



August 31, 2015

By electronic delivery to:
<http://www.regulations.gov>

Gerald Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Re: RIN 3133-AE37
Part 723 Member Business Loans

Dear Mr. Poliquin:

Kohler Credit Union appreciates the opportunity to submit comments to the National Credit Union Administration on the proposed Member Business Loans Rule.

Kohler Credit Union is a \$302 million asset community chartered credit union, headquartered in Kohler, Wisconsin. Kohler Credit Union maintains seven (7) full service branches and four (4) in-school branches serving approximately 39,000 members in Sheboygan, Calumet, Manitowoc, Ozaukee, Washington, Fond du Lac, Milwaukee and Waukesha Counties of Wisconsin.

Over the last few years, credit unions have faced a common and growing concern: the crisis of creeping complexity with respect to the regulatory burden. To that end we applaud the NCUA for taking steps to remove unnecessary regulatory hurdles in favor of a new “principles-based” approach. These changes would both modernize and simplify the rules. The current rule leaves much to be desired. The underwriting criteria goes far beyond what the Federal Credit Union Act requires and are more restrictive than warranted by safety and soundness concerns.

The proposed rules would shift the responsibility for setting sound commercial lending standards to credit union boards and management. That would be a huge responsibility, but in exchange, credit unions would gain much-needed flexibility to meet their members’ needs and to compete more effectively in commercial lending. The net result would benefit credit unions, their members, and the national economy.

We offer our support and appreciation for these revisions to the MBL rules. However, no proposal is perfect, and we have some concerns and recommendations.

Concerns

- NCUA Guidance & Examinations. Without knowing what the guidance will say, interested parties cannot assess how the new rules and guidance combination will impact credit unions, and their comments on this proposal can offer only limited insights. Individual examiners – both from the NCUA and from state supervisory agencies – will have considerable latitude to determine whether a credit union’s commercial lending policies and procedures are adequate and whether individual loans meet subjective definitions of safety and soundness.
 - Examiners must be consistent in their approach to evaluating commercial lending programs

- Examiners assigned to credit unions with MBL programs must be experienced, with a thorough understanding of business lending, so that they can properly examine non-uniform lending programs.
- Examiners reviewing commercial lending programs must have adequate supervision by senior staff, and credit unions should have a mechanism to address disagreements without having to initiate a formal appeals process
- State examiners must undergo the same specialized training as their NCUA colleagues.
- We support the NCUA's goal of eliminating the waiver process and giving credit unions more latitude to determine their own commercial lending standards. However, the rules should retain one very specific, prescriptive requirement for which a waiver process should be retained.
 - The current rule 723.10(h) gives credit unions a way to exceed the cap on business loans to one borrower or group of associated borrowers unless a waiver is obtained.
 - A simple solution is that NCUA should continue to make waivers available for its proposed limit under 723.4(c) – aggregate dollar amount to any one borrower or group of associated borrowers. We understand the NCUA's desire to remove the waiver system from its regulations; however this cap is one area of the proposed rules that remains explicitly prescriptive and waivers should continue to be available.
- We support the proposed new definition of “commercial loan” as well as the seven categories of loans excluded from that definition, but we believe that more types of loans should be exempt. For example, a loan in which a federal or state agency has committed to fully insure repayment, fully guarantee payment, or provide an advance commitment to purchase the loan in full would be a commercial loan but not an MBL. These should be exempt since they present no risk to the credit union system and no safety or soundness concerns.
- Staff Experience Requirement. We favor the proposed elimination of the two-year staff experience requirement for MBL programs. Instead, senior officers would need a comprehensive understanding of the role of commercial lending in the credit union business model. A credit union would be able to meet the expertise and experience requirement by conducting internal training to develop the expertise, by hiring qualified individuals, or by use of a third party. We wish to point out that no individual staff member is likely to have experience in all three areas cited. The rules should be clarified to explain that each staff member is not expected to meet all three experience requirements.
- Modification of State MBL Laws. We also strongly support states, like Wisconsin, adopting their own MBL rules. Wisconsin has a long and successful member business loan oversight.

In Summary

Kohler Credit Union does a tremendous amount of good in our communities and we need fair and reasonable regulation. We need to get back to the business of serving our members and not working under cumbersome restrictions.

We appreciate the opportunity to share our thoughts on the proposal. Again, I would urge the NCUA further consider all comments received and revise the proposal. If you have questions or need further information, please feel free to contact me by telephone 920-459-2595 or by email at svandermeuse@kohlercu.com.

Sincerely,

Sue Vandermeuse

Sue Vandermeuse, CUCE, CUERME
VP Internal Audit & Risk Management