serious reservations about the costs of this initiative and urge the agency to divulge further information on exactly how these funds will be spent. The most effective way of doing so would be through the re-institution of the annual NCUA budget briefings that were discontinued over five years ago by the NCUA Board.

Specifically, we would like to see these credit union funded dollars spent on hiring new examiners with strong expertise and experience in commercial lending and/or bringing in well-established and reputable commercial lending experts to conduct in-depth training for current staff. To ensure adequate oversight and a thorough understanding of the new rules, it is critical that the agency conduct full and complete initial training for field staff as well as schedule ongoing training on at least an annual basis to ensure that examiners are kept abreast of ongoing changes in commercial lending regulations and best practices.

Eliminate the $250MM Asset Threshold

NCUA has proposed a $250 million asset threshold for credit unions with small commercial loan portfolios (defined as less than 15% of net worth) to be excluded from the requirements of Parts 723.3 and 723.4. While we applaud the Board's well-intentioned proposal which seeks to minimize the compliance burden on small credit unions that engage in limited business lending activities, we would urge them to eliminate the arbitrary asset-based threshold, and instead consider instituting a simpler portfolio cap.

We are hard-pressed to see the difference between a $300 million asset credit union with a $3 million commercial loan portfolio that would be required to create and follow detailed and constrictive commercial lending policies, in comparison with a $200 million asset credit union with the same sized portfolio which would be exempt. The salient factors in either case are portfolio size and the level of risk present for lending activities versus the relative size of the institution.

For this reason we encourage NCUA to consider enacting a strict commercial loan portfolio size threshold (perhaps a threshold of $5 million) before a credit union of any size would be forced to follow the commercial lending requirements of Parts 723.3 and 723.4.

Establish a Reasonable Timeline for Implementation

NCUA has indicated that it intends to offer an 18-month timeframe for implementation of the new rule, following approval and adoption. We believe that this is too long. Understanding that credit unions will need some time to create and approve a new commercial loan policy, and to ensure that they have the required level of expertise on staff, we believe that a six-month implementation deadline would be sufficient.

It seems that the real reason for this overly long implementation timeline is to allow NCUA sufficient time to hire, train, and educate examination staff on the new rule and requirements. While this is understandable considering NCUA's willingness to expend a reported $1.9 million on training, credit unions that are presently constrained by the hardships of the current regulation should not have to suffer any longer than absolutely necessary.

A reasonable compromise would be to allow credit unions that successfully implement all aspects of the new rule, specifically the policy, credit risk rating, and experience requirements, would be allowed to begin utilizing the flexibility inherent in the new regulation at six months following adoption of the rule.

Those credit unions that are unable to meet the six-month deadline would have up to eighteen months to implement (and must continue to follow current regulations in the interim), and NCUA examiners would begin following the new guidelines in their examination engagement for all credit unions eighteen months after adoption of the rule.

Conclusion

Thank you again for your consideration of our comments and those of others in the credit union industry as you craft the new member business lending and commercial lending rules. We are encouraged by NCUA's new principles-based approach in taking a fresh look at its regulation of this important and complex sector of our industry. We hope this is an indicator of additional future modernization as the Agency continues to focus on regulatory relief in other areas.

Should you have any questions or require additional information in support of the recommendations made herein, please feel free to contact me at 607-962-3144, ext. 5292.

Sincerely,

Gary Grinnell
President and Chief Executive Officer

cc: The Honorable Deborah Matz, Chairman
The Honorable Richard Metsger, Vice-Chairman
The Honorable Mark McWatters, Board Member