NATIONAL ASSOCIATION of REALTORS®

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August 31, 2015

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

RE: Comments on Member Business Loans; Commercial Lending; NCUA-2015-0031-000

Dear Mr. Poliquin:

I write on behalf of more than one million members of the National Association of REALTORS® (NAR) to comment on the National Credit Union Administration (NCUA) notice of proposed rulemaking on Member Business Loans (MBL); Commercial Lending[1].

The National Association of REALTORS® is America's largest trade association. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,400 local associations or boards, and 54 state and territory associations of REALTORS®. NAR affiliates the CCIM Institute and IREM, the Institute of Real Estate Management, join NAR in submitting this comment letter.

I. Credit Unions and REALTORS®

Credit unions are important sources of lending to REALTORS® and their clients. As traditional banks have been squeezed by increasing lending standards and compliance regulations, more consumers have turned to different sources of lending to meet their real estate and business needs. Credit unions have been a longtime source of lending to clients.

According to the 2015 NAR Commercial Lending Survey, commercial REALTORS® managed transactions averaging $1.6 million per deal, frequently located in secondary and tertiary markets, and focused on small businesses and entrepreneurs[2]. Credit unions were reported as a source of financing in 5% of those transactions, a decrease from the 10% reported in 2014[3]. This decline is troubling as REALTORS® consistently report challenges obtaining financing from other sources.

NAR policy has supported an increase in the MBL lending cap for several years. NAR members have testified in front of the House and Senate on issues relating to commercial real estate lending and especially the role that credit unions play in

[1] National Credit Union Administration, Notice of Proposed Rulemaking on Member Business Loans; Commercial Lending. July 1, 2015. http://www.regulations.gov/#!documentDetail;D=NCUA-2015-0031-0001
[2] Ratiu, G. Commercial Lending Survey 2015. Washington, DC: National Association of REALTORS® http://www.realtor.org/reports/commercial-lending-trends-survey
[3] Ratiu, G. Commercial Lending Survey 2014. Washington, DC: National Association of REALTORS®.

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commercial real estate lending.[4] NAR has supported legislation that would increase the MBL cap each time it has arisen.[5] In each of these instances, NAR has taken the position that an increase in the MBL cap would increase lending to commercial real estate and have a beneficial effect on the economy. NAR has also consistently recognized the important role played by small businesses in this conversation. Small businesses are an important player in the economy as a whole and are the clients of REALTORS®, CCIM and IREM professionals. Small business properties are the exact property types that commercial REALTORS® most frequently work with: office, retail and industrial.[6] Increasing lending to small businesses will help these businesses grow and solidify their important role in the US economy.

II. The Proposal

The NCUA proposal represents a move toward a more flexible and member-responsive environment for credit unions to operate in. The proposal eliminates constraints to MBL and grants more autonomy to individual credit unions while retaining NCUA's regulatory and supervisory authority. NAR supports the NCUA's effort to help credit unions adapt to a changing lending landscape.

a. More Flexibility Granted to Credit Unions by Eliminating Waiver Process

One of the biggest advantages offered by this proposal is the elimination of the waiver process for credit unions to loans that deviate from the existing rule's prescriptive underwriting and personal guarantee requirements[7]. The current regime allows for a credit union to apply to the NCUA for a waiver for each loan that would be an exception to these requirements. This process is time-consuming and costly for both the credit union and the borrower. The delay in funding slows down economic growth as borrowers, who are frequently small businesses, await the agency's response.

The proposal would eliminate or modify many of the existing prescriptive underwriting criteria and personal guarantee requirements. These standards would be replaced by an individual set of commercial lending standards developed by each credit union's Board of Directors. The proposal includes guidance for what those standards must include as part of its overall commercial lending policy.

The proposal retains one limitation that currently can be waived through the regulatory process, but that process would no longer be available if the proposal is adopted as written. The limitation on the aggregate dollar amount of commercial loans to any one borrower or group of associated borrowers may not exceed 15 percent net worth or $100,000, whichever is greater. This requirement harms small credit unions and larger credit unions that have an associated borrower on several loans. To prevent credit unions from being hampered by this limitation, NCUA should either preserve the waiver available in this circumstance, or eliminate the provision altogether.

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[4] James L. Helsel, Jr., CCIM, SIOR, CPM, CRE, FRICS Testimony on behalf of the National Association of REALTORS® at the United States House Of Representatives Committee Of Financial Services Entitled "Alternatives For Promoting Liquidity In The Commercial Real Estate Markets, Supporting Small Businesses And Increasing Job Growth", July 29, 2010; G. Joseph Cosenza, Testimony on behalf of the National Association of REALTORS® at the United States House Of Representatives Committee On Financial Services Subcommittee On Oversight and Investigations Entitled "Commercial Real Estate: A Chicago Perspective On Current Market Challenges And Possible Responses", May 27, 2010; National Association of REALTORS® Statement at The United States Senate Committee On Banking, Housing And Urban Affairs Subcommittee On Economic Policy Entitled "Restoring Credit To Main Street: Proposals To Fix Small Business Borrowing And Lending Problems", March 2, 2010; National Association of REALTORS® Statement United States House Of Representatives Committee On Financial Services And Committee On Small Business On The Subject Of Small Business And Commercial Lending, February 26, 2010.

[5] National Association of REALTORS® Letter in support of H.R. 5297, the Small Business Lending Fund Act of 2010, June 28, 2010. National Association of REALTORS® signatory to coalition letter in support of Udall-Snowe-Schumer Small Business Lending Enhancement Act (S. 509), March 14, 2012.

[6] Ratiu, G. Commercial Lending Survey 2015. Washington, DC: National Association of REALTORS® http://www.realtor.org/reports/commercial-lending-trends-survey

[7] 12 CFR § 723

Credit unions are in a unique position of being able to uniquely serve members needs more nimbly and in a more focused way than other banking entities. This special flexibility is preserved and even enhanced by the provisions envisioned in the proposal.

b. Commercial Loan Policy

The proposal (§723.4) directs a credit union's Board of Directors to create its own commercial lending standards, unique to each institution, with general safety and soundness requirements in mind. This will allow credit unions to be more flexible in serving their members, more responsive to institutional needs, and evaluate each borrower using a more holistic approach rather than the prescriptive standards set forth in the existing regulation.

Several of the existing prescriptive requirements governing lending would be rolled into the considerations the Directors must follow in creating the credit union's new commercial lending standards. The new commercial lending policy developed would be more extensive than currently required, and would address more commercial lending activities. For example, the proposal mandates credit unions to create and administer a formal credit rating system to identify and qualify risk within their commercial loan policies, a system that is not required under the current rule.

Credit unions would establish underwriting standards to include LTV ratio limits and methods for valuing all types of collateral authorized prior to extending any commercial loans or MBLs. Further, as proposed, §723.4 would require that a credit union's commercial loan policy address each of the following areas:

(a) Type(s) of commercial loans permitted to ensure that the credit union staff has appropriate expertise.

(b) The credit union must identify the trade area it wishes to serve, so that the credit union can make periodic site visits to monitor the borrower's operations.

(c) Establish a maximum amount of assets, in relation to net worth, allowed in secured, unsecured, and unguaranteed commercial loans.

(d) Create qualifications and experience requirements for personnel involved in underwriting, processing, approving, administering, and collecting commercial loans.

(e) Loan approval processes, including establishing levels of loan approval authority commensurate with the individual's proficiency in evaluating commercial loan risk.

(f) Underwriting standards commensurate with the size, scope and complexity of the commercial lending activities and borrowing relationships contemplated by the credit union.

(g) Risk management processes commensurate with the size, scope and complexity of the federally insured credit union's commercial lending activities and borrowing relationships.
This process must include a credit risk rating system and it must be subject to periodic review by the board of directors.

Allowing Boards of Directors to implement their own strategies for the most appropriate policies for their institution and its members while working with regulators to ensure that safety and soundness goals will still be met will create a more flexible lending environment. The continued oversight of the Boards by NCUA and other examiners will ensure that the individual policies adhere to conventional safety and soundness goals.

c. Construction and Development Loans

The proposal includes a new definition for construction and new development loans that distinguish between income-producing property and projects built for a commercial purpose. The new definition allows for a more tailored approach to loans applied to these projects. The changes included in the proposal encourage lenders to look more closely at the purpose, value of and market for the project. A more deliberate approach will result in more effective administration of loans to borrowers and loans that are more tailored to the borrowers' needs.

Increasing the availability of these loans is an important element of why this proposal is so promising to our members. More development means more properties that commercial REALTORS® can help client businesses buy, sell, or lease. Some of new developments will be the professional base of a small business, some of these properties will be the bigger spaces needed by these growing businesses, and others represent new opportunities for the communities in which they are located. The U.S. building stock continues to age and businesses need to be able to turn over their existing properties or develop new ones to suit their changing needs. Increasing lending to these clients helps businesses grow and expand, helps partnerships flourish, and helps communities retain stability.

III. Conclusion

NAR appreciates the effort that NCUA is making to update the regulations governing credit unions. Credit unions are an important part of the financial landscape, and are sophisticated institutions working with businesses of all sizes throughout the U.S. The flexibility built into this proposal combined with the statutory backstops and continued regulatory oversight will allow credit unions to be more effective in working with current members and increase their lending activities overall.

The provisions contained in the proposal will result in positive outcomes for the commercial clients of REALTORS® and REALTOR®-owned businesses as well. The increased flow of lending to small businesses will result in strengthening that growing and important sector of the U.S. economy. Increased availability of lending for construction and development loans will result in ongoing community investment and job development.

Sincerely,

Chris Polychron
2015 President, National Association of REALTORS®