



NBH Bank N.A.
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August 27, 2015

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

Re: NBH Bank, N.A. Comments on Proposed Rulemaking for Member Business Loans, Part 723

Dear Mr. Poliquin:

Please accept this letter in response to the request for public comment in connection with the National Credit Union Administration's (the "NCUA") proposed amendments to its Member Business Loans Rule (the "MBL Rule") published at 80 Fed. Reg. 126 (July 1, 2015) (to be codified at 12 C.F.R. pt. 723). I am writing to you in my capacity as Chief Executive Officer of NBH Bank, N.A. ("NBH Bank"). NBH Bank is a community bank based in Kansas City, Missouri, with total assets of \$4.7 billion at June 30, 2015. NBH Bank provides a variety of banking products to both commercial and consumer clients through a network of 101 banking centers located in Colorado, the greater Kansas City area, and Texas, and through online and mobile banking products.

NBH Bank is seriously concerned about the proposed amendments to the MBL Rule for three primary reasons: (1) the departure from the NCUA's mission that the proposed amendments represent; (2) the serious safety and soundness risks posed by credit unions entering into the commercial lending arena; and (3) the significant impact on NBH Bank's ability to serve small business clients presented by the proposed expansion of the credit union industry's authorities into commercial lending.

I. A Departure from the NCUA's Mission.

Congress established federal credit unions in the 1930s to provide small-dollar loans to close-knit groups of people of modest means. It established the NCUA in 1970 to regulate, charter, and supervise federal credit unions. Credit unions, bolstered by the NCUA, have grown to a \$1 trillion financial services industry that is tax-exempt and subject to far less stringent regulatory requirements than the traditional banking industry. One key difference between credit unions and community banks has been the regulatory restrictions on credit unions' business lending in the form of safety and soundness checks such as personal guarantees and loan-to-value limitations, and the statutory business lending cap. The proposed amendments to the MBL Rule seek to relax those safety and soundness checks and increase the business lending cap, which presently allows credit unions to make member business loans over \$50,000 up to 12.25% of their assets. The vast majority of credit unions do not engage in business lending. Of those credit unions that do engage in business lending, only about 0.5% are near the current cap. The proposed amendments to the MBL Rule are nothing more than a handout to these few, overly aggressive multi-billion dollar credit unions who are close to the cap. These amendments do nothing to benefit small credit unions (defined as those with \$50 million or less in assets), which constitute 65% of the national





credit union system – the “shrinking” credit unions that the NCUA described as facing “enormous challenges” in its 2014 Annual Report. The NCUA’s efforts to amend the MBL Rule and increase the cap bolster the assertion made by the American Bankers’ Association, the media, and some federal credit unions themselves that the NCUA has become nothing more than a cheerleader for the industry it is tasked with regulating; a “captured” regulatory agency.

II. Serious Safety and Soundness Risks.

The NCUA has not established that it is prepared to supervise institutions with expanding business loan portfolios, and the credit union industry has proven ill-equipped to make such loans. At least five credit unions since 2010 have failed at the hands of poorly run business loan programs, accounting for a quarter of all losses to the NCUA Share Insurance Fund during that period. 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 the NCUA itself, were ill-prepared for the additional responsibilities and risks associated with commercial lending. Losses could quickly multiply under this proposed rule. In addition, relaxing the regulatory standards is contrary to the NCUA’s charge of protecting the Share Insurance Fund, and effectively places the taxpayer at risk. The NCUA is willfully ignoring lessons from their history and encouraging credit unions to divert funds from consumer lending to commercial lending.

III. Impact to Community Banks such as NBH Bank.

The credit products offered in connection with commercial and small business lending are often complex and relationship based. Small business clients assume their banker has a commercial credit background and expect that person to serve as a financial counselor. NBH Bank employs an experienced team of commercial and small business relationship managers who understand the client’s business and financial statements and can explain the short and long term implications of credit decisions to these clients. Given the consumer-based focus of credit unions, credit unions and their lenders simply are not equipped with the appropriate expertise, credit underwriting or experience necessary to provide this level of service to small business clients. Consequently, the expansion of credit union commercial lending through the proposed amendments to the MBL Rule will result in a disservice to small business clients by inserting unqualified, inexperienced participants in the credit marketplace.

At NBH Bank, our relationships with our clients are shaped by our belief that banks have an obligation to deliver common sense banking. This means providing smart banking solutions and exceptional service that put our clients first. In light of the serious concerns discussed in this public comment letter, we find the proposed amendments to the MBL Rule to be devoid of common sense. The proposed amendments to the MBL Rule do nothing to benefit the vast majority of the NCUA’s membership, while permitting the largest, most aggressive credit unions to expand their lending programs into areas in which they lack sufficient expertise and experience to deliver value to small businesses. This, coupled with the fact that the NCUA is ill-equipped to adequately regulate such expanded lending programs, will present serious safety and soundness



risks to the credit union industry and result in a disservice to small business clients. I fully expect that, once you have reviewed all information available to you about the dangerous implications of the proposed amendments to the MBL Rule, including public comments such as this letter, your common sense judgment will lead you to conclude, as I have, that any perceived benefit of this proposed rulemaking to a few of your members is greatly outweighed by the potential harm to the industry Congress tasked you with safeguarding, and small businesses in general.

Sincerely,

G. Timothy Laney
Chairman, President and CEO

cc: Michael Bennet, U.S. Senate (CO)
Cory Gardner, U.S. Senate (CO)
Pat Roberts, U.S. Senate (KS)
Jerry Moran, U.S. Senate (KS)
Claire McCaskill, U.S. Senate (MO)
Roy Blunt, U.S. Senate (MO)
John Cornyn, U.S. Senate (TX)
Ted Cruz, U.S. Senate (TX)
Diana DeGette, U.S. House of Representatives (CO – 1st District)
Jared Polis, U.S. House of Representatives (CO – 2nd District)
Scott Tipton, U.S. House of Representatives (CO – 3rd District)
Ken Buck, U.S. House of Representatives (CO – 4th District)
Doug Lamborn, U.S. House of Representatives (CO – 5th District)
Mike Coffman, U.S. House of Representatives (CO – 6th District)
Ed Perlmutter, U.S. House of Representatives (CO – 7th District)
Kevin Yoder, U.S. House of Representatives (KS – 3rd District)
Vicky Hartzler, U.S. House of Representatives (MO – 4th District)
Emanuel Cleaver, II, U.S. House of Representatives (MO – 5th District)
Sam Graves, U.S. House of Representatives (MO – 6th District)
Lamar Smith, U.S. House of Representatives (TX – 21st District)
Roger Williams, U.S. House of Representatives (TX – 25th District)
Eddie Johnson, U.S. House of Representatives (TX – 30th District)
Pete Sessions, U.S. House of Representatives (TX – 32nd District)

