South Carolina
Bankers Association

August 31, 2015

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

Re: National Credit Union Administration; Member Business Loans; Commercial Lending; 12 C.F.R. Parts 701, 723, and 741; 80 Federal Register 37898, July 1, 2015

Dear Secretary Poliquin,

On behalf of the South Carolina Bankers Association and its 82 member banks, I am writing to record our strong opposition to the National Credit Union Administration's (NCUA) proposal to amend the member business lending rule and expand the credit union business lending cap. This proposal is clearly contrary to Congress' authority in setting a cap for credit unions and also raises significant safety and soundness concerns.

South Carolina's banks daily serve the credit needs of businesses of all sizes in this state. This service requires handling the complexity behind business lending - and the demanding examination protocols. Nonetheless, NCUA's proposal presumes credit unions that have never been held to these standards should now be allowed to compete even more with banks for South Carolina's businesses' credit needs. The credit union industry already competitively benefits from a more than $25 billion federal subsidy over the last 10 years due to its tax exemption. Now NCUA wishes to strengthen this taxpayer-funded advantage and allow credit unions to further compete for our banks' business.

NCUA is overstepping its regulatory reach by expanding business lending loopholes.

In 1998, as part of the Credit Union Membership Access Act (CUMAA), Congress made it clear that credit unions should be focused on consumer lending, not commercial lending. CUMAA nearly eliminated the traditional credit union common bond requirement, a key differentiator between credit unions and their taxable competitors - banks. While doing so, Congress wished to maintain an emphasis on lending to consumers, especially those of limited means; so, Congress instituted restrictions on business lending deliberately: "to ensure that credit unions continue to fulfill their specified mission of meeting the credit and savings needs of consumers, especially persons of modest means, through an emphasis on consumer rather than business loans."

Yet, by proposing this rule, the NCUA Board has blatantly disregarded Congress' mandate to limit credit unions' business lending to ensure they stick to their chartered mandate of serving people of modest means.

Frankly, credit unions are already able to serve the business credit needs of their customers. Under current law, credit unions can already make an unlimited number of small business loans of $50,000 or less and SBA-guaranteed loans also don't count toward a credit union's cap. Therefore, since credit unions can already make sufficient business loans, NCUA should not go so far as to subvert Congressional authority to allow more than necessary business lending. NCUA should not undermine these specific limitations by Congress nor expand the taxpayer liability by adopting this rule.

NCUA's proposal poses serious safety and soundness concerns.

The proposed changes raise serious safety and soundness concerns and NCUA has not established that it is prepared to supervise institutions with expanding business loan portfolios or that the credit union industry is even equipped to make such loans. In fact, 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 insurance fund during that period.

Particularly, the proposed rule: (1) widens loopholes to the member business lending cap by "clarifying" that non-member business loan participations do not count towards the statutory cap and by eliminating regulatory oversight of the concentrations of these loans; (2) makes the statutory cap meaningless by allowing certain credit unions to exceed the member business loan statutory authority; and (3) removes important safety-and-soundness checks and balances by eliminating the requirement for personal guarantees, loan-to-value limitations and collateral requirements. Taken together, these proposals will not only allow, but also encourage, credit unions to enter into more multimillion-dollar commercial lending deals and will divert resources to financing large commercial enterprises while relaxing the safety and soundness regulations associated with such loans. Losses could quickly multiply under this proposed rule.

Finally, relaxing the regulatory standards is contrary to NCUA's charge of protecting the industry's insurance fund, and effectively places the taxpayer at risk. NCUA is willfully ignoring lessons from their history and encouraging credit unions to divert funds from consumer lending to more risky and complex commercial lending.

Conclusion

Consistently, credit unions claim that raising the business lending cap would increase competition with banks for business loans, thus creating a better borrowing climate for the borrower; yet these same credit unions already enjoy a significant advantage that no bank has – freedom from taxation. Credit unions' proper place in the lending market is to serve their member customers of modest means, primarily through providing affordable consumer lending and also through limited business lending. SCBA urges NCUA to not

proceed with this proposal. By doing so, the credit union Congressional mandate and safety and soundness are preserved.

Sincerely,

A. O'Neil Rashley, Jr.
Senior Vice President and Counsel

Cc: The Honorable Lindsey Graham
U.S. Senate

The Honorable Tim Scott
U.S. Senate

The Honorable Mark Sanford
U.S. House of Representatives

The Honorable Joe Wilson
U.S. House of Representatives

The Honorable Jeff Duncan
U.S. House of Representatives

The Honorable Trey Gowdy
U.S. House of Representatives

The Honorable Mick Mulvaney
U.S. House of Representatives

The Honorable Jim Clyburn
U.S. House of Representatives

The Honorable Tom Rice
U.S. House of Representatives