From: mailagent@thesoftedge.com on behalf of kjaquet@hnbbanks.com
To: _Regulatory Comments
Subject: Community Banker - Comments on Proposed Rulemaking for Part 723 (RIN 3133-AE37)
Date: Monday, August 31, 2015 10:51:24 AM

Dear Mr. Poliquin:

I am a community banker dedicated to serving my customers and community. My tax dollars support schools, police and fire departments, and other vital services at the local, state, and federal level. I write today to express my unequivocal objection to the NCUA's unprecedented proposal to comprehensively rewrite the rule governing credit union member business lending.

My 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 squared 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 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 clearly not intended by the Federal Credit Union 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.

Bankers and business professionals do not dislike competition. Indeed, competition drives all of us to be better in our fields of expertise. That said, it is incumbent that a capitalistic society such as ours contain rules for fair play and fair competition. The current tax exempt status of credit unions and the cheerleader status of the NCUA - rather than serving as oversight on behalf of consumers in a role filled upon banks by agencies such as the Consumer Finance Protection Bureau (CFPB), Office of the Comptroller of the Currency (OCC), and Federal Deposit Insurance Corporation (FDIC), among others - make the playing field slant in favor of the credit unions championing this massive revision to the existing rules. The credit bureaus have far exceeded their original charter to provide consumer finance products to low income families that large banks would not accept as customers.

Recent regulatory reforms and market pressures in the banking industry limit the number of customers that need this niche service. Again, bankers do not reject competition but we simply request a fair playing field and the current proposal is far from fair to banks and bankers who are locally-owned, locally-managed, and invested in the communities we serve across the United States of America.

I urge the NCUA to explain why, given its frank lack of confidence in credit union business lending, it proposes to weaken critical prudential safeguards. 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.

Finally, I urge the NCUA to extend the comment period to allow additional time for public consideration and comment. As the NCUA concedes, the proposal would make "substantial changes" to credit union business lending procedures. The agency should have the benefit of a comprehensive and thoughtful public examination of its many consequential changes. An extension of 60 days or more would be appropriate. It would also allow Congress to review the proposal when members are in Washington D.C. Policy making of this significance should be conducted in the light of day, not during an August congressional recess.

Thank you for your consideration.

Sincerely,

Kevin Jaquet
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