From: Jean M. Faenza [mailto:JeanFaenza@telesiscu.org]
Sent: Monday, August 25, 2008 5:47 PM
To: _Regulatory Comments
Cc: gmessick@cusolaw.com
Subject: Business Partners/Telesis CCU-Comments on Advanced Notice of Proposed Rulemaking for Part 723
Importance: High

1. Loan-to-Value Requirements and Unsecured MBL's and Personal Guarantees

We recommend that the regulatory loan to value be based upon credit worthiness and qualification of the borrower, not the institution making the loan.

We recommend that personal guarantees be required based upon credit worthiness and qualification of the borrower, not the institution making the loan.

We recommend that personal guarantees be allowed if the guarantor does not own a majority interest in the business.

A well capitalized credit union does not always generate better quality loans based upon their capital level. The borrower should always meet credit worthiness standards. Additionally, the credit worthiness of the business does not always transfer to the guarantor. In today's world, credit unions are being required to seek guarantors that are the majority owner of the business. When in fact, a guarantor not related to the business or with less interest in the business may have a greater net worth and more liquidity and would be a stronger guarantor in an exit strategy when the loan defaults. Guarantees are often confused as a repayment strategy versus an exit strategy, particularly in a single, action state.

Another factor is the competitiveness of the institution when recruiting and marketing loans. Strong borrowers and loans are sought out and those business owners seeking financing are not willing to commit a personal guarantee as well. As a consequence, credit unions are sought out by businesses that are required to provide a personal guarantee based upon the weakness of the business, the loan structure or credit.

2. Business Vehicle LTV requirements

We recommend that the loan to value be increased to 100% for business vehicles and that fleets are defined to exclude service vehicles versus transportation vehicles.

The term fleet is mischaracterized to include the service environment and is typically utilized in the transportation of people or products. We recommend that this loan to value requirement be increased to 100%, again based upon the credit worthiness and the borrower's ability to repay the debt. The collateral does not repay the debt. It would be liquidated when the loan is in default and applied to the debt.

3. Experience Requirement and CUSO Activities

We recommend that credit unions not be required to hire special expertise and that they continue to be allowed to utilize the services of CUSOs for performing all aspects of business lending; with the exception of the credit approval. The approval should continue to rest with the credit union.

A CUSO does not perform their functions differently based upon providing services to controlling owners, non-controlling owners or non owners. If a CUSO were to perform with this in mind that would suggest that the CUSO is utilized as a vehicle to pass bad debt. Any such CUSO would be out of business in very short order. With that in mind, how many audits, regulatory and internal, does a CUSO submit to annually?

Let's assume the following:

> $5 million loan, 4 participants, 1 lead lender, each owning an interest of $1 million in the loan.
>
> Each lender undergoes 1 regulatory exam annually and 1 internal audit annually. This equates to 10 exams/audits each and every year for one $5 million loan.

Do we really believe this model would allow a CUSO to pass bad loans as a short term goal in the search of income or profitability? Are we to suggest that a CUSO would survive the reputation risk summarized in this conjecture? I would expect that after a very short period of time, the CUSO would be out of business.

We appreciate the opportunity to comment on the proposed regulation change.

Respectfully,

Jean M. Faenza

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