

Via email: regcomments@ncua.gov

August 31, 2015

Mr. Gerard Poliquin
Secretary to the NCUA Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

Re: Denali Alaskan Federal Credit Union - Comments on Proposed Rule for Parts 701, 723, and 741: Member Business Loans and Commercial Lending

Dear Mr. Poliquin:

Introduction

On June 18, 2015, the NCUA Board issued a proposed rule on member business loans (MBL) intended to give credit unions greater flexibility and autonomy in commercial lending.¹ On behalf of Denali Alaskan Federal Credit Union and our 60,000 members, I am writing to you in overall support of NCUA's proposed rule amending MBL and commercial lending. I support the agency's initial efforts to modernize and streamline the MBL process, and I welcome NCUA's rule, which will provide some meaningful regulatory relief. I have, however, some very serious and significant concerns with the single borrower concentration provisions I would like the agency to consider and to which I look forward to its response. Thank you for this opportunity to comment on the proposed rule.

I have long advocated for flexibility in establishing and implementing an MBL program specific to and most appropriate for each individual credit union and its unique membership and surrounding community. While legislative changes to the Federal Credit Union Act are ultimately needed to raise the statutory MBL cap, NCUA's proposed rule is an important and significant step to achieve improvements in the current outdated MBL regulations.

General Comments

The current MBL waiver process is inefficient, inconsistent, expensive, and confusing. Because of this, credit unions are hindered in—and in some cases prevented from—extending sound credit to their commercial members. These loans are permanently lost to competitors, most often to banks. While currently a credit union may apply to NCUA for a “waiver” from the prescriptive underwriting criteria, overall lending caps, and personal guarantee requirements, this process is incredibly time consuming. This lengthy and uncertain process in turn frustrates our small business borrowers, who must endure delays to their funding and hinder business growth and development.

Though business lending tends to be more complex than consumer lending, it is inherently no more risky than any other type of lending; the risk of the loan depends on the nature of the loan being offered. While the proposed rule eliminates some unnecessary constraints, NCUA still retains its full regulatory and supervisory authority to address safety and soundness concerns and confirm compliance with the agency's strict loan participation rule. NCUA's current MBL proposal constitutes much-needed relief without exposing credit unions and their members, small businesses, or the National Credit Union Share Insurance Fund to any undue risk.

¹ See 80 FR 37898 (Jul. 1, 2015).

Waiver Process

The proposed MBL rule would thankfully remove the prescriptive underwriting criteria and personal guarantee requirements, which would eliminate the current waiver process. The proposed rule will allow a credit union's Board of Directors to establish commercial lending standards according to general safety and soundness requirements. The proposed rule will importantly *not* remove underwriting standards, such as LTVs and single borrower concentration thresholds, but allow credit unions to set their standards individually based on their unique membership, business model, and risk appetite. NCUA will still be able to regularly evaluate the appropriateness of a credit union's commercial lending policy and underwriting standards as part of the examination process.

Single Borrower Concentration

NCUA is attempting to propose a single borrower concentration limit without the ability to request a waiver. Though single borrower concentration waivers already granted would be grandfathered in, under the proposal we would have no ability in the future to work with our top residential builders in our Anchorage market where we have an extremely high need for new and affordable housing.

Under NCUA's proposal, a credit union's commercial lending policy must establish a loan-to-one-borrower limit:

The aggregate dollar amount of commercial loans to any one borrower or group of associated borrowers may not exceed the greater of 15% of the federally insured credit union's net worth or \$100,000, plus an additional 10% of the credit union's net worth if the amount that exceeds the credit union's 15% general limit is fully secured at all times with a perfected security interest by readily marketable collateral [*i.e.*, liquid assets].²

My understanding of this provision of the proposed to rule is that it limits our maximum loan amount to any single borrower, or group of associated borrowers, to 15% of the credit unions net worth *unless* the borrower is willing to pledge liquid assets as collateral to cover the additional 10%, up to a maximum of 25% of the credit union's net worth. My concern is that our higher limitation waivers, currently at 35%, while grandfathered in at the adoption of the proposed rule, will expire as they mature or are paid off, or will need to be gradually reduced to meet the new restrictions. We will therefore be more restricted than under the current system and prevented from meeting our members borrowing needs in the future unless they are willing to pledge assets as collateral. Please clarify if I am interpreting this section incorrectly.³

The proposed rule will impose a prescriptive single borrower concentration limitation without an ability to request a waiver. Further, the proposal would base the concentration limitation on a percentage of net worth, which would cause a significant problem for smaller credit unions. As we continue to grow our MBL portfolio and acquire more relationships that have partners, wherever we would have to tie those loans together we would be prevented from funding those projects until our capital is sufficient. While I understand the importance of establishing a single borrower concentration threshold in a commercial lending policy, NCUA's proposed limit is *far* too restrictive. I would urge NCUA to allow credit unions more flexibility in setting their single borrower concentration limitations under their Board-approved commercial lending policies. Additionally, I would recommend that NCUA base the concentration limitation on a percentage of shares and undivided earnings as mandated by the FCU Act for other types of loans.

² See 80 FR 37898, 37916 (July 1, 2015).

³ See 80 FR 37898, 37911 (July 1, 2015).

Legislation Raising the MBL Cap

Unfortunately, NCUA's proposed rule does not alter the statutory MBL cap, which will require a legislative amendment to the Federal Credit Union Act. I very much appreciate NCUA's continued support for such legislative reform, including the agency's support for H.R. 1188, *The Credit Union Small Business Jobs Creation Act* and *The Credit Union Residential Loan Parity Act*, S. 1440/H.R. 1422.

Implementation Period

Finally, NCUA's proposed eighteen-month implementation period for the final rule is too long because our small business borrowers need immediate relief from the current burdensome and arduous MBL waiver process. I would suggest that six to twelve months would more appropriately our need and still be sufficient time for training NCUA examination staff.

Conclusion

Again, I overall strongly support this much-needed and none-too-soon overhaul of NCUA's current MBL regulations, to the extent it moves the process from a prescriptive regulation with onerous and detailed requirements to a principle-based regulation that gives more flexibility in the construction and operation of an MBL or commercial program. However, the agency can, and should, go further to help small businesses access credit throughout the country at their local community credit unions.

I must iterate my concerns with the elimination of higher single borrow concentration limits, and request that the proposed rule be redrafted to allow opportunities for credit unions to meet the borrowing needs of their members that are outside of the lower limits.

Thank you very much for this opportunity to comment on NCUA's proposed MBL rule. I appreciate NCUA's willingness to amend MBL regulations to provide some overall regulatory relief for credit unions, and I look forward to NCUA's response to comments. I would request that any amendments to the proposed rule also allow additional opportunities for comment. If you have any questions or concerns, or if I may provide you with any further information, please do not hesitate to contact me directly at bobt1@denalifcu.com.

Sincerely,

//s//

Robert (Bob) M. Teachworth

President & CEO
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