Harborstone Credit Union

August 31, 2015

Mr. Gerard Poliquin
Secretary, NCUA Board of Directors
1775 Duke Street
Alexandria, VA 22314

Subject: Comments on Proposed Rulemaking for Part 723; RIN 3133–AE37

Dear Mr. Poliquin:

We are writing you on behalf of Harborstone Credit Union ("Harborstone"), a $1.1 billion in assets, 75,000-plus member-strong, state-chartered credit union located in Washington State. We appreciate this opportunity to provide comments to the National Credit Union Administration (NCUA) on its proposed amendments to the member business lending regulation.

Harborstone is pleased to see this issue taken up by the NCUA and is supportive of the steps taken thus far by the NCUA Board Members in the member business loans (MBL) proposal. Furthermore, we thank Chairman Debbie Matz for championing the MBL reform effort, and Vice Chairman Metsger and Board Member McWatters for offering their input toward the draft proposal.

We commend and endorse the proposed regulation's shift from its current prescriptive approach to a principles-based approach. We view this change as very positive and better suited to fostering a healthy and sound environment that speaks to the diversity of credit unions' MBL programs in the industry. The one-size-fits-all approach that had previously been instituted has proven to be unnecessarily burdensome and has adversely impacted credit unions' effectiveness and ability to meet our members' needs. This revised approach will allow each credit union that chooses to provide MBLs with the ability to intentionally and purposely tailor its program to meet the needs of its members, as well as fit the strategic goals and risk tolerances we respectively have, while maintaining the safety and soundness of the system.

We are also encouraged by the elimination of the minimum two-year experience requirement. This change will allow the industry to meet the needs of its many business members by requiring a level of experience commensurate with specific loan underwriting and portfolio risks undertaken by an institution, as opposed to an arbitrary number of years which may or may not be relevant to the types of loans being underwritten.

These are just a couple of the numerous positive aspects we see in the proposed rule that we believe will allow credit unions the capability to better manage their business loan originations and portfolios in a safe and sound manner. However, despite these positive changes, we believe the proposed rule in its current form does fall short in several areas.

First, we are strongly urging the NCUA to seriously consider adopting Option C with respect to the issue of state regulation of business lending. These State-specific MBL rules allow state supervisory authorities to interpret a rule differently from the way that the NCUA interprets a section of a rule, even if the rule is substantially the same as the NCUA rule.

We firmly believe that we have effective State Supervisory Authority (SSA) in Washington State that understand MBL and are intimately familiar with those credit unions that provide these vital loans to our members and communities. Our state regulator is a leader with a proven track record of appropriate and judicious use of this power, and a commitment to improving the regulatory framework within the state. Working in conjunction with the NCUA, this has allowed state-chartered credit unions to operate effectively and to provide lending opportunities that otherwise would not be available to the members and communities we serve.

We concur with the Northwest Credit Union Association's position in their Comment Letter requesting that the NCUA "remove from the commentary on State Regulation of Business Lending that indicates state supervisory authorities do not have the ability to interpret their own MBL rules granted by the NCUA board, in relation to the Federal Credit Union Act. While the commentary has no regulatory impact it demonstrates a lack of respect for SSA's and provides a basis for challenging a state rule, not just by the NCUA, but by outside interests as well. Existing state-specific rules allowed for proof of concept and provided the NCUA a road map for improving their MBL regulation."

Therefore, we would fervently encourage the NCUA to draft language in accordance with Option C that would allow SSAs to keep previously approved rules and retains all states' ability to apply for a new rule. We see this as vital and important to maintaining a safe, healthy, and vibrant source of lending alternatives for businesses in the State of Washington.

With respect to the proposed changes to the MBL cap calculation, although it is still prohibitively restrictive, we are supportive of the proposed adjustment as it removes an unnecessary provision. We realize the statutory lending cap is a contentious issue, but are hopeful the NCUA will continue to take up the matter of the cap as expressed in the Federal Credit Union Act (FCU Act) to remove the unfair restrictions imposed on credit unions in an effort to create parity with other federally regulated financial institutions.

We also strongly urge the NCUA to continue lobbying Congress for change in legislation regarding the statutory requirement to classify 1-4 family residential property that is not a primary residence, and vehicles that costs over $50,000, even if they are used for household purposes, as MBLs. With respect to these loans, the overwhelming majority of these loans are not analyzed and underwritten as a commercial loan would be. And the proposed rule for these loans would alleviate the enhanced requirements of higher-risk commercial lending. However, the inclusion of these loans for the calculation of the MBL cap continues to perpetuate an environment of non-parity with other federally regulated financial institutions. And particularly in the case of 1-4 family residential properties that are not a primary residence, most if not all are underwritten as a residential mortgage and are either granted or grandfathered in to natural person members who typically have converted their primary residence to a rental home for a variety of reasons (unable to sell, future family use, etc.) and not to investors who look to the cash flow of these properties as the sole or primary source of their income. As a result this, we implore the NCUA to address this overt discrimination that adversely impacts the credit union industry.

We have some mild reservations regarding the exclusion of Non-Member Participations from the MBL Cap to the extent that these loans carry as much or more risk, and should require credit unions that purchase these types of loans to have the proper policies and personnel with the commensurate knowledge to assess the risk being undertaken.

As you are no doubt keenly aware, community bankers continue to flood your office and Congress with form letters at the behest of the Independent Community Bankers Association (ICBA). These letters challenge the NCUA on a wide range of issues including statutory authority, safety and soundness, and general philosophy. Specifically with respect to MBL, they cite that credit unions are not equipped to offer business loans from an experience/knowledgebase level of expertise. We would proffer our own direct experience in offering MBLs over the past 10 years and the experience of others. Many of the professionals employed and engaged in providing oversight, leadership, mentoring, and underwriting of MBLs in credit unions are former community and regional bankers. These individuals possess a wealth of knowledge and experience they draw upon daily to make sound decisions, and have provided the loans and capital to business that the bankers didn't, which has kept our economy afloat since the "Great Recession". To ignore these facts and listen to the hyperbole of the community bankers would truly be a travesty for the country and millions of members who depend on their credit unions.

Finally, and most importantly, we harbor concerns regarding the NCUA's ability to ensure adequate training of staff and consistency amongst all of those involved in the examination process, coupled with providing an appeals process that provides fairness and no fear of retribution as a result of these changes. Under the best of circumstances, the interpretation by some examination staff of MBLs is problematic. And while the change from a prescriptive approach to a principles-based approach is the right direction in which to move, it is still fraught with issues of interpretation that, if not clearly detailed now and shared in a collaborative manner prior to implementation, will certainly cause undue and unnecessary problems and conflicts in examinations. To this point, we would ask for clarity on how the NCUA proposes that it will provide this assurance to all credit unions without burdening them with unnecessary assessments for training up of staff.

Additionally, we would encourage the NCUA to publish draft guidance with the final rule (using the Federal Deposit Insurance Corporation's existing guidance as a template) so that state and federal examiners, as well as credit unions, can evaluate the proposed guidance and also allow credit unions the ability to provide comments to the proposed guidance during the 18-month delayed implementation period. This is critical, as it would allow for valuable and necessary feedback to regulators, as well as provide an ability for ensuring that adjustments are made so that an effective and constructive examination process will evolve for the new principles-based approach.

To recap, we are encouraged by the changes under consideration as outlined in the proposed rule change, and hope that this is only the beginning of continued meaningful reform for the industry. We are also optimistic that the NCUA will take under serious consideration the comments being made by the credit unions you serve, especially with respect to the grandfathering of state regulation of business lending, and that you will work to create a final rule that acknowledges that credit union member business lending is making a positive and significant impact in the United States and in lives of the members we serve.

Also, your willingness in the future to tackle and champion further improvement to the rule and issues such as amendments to the Federal Credit Union Act will, in turn, continue to make credit unions stronger, safer, and sounder, thus reducing the risk of failure in the industry.

We thank you for the opportunity to comment on this Proposed Rule and for your serious consideration of our views on the proposed changes.

Sincerely,

Phil Jones
President/CEO
Harborstone Credit Union

Michael Powell
SVP and Chief Lending Officer
Harborstone Credit Union