



August 28, 2015

Mr. Gerald Poliquin
Secretary to the NCUA Board
1775 Duke Street
Alexandria, VA 22314

On behalf of Members 1st Federal Credit Union, I am writing to you regarding the National Credit Union Administration's (NCUA) proposed rule amending Part 723. I applaud NCUA for their efforts to provide meaningful regulatory relief to credit unions and appreciate the opportunity to provide comments on this proposal.

Our credit union has operated a very successful Member Business Lending (MBL) program for more than 10 years but that success has been hampered by the many regulatory limitations that we have had to operate under. While the most significant regulatory issue that we have faced has been the MBL cap, and we understand that such a change would require a legislative change to the Federal Credit Union Act, the increased flexibility the proposed rule changes would bring are a step in the right direction and will allow us to better serve our member businesses. In particular, the ability to establish Loan-To-Value (LTV) ratios and limits on unsecured loans will make us more competitive with other financial institutions in our market.

While we support most of the proposed rule changes I do have comments regarding a couple of them. The proposal to calculate Loan-To-Value (LTV) ratios with the loan amount as the numerator and denominator being the lesser of the purchase price or market value for collateral held 12 months or less, or market value for collateral held 12 months or more puts a seasoning requirement on real estate loans that does not exist under current regulations. Credit unions should have the flexibility to develop their own policies with regard to LTV calculations and loan seasoning requirements.

The other proposed rule change that causes us concern is the elimination of the two-years of commercial lending experience with a more qualitative requirement that a credit union must be overseen by staff with the appropriate expertise in managing the type of commercial lending in which the credit union is engaged. While this sounds like a less prescriptive requirement on the surface, we have experienced problems with the definition of "types of loans" during a previous examination.

On the Examiner's Findings Member Business Loans from our 2010 examination, the examiner commented that *"NCUA R&R , Section 723.6 requires an MBL policy to list the "types" of business loans the credit union will make, and the maximum amount of assets, in relation to net worth, that will be invested in a given category or type of business loan. The Policy does not include all the loan types described in Procedures (non-board approved), including: investment real estate financing, faith-based loans, ACH originations, and liquor licenses. It is essential the Policy fully describe all approved loan types to comply with Section 723.5(a) which requires staff to have experience in the types of loans the credit union plans to offer."*

Our position taken in the exit meeting was that our policy complies with regulatory requirements. However, as a means of resolving this disagreement, we indicated our willingness to submit a request for an opinion on this matter to the NCUA's General Counsel. We posed this question through our legal counsel and were informed that MBL regulations were under review and the NCUA General Counsel, Frank Kressman, suggested that the definition of "type of loan" be addressed in this review if there is confusion (which there obviously was). At this time we are not aware of any clarification ever being made in this regard.

Our concern with this proposed change comes down to how the NCUA will define "types of commercial loans." The examiner's interpretation taken during the above mentioned examination was that "types of loans" was actually "types of businesses that you will make loans to." Such an interpretation would result in the requirement that a credit union list every type of business that a credit union could make loans to – a requirement that makes no sense and would be nearly impossible to comply with. We encourage the NCUA to carefully craft a definition of "types of commercial loans" that makes logical sense and allows flexibility in meeting the experience requirement.

The last item that I would like to comment on from the proposed rule changes is the 18-month delay to allow NCUA and state supervisory authorities adequate time to adjust to the new requirements. In comparison, when new regulations are finalized that affect our operations we are often given just a few months to comply with them. We feel that these rule changes should go into effect as soon as they are approved, or shortly thereafter.

We also encourage the NCUA to provide further relief through actions we believe are within their regulatory authority including the definition of what a member business loan is, and the definition of "a history of primarily making MBLs." NCUA R&R Section 723.1(a)(3) sets a threshold of \$50,000 when the net business loan balances are added together for the purposes of defining a member business loan. We believe this limit includes far too many small loans that should not be regulated as member business loans and suggest this threshold be increased to at least \$250,000.

Further, we believe that the NCUA has clear authority to redefine a credit union that has “a history of primarily making MBLs.” It is clear that Congress intended for this exception to be implemented broadly and we encourage the NCUA to change the definition of “a history of primarily making member business loans” to better align with this Congressional intent. Along that line, we recommend that the agency “consider a successful MBL program in place for a period of five years or more as a qualifying definition for the statutory exemption.”

Thank you very much for the opportunity to comment on these proposed rule changes. While I strongly support most of them, I encourage the agency to address the recommendations that I have outlined above, as I believe these suggestions will help bring true regulatory relief for credit unions. Please do not hesitate to contact me if you would like further information about the comments in this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert L. Marquette", with a long horizontal flourish extending to the right.

Robert L. Marquette
President/CEO