



August 28, 2015

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

Re: Comment Letter on the Proposed Amendments to NCUA's MBL Rule (Part 723), RIN 3133-AE37

Dear Mr. Poliquin:

On behalf of Great Lakes Credit Union, we appreciate the opportunity to submit comments to the National Credit Union Administration (NCUA) Board's request for comments on the NCUA's proposed amendments to NCUA's MBL rule 12 CFR Part 723. We commend the Board for considering the proposed changes to assist credit unions in better serving their members' business needs.

Great Lakes Credit Union (GLCU) is located in the Chicago, Illinois market area and has 70,000 members, \$720 million in assets and 13 branches. GLCU is also a managing partner of Extensia Financial Services, LLC and a 20% owner of another small Credit Union Service Organization, Spectrum Business Resources, both of which are CUSOs focused on Member Business Lending and Servicing.

The proposed MBL rule would shift away from a prescriptive regulation to a principles-based regulation that gives credit unions more flexibility in the construction and operation of an MBL or commercial lending program that best fits our members' needs. GLCU applauds the approach this proposal takes and encourages NCUA to finalize it, taking into consideration the improvements and concerns suggested in this letter.

The following are a compilation of comments regarding the proposed MBL Amendments to Part 723, Member Business Lending:

NCUA Should Release and Permit Comment on the Supervisory Guidance Prior to the Issuance of the Final Rule

We are concerned that the principles-based approach will rely in large part on subsequent "Supervisory Guidance" that will be used by examiners to interpret the Final Rule. This guidance will detail many of the standards credit union examiners will use when reviewing commercial lending programs and thus replaces many of the current prescriptive requirements. NCUA plans to use this companion guidance well after the comment period for this proposed rule has ended, and not give stakeholders the opportunity to comment on the guidance. We strongly urge NCUA to permit

stakeholders to comment on the supervisory guidance and believe this could be accomplished without delaying the implementation of the final rule.

Elimination of Waivers

GLCU strongly supports the elimination of all prescriptive requirements necessitating waivers. The waiver process has been time consuming and burdensome, and has often led to being uncompetitive with other financial institutions that do not have these restrictions. A good example of this has been LTV waivers on maturing loans, where the only issue with the loan renewal is the LTV exceeds the 80% regulatory LTV limit for MBL loans. This was a factor of the recent decline in market values and in the majority of cases was not impactful on the borrower's ability to handle DSC for the loan or their overall financial stability.

MBL Cap Calculation

GLCU supports the proposed change to the MBL cap calculation. This proposal would replace the current expression of the MBL cap as 12.25% of assets. The 12.25% of assets language is not part of the Federal Credit Union Act. The current minimum capital requirement for a credit union to be well capitalized is 7% of total assets, hence the current shorthand of 12.25% of assets (1.75 X 7%). If the current version of NCUA's proposed Risk-Based Capital (RBC) rule is adopted, the amount of capital required to be well capitalized will be the *greater* of 7% of *total* assets or 10% of *risk* assets. This could result in a modest increase in the total MBL cap for some credit unions.

Definitions

Associated Borrower, Common Enterprise and Control: The Proposed Regulation is quite specific on the definitions and stated percentages for determining borrower relationships. We question why this section is more prescriptive rather than less so, as this portion of the amended rule seems to run counter to the Control definition that should drive the Associated Borrower rules. In particular, the 50% Common Enterprise Rule and the 25% Control Rules are quite specific. We believe credit unions should be allowed to take a conservative approach and count any borrower who has a joint interest with another borrower or entity as an Associate Borrower. In addition, credit unions should be able to use prudent judgment to determine who has Control, as was suggested in Exhibit 3 of the *Supervisory Letter on Evaluating Credit Union Requests for Waivers of Provisions in NCUA Rules and Regulations Part 723, Member Business Loans*. [723.2 And 701.22(a)].

Loan-to-Value Ratio: We support the revision to clarify that junior debt from other lenders does not need to be included in the calculation of LTV ratios.

Additionally, we recommend providing some flexibility on the "lesser of purchase price or market value for collateral held for 12 months or less". There are several situations where this standard is either unreasonable or unworkable. This is particularly true where there have been non-purchase transactions which after a thorough analysis and understanding of the credit's dynamic (i.e., Borrower/Guarantor Financial Strength, management experience, DSC, collateral [LTV], overall risk rating, etc.) the loan is determined to be a strong credit. Therefore, requiring the "lesser of the purchase price" can be problematic and have undesired consequences in the case where the appraised value

exceeds the purchase price. The LTV calculation will create an unfair disadvantage for credit unions and cause unnecessary administrative burdens. It is understood the borrower needs to be “invested” in the property, but the blanket LTV rule for non-purchase transactions is not necessarily the best approach.

Commercial Loan: The proposed rule would create a new definition of commercial loan in 723.2. With this definition, the MBL regulation would separate loans meeting the proposed 723.2 commercial loan definition from loans meeting the 12 U.S.C. 1757a, statutory MBL definition.

We support this proposed change as it shifts NCUA’s focus to safety and soundness for commercial loans. Although many commercial loans in the proposed 723.2 would overlap with statutorily defined MBL’s, separating the two types of loans is important, because the proposed regulation decouples safety and soundness from statutory restrictions.

GLCU encourages NCUA to consider additional loans that should be exempt from the commercial loan definition, including loans that present zero or only a remote risk of loss. One example, loans fully guaranteed by a federal or state agency, because they are risk free and do not present any safety and soundness concerns.

Credit Risk Rating System: GLCU supports NCUA’s goal of ensuring sound underwriting practices and managing risk for the credit union. We agree that the use of a Credit Risk Rating System is useful in this regard and do not object to the requirement. We also note that NCUA acknowledges over 90 percent of credit unions already have systems for their commercial loans.

Loan Secured By a 1-4 Family Residential Property: GLCU supports the change clarifying that loans secured by a 1-4 family residential property are not commercial loans for purposes of this rule.

Residential Property: GLCU supports the clarification to the definition of loans secured by a 1-4 family residential property that these loans are excluded from the definition of a commercial loan.

Board of Directors and Management

The proposed 723.3 would place the ultimate responsibility for a safe and sound commercial lending program on a credit union’s board of directors. While that may be appropriate in principle, this section is more prescriptive regarding board requirements than the current 723.5 that it would replace. The proposed board requirements would require boards to be much more involved in the details of a credit union’s commercial lending program. These additional board duties could make running a commercial lending program more burdensome because of the increased reliance on a volunteer board for approval and monitoring of all aspects of a program.

We are concerned the proposed 723.3 could require too much ongoing supervision from our volunteer credit union board. Furthermore, without guidance to review this section, we will not know the true burden our board would face in the supervision of our commercial lending program. Instead of setting policies for management to execute, these additional responsibilities may cause the board to be overly involved in the operations of the program.

Regarding the experience requirements of 723.3 (b 1-3), GLCU believes those experience requirements can be met by a third party CUSO or other qualified third parties. GLCU has had an excellent working relationship with Extensia Financial Services and Spectrum Business Resources (Business Lending CUSOs). Not only have the CUSO relationships provided additional commercial lending experience and overall servicing expertise, but they have also provided those services in a very cost effective manner.

Commercial Loan Policy

The proposed 723.4 requirements are more detailed than NCUA's current MBL policy requirement in 723.6. Even though the proposal eliminates most of the current rule's specific limits, these limits could potentially be imposed by examiners as policy limitations. Our credit union board will be responsible for developing and defending to examiners our policy on LTV ratios, minimum equity investments, portfolio concentration, loan type limits, and personal guarantees.

By requiring credit unions to incorporate their own limitations in a commercial lending policy, credit union boards and staff could have more stringent limitations than what is currently required if NCUA examiners elect to hold credit unions to a higher standard. Out of fear of excessive scrutiny and subjective interpretations from NCUA examination staff, credit unions may adopt more stringent standards than what are required now.

Further, in many real estate purchase loans, projected balance sheets are not necessary. We recommend amending the language to read as follows: "Projected income and expense or other projections commensurate with the particular transaction type should be obtained".

Collateral and Security

We support the proposed 723.5 which would eliminate the personal guarantee requirement. The proposed section would allow credit unions to make loans without a personal guarantee when it is reasonably prudent to do so. Our concern here stems from the lack of issuance of contemporaneous guidance from the NCUA. There is uncertainty as to which situations a credit union would be permitted to make a loan without a personal guarantee and additionally be subject to potential examiner criticism.

Construction and Development Loans

GLCU supports the NCUA's amendments to the C & D requirements.

State Chartered Credit Unions

GLCU recommends a modified approach to the transition of existing SSA MBL rules. We recommend Option C, but with the additional clarification that SSA's that currently administer a state MBL rule be allowed to make conforming amendments to their rules and resubmit them to NCUA for an updated approval.

Examination

GLCU understands the proposed rule and can update our commercial lending policies without the necessary guidance the NCUA has not published for public comment. However, the potential for inexperienced examiners second guessing loan decisions, credit union policies and other business decisions is concerning.

Examination consistency is an additional concern. With many aspects of a commercial lending program being subjectively reviewed, we may be subjected to the application of differing “rules” from one examination to the next based on examiner opinion.

Having qualified examiners review commercial loans is paramount to the success of the proposed MBL regulation because examiners will be unable to rely on the regulation for requirements and will need to have a thorough understanding of commercial lending to properly evaluate and examine commercial lending programs.

In addition, especially during the first few years after implementation, there should be ample supervision by senior NCUA staff of examiner’s reviews of credit union commercial lending policies. Credit unions should be able to elevate policy disagreements up the chain without initiating a formal procedure. We would also strongly suggest including state supervisory (SSA) examiners in the examiner training program for commercial lending.

Implementation

The Proposed Regulation states that an 18 month implementation period will be required before the regulation goes into effect. We understand the need for credit unions and examiners to have adequate time to fully implement the new requirements. However, we believe that the extended timeframe is unwarranted in all cases. A more effective approach would be to allow credit unions to comply with the new provisions earlier than 18 months if that credit union has satisfied the new requirements. This approach would allow for credit unions that wish to meet the new requirements the ability do so earlier. This could have a material impact on credit union MBL programs and put credit unions on a more level playing field with banks and other financial institutions.

Conclusion

Many of the provisions of the proposed rule could ultimately enable credit unions to operate more efficient and robust commercial lending programs; however, without the ability to review and comment on the guidance, credit unions cannot completely evaluate and project the impact it will have on us. Notwithstanding the concerns we have raised herein, we support this proposed rule and applaud NCUA for this approach.

National Credit Union Administration
August 28, 2015
Page 6

We appreciate the opportunity to provide input on NCUA's proposed rulemaking amending the MBL regulations.

Sincerely,

A handwritten signature in black ink that reads "Vikki Kaiser". The signature is written in a cursive, slightly slanted style.

Vikki Kaiser
President/CEO