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August 14, 2008

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

Re: Advanced Notice of Proposed Rulemaking on Member Business Loans; RIN 3133-AD42

Dear Sir or Madam:

The Independent Community Bankers of America (ICBA)¹ appreciates the opportunity to offer comments on the National Credit Union Administration's (NCUA) Advance Notice of Proposed Rulemaking concerning member business loans. Specifically, the NCUA is seeking comments on whether (1) it should raise the maximum loan-to-value (LTV) limit for construction and development loans (C&D loans) and (2) generally restrict or relax its member business loan rule.

ICBA's Position

ICBA believes that the NCUA should impose greater regulatory restrictions on credit union member business loans, not less. As we have indicated in our previous letters to the NCUA on the member business loan rule², it never was the intention of Congress when it passed the Credit Union Membership Access Act in 1998 (CUMAA) to allow the NCUA to relax its rules concerning credit union member business lending. For

¹*The Independent Community Bankers of America represents the largest constituency of community banks of all sizes and charter types in the nation, and is dedicated exclusively to representing the interests of the community banking industry. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace.*

With nearly 5,000 members, representing more than 20,000 locations nationwide and employing nearly 300,000 Americans, ICBA members hold \$1 trillion in assets, \$800 billion in deposits, and \$700 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

² See our letters June 3, 2003 and August 25, 2004 concerning the NCUA's Member Business Loan Rule.

instance, in the report of the Senate Committee on Banking, Housing & Urban Affairs, the Committee stated the following with regard to the 12.25% member business cap on commercial lending:

The Committee has imposed substantial new restrictions on commercial business lending by insured credit unions. These restrictions are intended to ensure that credit unions continue to fulfill their specified mission of meeting the credit and savings needs of consumers, especially persons of modest means, through an emphasis on consumer rather than business loans. The Committee action will prevent significant amounts of credit union resources from being allocated in the future to large commercial loans that may present additional safety and soundness concerns for credit unions, and that could potentially increase the risk of taxpayers losses through the National Credit Union Share Insurance Fund.³

Congress intends credit unions to focus on serving the savings and credit needs of consumers. ICBA believes that relaxing the member business loan rule will subject credit unions to great lending risks and divert them from the central mission of serving the credit needs of consumers.

Recently, we have seen the problems that can occur when credit unions circumvent the member business loan rule and attempt to concentrate excessively on member business lending such as residential construction loans. Norlarco Credit Union in Colorado and Huron River Area Federal Credit Union in Michigan were eventually put into NCUA conservatorship and their assets sold because of their participation in a Florida land speculation scheme known as “Millionaire University” which purportedly taught people how to become rich from the booming Florida real estate market. Using TV infomercials and other advertising, students from all over the United States were enticed to enroll in the “university” and take course on how to get rich in real estate. At the end of their courses, teachers at Millionaire University promised students inflated returns of up to 14% if they agreed to make a modest down payment to construct and buy a home in the Coral Gables area that was pre-leased. Millions of dollars of construction and residential real estate loans were made by these credit unions to the students of Millionaire University and were then participated out in loan pools to dozens of other credit unions. The NCUA, as conservator, has had to deal with many lawsuits not only from members who claim they were defrauded by a land scheme but also from other credit unions all over the U.S. that participated in these business loans.

These credit union failures should be a wake-up call about the dangers of allowing credit unions to participate in risky business lending activity in which they have little expertise. **Particularly now during a severe economic downturn, encouraging credit unions to engage in riskier activities never intended by Congress such as construction and development lending by relaxing the member business lending rule will unnecessarily expose credit union members, the credit union industry and ultimately the taxpayers to undue financial risks.** ICBA urges the NCUA not to proceed with any further proposals to relax its member business lending rule by raising the maximum LTV limits for C&D loans or any other member business loans.

³ *Senate Report 105-193, pp.9-10.*

Conclusion

For safety and soundness reasons and because it would be contrary to Congress' intention when it passed CUMAA, ICBA opposes any relaxation of the NCUA's member business loan rule. Any such changes particularly with respect to C&D loans will only distract credit unions from their central mission of meeting the credit needs of low and moderate income consumers and expose credit union members, the credit union industry and ultimately the taxpayers to undue financial risks.

ICBA appreciates the opportunity to offer comments in connection with the NCUA's ANPR concerning member business loans. If you have any questions about our letter, please do not hesitate to contact me at 202-659-8111 or Chris.Cole@icba.org.

Sincerely,

/s/ Christopher Cole

Senior Regulatory Counsel