August 31, 2015

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

Re: 15-EA-16 NCUA – Member Business Loans & Commercial Lending Proposal.

Dear Mr. Poliquin,

As a member and employee of a credit union for almost 30 years, please accept this letter as my support for making the changes to the MBL regulations that give credit unions flexibility and individual autonomy to safely and soundly provide commercial and business loans to members.

Since the conservative MBL regulations were introduced, many credit unions have become experienced commercial bankers. In addition, many credit unions have taken advantage of the numerous MBL educational opportunities that are available through NCUA, CUNA, NFCUA and other organizations.

Please also consider the below specific feedback regarding the proposal:

723.2 – Definitions

Common Enterprise

"The expected source of repayment for each loan...is the same for each borrower and no individual borrower has another source of income from which the loan…may be fully repaid."

- An example regarding this statement would be extremely helpful.

Control

"…has the power to vote 25 percent or more…"

- Someone with only 25% control really can have no control. Some suggestions for change:
  - Change it to "over 50%"
  - Delete it entirely and use points 2 and 3 in this section to cover the situations where an individual owning less than 50% really controls the company.

Direct benefit "…proceeds are used to acquire property, goods, or services."

- Replace "property" with "tangible and intangible assets". The word "property" sounds like real estate. Tangible and intangibles assets would include not only real estate but furniture, fixtures, equipment, portions of ownership (buying out a partner), buying rights to a product or service, contracts, etc.

Loan-to-value

"...lesser of purchase price or market value for collateral held 12 months or less…"

- Purchase price should be used for the loan-to-value only when the funds of a loan are used to purchase the collateral.
- Eliminate the 12 month requirement. If the collateral is already owned, even if only owned for less than 12 months, market value should be used in the denominator. Here is an example when the proposed rule would not fit: I buy a piece of land for $100,000 with cash, do some site preparation, get permits to subdivide, and obtain leases all in the first 6 months. The value of the land is most likely significantly higher than $100,000. The market value in this case would be the appropriate value for lending purposes. I believe the intent of the NCUA is to prevent valuing collateral at an appraisal amount if the business buys it at a discount. Or refinancing the collateral

within a year without an improvement to the asset. By requiring business lending expertise in 723.3(b) management will know the risks of this situation and act accordingly. The 12 month limit is being too granular.

- Also, as written in the proposal valuing inventory collateral may be challenging. A plastics' molding company buys resin at $1 per pound and adds $2 of labor and $1 of overhead for the total cost of goods of $4 per item. As the proposed regulations now read; the collateral value would be $1 because the resin is less than 12 months old. The added costs will not count. If the item stays in inventory for a year then the value jumps to the market value of $4. Clearly the intent of the NCUA is not to apply the rule to the above situation.

- If the proposed rule is held at 12 months at least the collateral value should be changed to "purchase price plus any cost of improvements".

723.6 Construction and development loans

- I am in agreement with this section as it mirrors the available construction and development loans in the industry and it will allow us to better serve our members who have construction needs.

723.8 Aggregate member business loan limit

(e) "…**form 5300 reporting…net member business loan balance is determined by…reduced by any portion of the loan that is secured by shares in the credit union, or by shares or deposit in other financial institution, or by a lien on the member's primary residence…"**

- This reads that if a $100,000 loan has a $20,000 CD as part of the collateral, then only$80,000 is considered an MBL. However in the Credit Union Act, 1757a.(i) and (ii), state only loans "fully" secured by shares or "fully" secured by the member's residence are not MBLs. It implies that partial security should not be deducted. (In reality, NCUA is correct that if a partial amount of a loan is secured by cash; it should be deducted. However the Act appears to override the "accurate" picture.
- Also, as written (e) goes on to say "…503 reporting…reduced by…a lien on the member's primary residence…" Again this implies that deductions should be made when the loan is partially secured by a member's residence." How would one calculate the amount to be deducted? Should this not read "reduced by loans that are fully secured by a lien on the member's primary residence"?
- In addition, an 18 month lag before introduction is too long. If the examiners are well versed on examining MBLs, these changes make their life easier. If new complicated rules were added a longer period of training would be appropriate.

I support the overhaul of NCUA's current MBL regulation in its shift from a prescriptive regulation that contains many detailed requirements to a principle-based regulation that gives more flexibility in the creation and operation of an MBL or commercial program. The rule can and should go further as described in some of the above suggestions. Please contact me should you have any questions.

Thank you for the opportunity to comment.

Sincerely,

Julie A. Moran
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