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<u>Sent Via Electronic Delivery:</u> regcomments@ncua.gov

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

RE: RIN 3133-AE37 Member Business Loans and Commercial Lending

Dear Mr. Poliquin:

On behalf of the Oregon Bankers Association (OBA) and its membership of Oregon's state and national banks, we appreciate the opportunity to comment on the above-referenced proposed rules. We have a number of concerns and would strongly urge the National Credit Union Administration ("NCUA") to withdraw the proposed rule.

While we will detail some specific concerns below, our strongest opposition to the proposed rule is based on the fact that it is contrary to congressional intent to limit business lending activities by the credit union industry. The proposed rule encourages credit unions to further engage in commercial banking while at the same time relaxing safety and soundness regulation related to commercial loans. Moreover, it is just plain wrong on many levels for NCUA to be encouraging credit union business lending when there are many tax-paying institutions that are regulated for the purpose of business lending already meeting this need.

Following is additional detail about specific concerns with the proposal:

1. <u>NCUA is Acting Contrary to Congressional Intent</u>

NCUA is overstepping its regulatory authority by expanding business lending loopholes for credit unions. In 1998, Congress made it clear that credit unions should be focused on consumer lending, not commercial lending. 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." By proposing this rule, the NCUA Board has blatantly disregarded congressional intent.

The proposal makes the statutory cap virtually meaningless by allowing certain credit unions to exceed the member business loan statutory authority. Furthermore, if both the proposed business lending and pending capital rules are adopted as proposed, the statutory cap could nearly double without congressional approval.

2. Safety and Soundness

NCUA has not established that it is prepared to supervise institutions with expanding business loan portfolios. Further, poorly run business loan programs at credit unions have accounted for a quarter of all losses to the insurance fund since 2010. In 2010, member business loans were the primary or secondary contributing factor for supervisory concern for nearly half of the credit unions with CAMELS ratings of 3, 4, or 5 (that made business loans). The level of delinquent member business loans dramatically rose from 0.53 percent in 2006 to 4.29 percent in 2010; compared to a total loan delinquency of 1.74 percent.

One need only look at the 2012 failure of Chetco Federal Credit Union, based on the Southern Oregon coast, for an illustration of a credit union that was ill-prepared to safely engage in higher levels of business lending. The Chetco example also demonstrates the failure of the NCUA to adequately supervise an expanding business lending portfolio.

According to NCUA, as of September 30, 2012, Chetco, which had received a low-income designation with an exemption from the 12.25 percent of assets business lending cap, had a total business loan portfolio (less unfunded commitments) that constituted 59.79 percent of its total assets. NCUA reported that at the end of September 30, 2012, Chetco's delinquent loans, as a percentage of its total loans, was 23.81 percent.

There is no doubt Chetco grew at a rapid pace -- an annual rate of 19 percent per year beginning 2001 over the next five year -- as a direct result of its business lending. In fact, Chetco's then CEO Stan Baron said, "In the last seven years, we have become the 800 pound gorilla. We compete against five banks and we hold 52 percent of the deposits in town... The next closest competitor is Washington Mutual and they have 12 percent. On the loan side, we blow them out of the water."

The report issued on the Chetco failure by the NCUA Inspector General (Report #OIG-13-10, October 1, 2013) made several remarks that foreshadow future problems other credit unions are likely to experience if the proposed rules are adopted:

- "The Board of Directors and management exposed the credit union to excessive amounts of credit and liquidity risk due to its failure to set appropriate limits and maintain the appropriate risk management infrastructure to support the growth in the Member Business Loan (MBL) portfolio ... Management allowed the credit union's MBL portfolio to

grow significantly between 2002 and 2008 with MBLs representing over 600 percent of net worth in 2008."

- "Management failed to develop an adequate liquidity plan to address its rapid loan growth. In addition, with Chetco's deteriorating financial condition, liquidity sources were ultimately restricted."

The Inspector General's report also noted that "examiners missed the opportunity to reduce the loss to the NCUSIF [National Credit Union Share Insurance Fund]".

This is not the only example of concern being raised about credit union regulators and credit union business lending. The Government Accountability Office (GAO) warned in 2003: "Since member business loans constitute only a small percentage of credit union lending, most NCUA examiners will not have significant experience looking at this type of lending activity." Is the NCUA fully prepared for the challenge of "ensuring that it is adequately prepared to monitor" the expansion of credit union business lending?

In our view, there is no better illustration of the likely concerns that the proposed rules raise than the Chetco experience in Oregon. The rule should be withdrawn.

3. <u>The Proposal Fails to Protect the Credit Union Industry Insurance Fund</u>

Relaxing credit union regulatory standards is contrary to NCUA's charge of protecting the industry's insurance fund and effectively places the taxpayer at risk. NCUA is ignoring lessons from the credit union industry's history (see the Chetco Credit Union example above) and is instead encouraging credit unions to divert funds from consumer lending to commercial lending. Credit union failures do not simply impact members; they negatively impact the communities -- especially in rural America -- in which credit unions like Chetco did business.

4. <u>Loan Participations Will Not Count Toward the Statutory Cap</u>

The proposal widens loopholes to the member business lending cap by "clarifying" that non-member business loan participations do not count towards the statutory cap. It will also eliminating regulatory oversight of the concentrations of these loans. This will encourage credit unions to enter into more multimillion-dollar commercial lending deals that credit unions and regulators are ill-prepared to manage and oversee, deals they were never intended to make under their charter.

5. <u>Banks Are Already Meeting the Credit Needs of Small Businesses</u>

America's businesses are not wanting for credit union business lending. Companies able to take on additional debt have several options for business finance, including a robust community

banking sector. In fact, the survival of America's community banks depends on small business lending. Currently, banks in Oregon make $2.75 billion dollars per year in small business loans (loans up to $1 million).

One bank headquartered in Oregon reported:

> "Through small business lending, our organization is able to assist in the growth of small businesses across Oregon and Idaho, helping create jobs and stimulate the economy. Community banks like ours also reinvest significant dollars back into the community through support of home loans to low income families, and we reinvest in numerous Non-profit programs that provide needed support for low and moderate income families."

Conclusion

The proposed NCUA rules represent considerable regulatory overreach. They fly in the face of congressional intent and raise safety and soundness risk. NCUA should resist the impulse to champion the expansion of its supervised institutions into commercial banking and away from their clear mission and directive by Congress.

Thank you for the opportunity to comment on the proposed rules. If you have any questions, please feel free to contact me.

Very best regards,

Linda Navarro
President & CEO
Oregon Bankers Association &
Independent Community Banks of Oregon