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37



August 7, 2008

Ms. Mary Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

Re: Proposed Rule – 12 CFR Part 723 –Member Business Loans

Dear Ms. Rupp and Members of the NCUA Board:

I am writing on behalf of the Board of Directors and management team of Visions Federal Credit Union, which is headquartered in Endicott, New York, and serves 120,000 members and businesses in southern New York and northern Pennsylvania, including a number of underserved areas.

More than once in the over six years Visions Federal Credit Union has engaged in providing Member Business Loans to our community, I have been stopped and thanked by a local business person whom we helped when the local banks would not. This despite the fact that due to regulations, our loan terms are sometimes more restrictive than what banks are allowed to do in the same market. We propose that some leveling of the playing field is needed if credit unions like Visions are going to continue to be successful in helping the communities we serve.

In regard to your request for comments in specific areas:

**Loan to Value Requirements**

The NCUA regulation 723.7 for MBL's loan-to-value basically states that all MBL's are to be secured with collateral to create a loan-to-value of 80% or less. NCUA regulation 723.5 requires certain levels of expertise and experience to perform MBL lending. As a general rule, this is both prudent and wise within the guidelines of safety and soundness.

Unfortunately, due to these regulations credit unions are at a disadvantage compared to other federally regulated financial institutions that lend at their own prudence of safety and soundness with unregulated staffing. One would assume that the spirit of this regulation was the fact that most credit unions were new to commercial lending when this regulation was created.

Potential loans in excess of the 80% loan-to-value are subjective to a waiver request and require a time differential, which other federally regulated financial institutions are not required to do, regardless of their financial condition.

The NCUA should consider removal or waiver from the loan-to-value for certain credit unions that meet certain standards. It is recommended that consideration be given to well capitalized credit unions, who have accredited staffing under 723.5 and who have demonstrated a history of prudent MBL lending of 5 years or more.

Perhaps the NCUA should set criterion instead of qualifying a credit union to become an unrestricted loan-to-value credit union, rather than burdening the whole industry and the cost of regulation thereof.

In regard to the prohibitive rules regarding Fleet vehicles, we suggest that a combined number and dollar amount limit be set that can be used (i.e., 10 vehicles – and a line of credit not to exceed $1 Million) above which the MBL Loan to Value rules become effective. The current rules, as outlined in the 2005 letter, are vague and not competitive.

**Collateral and Security Requirements**

NCUA regulation 723.3 regarding construction and development (C&D) loans requires a minimum loan-to-value of 75% except in a few circumstances. We agree with the NCUA that these loans are of a higher risk than normal MBL loans, but point to the NCUA regulation 723.5 which requires we have trained lenders and states that, "The board must also use the services of an individual with at least two years direct experience with the type of lending the credit union will be engaging in. The experience must provide the credit union sufficient expertise given the complexity and risk exposure of the loans in which the credit union intends to engage."

Construction and development loans are further restricted by NCUA regulation 723.3 as to the collateral value that may be considered under the loan-to-value rule. Other federally regulated financial institutions do not have these restrictions and may consider using other soft costs that the borrower must provide in this type of lending.

We recommend that the NCUA consider the capitalization, management, historical performance, and staffing of the individual credit union in regard to this type of lending. Removal of loan to value and definition of construction costs should be left to the prudence of the individual credit union.

**Experience Requirement and CUSO Involvement**

NCUA regulation 723.7(2) limits unsecured lending to one member or a group of associated members to the lesser of $100,000 or 2.5% of the credit union's net worth, and NCUA regulation 723.7(3) states "the aggregate unsecured outstanding member business loans do not exceed 10%" of the credit union's net worth.

NCUA regulation 723.5, which states that, "The board must also use the services of an individual with at least two years direct experience with the type of lending the credit union will be engaging in. The experience must provide the credit union sufficient expertise given the complexity and risk exposure of the loans in which the credit union intends to engage."

Experienced staff within a well-capitalized credit union with a good track record are able to prudently assess risk for the types of credit they are extending. Other federally regulated financial institutions do not have the same restrictive regulations that are imposed by NCUA regulations for these loans.

The NCUA should consider the capitalization, management, historical performance, and staffing of the individual credit union in regard to this type of lending. Removal or substantial increases to the unsecured MBL lending limits should be considered, and the individual credit union should address its internal limits based on its own risk tolerance taking into consideration staffing, capitalization and overall prudence without having to obtain a waiver. Perhaps a two-tier system should be established with a different cap for each tier based on a credit union's MBL Lending experience.

The NCUA regulation 723.5 provides for experienced staffing to provide the type of specialized lending MBL loans warrant. Under 725.5 the NCUA provides alternatives of third parties, independent contactors, and CUSO's to provide the expertise to satisfy this requirement. This is a very prudent and crucial portion of the NCUA regulations and appears to be both fair and prudent. We agree with these requirements.

**MBL Loan Participation**

We agree it would be useful to build cross references to 701.22 and part 723 to avoid any misinterpretation on the MBL Loan Participation rules.

**Waivers**

We have found the waiver rules fair and useful in improving our MBL program when blanket waivers are used, but waivers can be a time-consuming exercise with an unknown outcome that credit unions must contend with in extending credit and competing with other lenders. This alone puts the credit unions at a disadvantage on a competitive nature and adds to the cost of producing such a loan if dependent on a waiver.

It is recommended that the NCUA consider more flexibility and fewer regulations to credit unions who are experienced MBL lenders. This would limit the need for waiver approval and improve the competitiveness and profitability of the credit union. In addition to this proposal, we recommend that the process be redesigned so a decision could be made within two weeks on those areas still needing waivers.

**Miscellaneous**

***Prepayment Penalties*:**

NCUA regulation 701.21(6) states that, "A member may repay a loan, or outstanding balance on a line of credit, prior to maturity in whole or in part on any business day without penalty." We have experienced a number of loans that pay out before maturity due to temporarily more advantageous rates and terms. This puts the credit union at a disadvantage since the other commercial lenders have prepayment penalties to compensate them for the large underwriting

and servicing investment it takes to make a commercial loan, and are less likely to lose their loans.

Generally this rule benefits the member from undue hardship and fees from the credit union. However, this may also be a hardship and cost to the credit union and overall membership for loss of income and increase in expenses to replace the lost asset.

It is our recommendation that NCUA consider the circumstances where a credit union may charge a prepayment penalty to protect its investment, asset allocation, and fee income on MBLs. It is the responsibility of the credit union to make loans in good faith and to serve its overall membership. Loans are priced to reflect benefit to the overall membership and the borrowing entity.

***MBL Threshold***:

We believe the threshold for a loan or aggregate loans noted in 723.1(b) (3) to be considered a Member Business Loan should be raised from $ 50,000 to $ 100,000.

**Conclusion**

In closing, we agree with the comments made in the Federal Register Vol. 73, No. 123, Wednesday, June 25, 2008 which states "credit unions that are experienced lenders are well equipped to manage the risks associated with making MBLs and should be given more flexibility with fewer regulatory restrictions."

The NCUA regulations effectively treat all credit unions the same by restricting and limiting the risk in MBL lending for all rather than relying on the experience and prudence of the individual credit union to manage and mitigate its own risk. This is in contrast to the overall lending regulations for credit unions or that of other federally regulated financial institutions. Although waivers help, as many credit unions have matured and become sophisticated business lenders in their markets, the 'Cookie Cutter" approach currently used in regulation 723 still needs to change to reflect the current competitive environment.

Thank you for the opportunity to comment on this proposed rule.

Sincerely,

Frank E. Berrish
President/ CEO

FEBDmc/Comment Letter August 08

cc: Fred Becker, President
NAFCU

Dan Mica, President
CUNA