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MARK G. HOLBROOK
President / CEO

August 14, 2008

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

Re: Advance Notice of Proposed Rulemaking – Member Business Loans

Dear Ms. Rupp:

Evangelical Christian Credit Union (ECCU) appreciates the opportunity to provide input concerning the NCUA's Advance Notice of Proposed Rulemaking to amend part 723 of the NCUA Rules and Regulations (the MBL Rule).

Summary of ECCU's Comments

- ECCU recommends that the NCUA permit credit unions to adopt usage of the "as completed" valuation method for construction and development loans. Basing LTV ratios on an "as completed" valuation instead of a "cost to complete" valuation would not only bring the regulation in alignment with the construction lending industry, it would also make the regulation consistent with the requirements of the Appraisal regulation.

- ECCU recommends that the NCUA replace the 25% equity requirement with a maximum 80% LTV cap for construction and development loans.

- ECCU supports listing the LTV requirements in tiers by loan type as different types of loans and different types of collateral pose differing levels of risk. For example, owner-occupied construction and development loans expose credit unions to a much lower level of risk than construction and development loans for property speculation.

- ECCU recommends that credit unions be provided with the flexibility to exceed the LTV requirements when appropriate for credit-worthy borrowers in a structure similar to that available to banks and thrifts.

  ECCU recommends that the NCUA exclude owner-occupied construction loans from the definition of "C&D loans."

- ECCU advises that the current waiver process is inadequate for credit unions, especially for state-chartered credit unions.

Discussion of ECCU's Comments

ECCU is pleased to have this opportunity to participate MBL regulation rule-making process. As background, ECCU is a federally-insured, state-chartered credit union that has made member business loans to its members since 1987. This year, ECCU anticipates originating over $800 million in member business loans, including over $250 million in construction and development loans. By volume and by dollar amount, ECCU originates more member business loans than any other credit union regulated by the NCUA.

Of primary concern to ECCU is the restrictiveness of the MBL regulation and the competitive disadvantage that this creates for credit unions. Compared to banks and thrifts, credit unions are subject to significantly more restrictive aggregate and individual lending limits, more restrictive LTV ratios, and far less regulatory flexibility to structure loan packages that truly meets the needs of its members. Even well-capitalized credit unions that were originally chartered to make business loans or have a history of primarily making business loans find themselves frustratingly hampered by the limits set forth in the regulation. The current regulation provides little flexibility to take into account the high quality of the credit or the size or sophistication of the credit union.

Unless credit unions are equipped to fairly compete with banks, credit union members will be forced to seek higher-cost business loans at other financial institutions. A credit union's inability to compete often serves a double blow to both the credit union and the member – a typical business loan condition is the requirement of a member to take their entire banking relationship over to the other financial institution. Under these circumstances, not only has the credit union lost the loan business, the credit union has effectively lost a member. Furthermore, the member is hurt as well -- the member will likely receive a lesser rate of return on the member's deposits as well.

While much of the frustration is correctly directed at the statutory limitations imposed by the Federal Credit Union Act, a substantial portion of the frustration is due to the conservative limitations established by the regulation itself. ECCU urges the NCUA

consider ECCU's comments below and to re-evaluate the overly conservative strictiveness of the MBL regulation.

ANPR SECTION 1: LOAN-TO-VALUE RATIO REQUIREMENTS

Construction & Development Loans

NCUA is willing, however, to consider comments in support of easing restrictions on &D loans…This includes comments on whether NCUA has clearly explained how a edit union is to establish the value of a property for purposes of calculating the LTV ratio, defined what costs and fees may properly be included in calculating a borrower's equity in a project…"

CCU recommends that the NCUA: (a) eliminate the equity method of calculating the aximum loan amount and instead replace it with the more traditional use of Loan-to-alue ratios to calculate the maximum loan amount; (b) establish the maximum LTV tio at 80%; and (c) permit the use of the "as completed" value of a project for rposes of calculating the LTV ratio.

urrently, Section 723.3 of the NCUA Rules and Regulations provides in part:

> "The borrower must have a minimum of 25% equity interest in the project being financed, the value of which is determined by the market value of the project at the time the loan is made…"

is requirement has been a source of frustration to experienced C&D credit union nders for a number of reasons. First, we note that the NCUA's use of its own finition of "market value" in calculating the equity requirement appears to be in nflict with the provisions of the Appraisal Regulation set forth in Part 722. Second, e note that in many cases the equity requirements can have the effect of increasing e lender's risk, rather than decreasing such risk. Finally, the use of an equity quirement in place of an LTV requirement has not been widely accepted in the nstruction lending industry.

CUA's formula for calculating "market value" is set forth in the preamble to the final gulation at 68 FR 56540 (October 1, 2003). Market value is "the appraised value of nd owned by the borrower on which the project is to be built, less any liens, plus the st to build the project." In essence, the NCUA appears to be requiring credit ions to use a modified cost approach to determine value.

wever, the Appraisal Regulation requires that credit unions utilize an appraisal ing an opinion of "market value" which is "the most probable price which a property ould bring in a competitive and open market under all conditions requisite to a fair le, the buyer, and seller each acting prudently and knowledgeably and assuming

the price is not affected by undue stimulus…" Thus, when an appraiser prepares a market value for a property, the appraiser typically derives a valuation based upon a combination of the cost approach, the completed sales comparison approach, and the income approach. The NCUA's formula for "market value" does not utilize any of these industry standard approaches for valuation. Furthermore, we note that even if the NCUA's formula for "market value" was the same as the traditional cost approach, the use of such "modified cost approach" alone is to completely ignore the other approaches, which are critical tools in coming to an appropriate "market value

Sole reliance on a cost approach can be a poor indicator of "market value" as some owners may over-improve a property or customize the improvements in such a manner as to have limited appeal to potential buyers. An appraiser will normally discount the cost of these over-improvements in the appraisal, thereby more accurately reflecting the value of the property to a prospective buyer. It is a critical fundamental of real estate that not all improvements necessarily add or sustain valu equivalent to its cost upon resale of the property. If credit unions were to tie their maximum loan amounts in all cases to the cost approach, the credit union may be under-collateralized for a majority of its loan portfolio.

To avoid being under-collateralized, most lenders avoid exclusively using a cost approach for valuation of construction projects. To meet the definition of "market value" as set forth in the Appraisal Regulation, lenders utilize the "as completed" value of a project when calculating their LTV ratios. The "as completed" value of a project is essentially the valuation of a project assuming that the project has been completed as described in the project plans <u>as of the date of the appraisal issuance</u>. This approach is consistent with the NCUA's stated desire to avoid using appraisals that attempt to determine the future market value of the completed project. This approach considers what the current valuation of the project would be if it was completed today and helps to prevent the financing of a borrower who is "over-improving" the property, e.g. adding features to a property that may be undesirable t a future buyer, or choosing building options that are overly expensive.

While we understand that the NCUA's stated interest in adopting an equity requirement instead of an LTV requirement was to ensure that "sufficient equity be available to protect the lender's interest" (68 FR 56537), ECCU believes that as applied, for the vast majority of the loans that ECCU underwrites, the equity requirement does not provide better protection than an LTV requirement.

To illustrate, here is an example of a hypothetical construction project.

Land Value =	$ 50,000
Cost of Construction =	$ 60,000
NCUA Value =	$110,000
"As completed" Value=	$100,000*

25% equity scenario: In this scenario, under the NCUA's definition of "value", the value of the project would be $110,000. Applying the 25% equity requirement, the maximum possible loan amount would be $82,500 loan and the borrower would be required to have $27,500 in equity and cash invested in the project ($110,000 * 0.25 = $27,500).

75% LTV scenario: In this scenario, the "as completed" value" is $100,000. At 75% LTV, the maximum possible loan amount would be $75,000 and the borrower would be required to have $35,000 in equity and cash invested in the project ($110,000 - $75,000 = $35,000).

80% LTV scenario: In this scenario, the "as completed" value" is $100,000. At 80% LTV, the maximum possible loan amount would be $80,000 loan and the borrower would be required to have $30,000 in equity and cash invested in the project ($110,000 - $80,000 = $30,000).

ECCU understands that in certain situations the "as completed" value may be higher than the NCUA's Value and that the borrower would thus not be required to have as much equity or cash invested in the project. However, ECCU still believes that using an "as completed" value is more appropriate than using the NCUA's value as it better reflects "market value" as defined in the Appraisal Regulation.

ECCU notes that changing the 25% equity requirement to an 80% LTV limitation would not necessarily increase risk by a material amount. LTV ratios of 80% in the construction lending arena have long been considered to be a traditional standard for prudent construction loan underwriting. Financial institutions regulated by the federal banking agencies (FDIC, FRB, OTS, OCC) are permitted to make construction loans to be made up to 80% LTV (and higher under certain circumstances as further discussed below). While using 80% as a maximum cap (instead of a 75% maximum cap) may somewhat increase a credit union's risk exposure, ECCU believes that any such increased in risk is not material and nevertheless will be tempered by the adoption of the "as completed" valuation method. Furthermore, any heightened risks identified in the underwriting process can typically be mitigated by imposing additional loan conditions. Forcing credit unions to use a LTV cap that is too conservative forces credit unions to turn away credit-worthy members even though such risks could have been mitigated through alternative underwriting conditions and procedures.

At a minimum, ECCU recommends that the NCUA permit experienced construction lenders to determine for themselves what standards would be best suited for a particular type of construction project and borrower, including the maximum LTV limits and the appropriate valuation method.

Use of LTV Tiers

NCUA also is interested in comments on whether the differences between various kinds of collateral would support using a tiered approach to LTV limits so that a secured by safer collateral would have a higher LTV limit.

ECCU acknowledges that LTV ratios have always been a critical factor in prudently underwriting MBLs. It has been well recognized in the lending industry that each loan type and each collateral type poses different types of risks to lenders. For example, ECCU has found that a C&D loan secured by an owner-occupied construction project poses significantly less risk than a C&D loan by a non-owner-occupied construction project (e.g. where the property is the primary source of repayment) (see discussion below regarding Owner-Occupied Construction Loans). In another example, an Owner-Occupied Construction Loan secured not by the construction project itself but instead secured by a different piece of real estate that is already improved poses a different level of risk than a non-owner-occupied construction loan secured by the construction project itself.

Utilizing a tiered approach in establishing LTV limits would enable the NCUA to more accurately reflect the risk differences. Furthermore, a tiered approach allows the NCUA to ease LTV requirements for certain loan types and collateral types, thereby increasing credit union flexibility without jeopardizing safety and soundness.

ECCU respectfully suggests the following maximum LTV limits:

Loan/Collateral Type	Maximum LTV
Loan to finance non-owner-occupied C&D Project (secured by C&D Project)	80%
Loan to finance owner-occupied C&D Project (secured by C&D Project)	85%
Loan to finance C&D, but secured by collateral other than the C&D Project itself	90%
All other loan types/collateral types	90%
Car, van, truck, sports-utility vehicles (non-fleet)	100%

Adoption of such tiered LTV limits would enable credit unions to better match risk with credit-worthiness and to better compete for potential borrowers with excellent credit and repayment abilities.

In addition, we suggest clarifying that where a loan is collateralized by two or more properties or is secured by a collateral pool of two or more properties, the appropriate maximum loan amount is the sum of the value of each property, multiplied by the appropriate loan-to-value limit for each property, less any senior liens on each property.

Alternative Solution – Adopting the Federal Banking Agencies Approach

"NCUA welcomes general comments on any aspect of the MBL LTV requirements.... Although it is unlikely NCUA would entirely eliminate LTV requirements for MBLs, commenters are encouraged to comment and provide suggestions on improving or clarifying these provisions."

As an alternative to the specific LTV Tiers suggested by ECCU above, ECCU recommends that the NCUA take this opportunity to reconsider adopting the regulatory framework used by the other federal banking agencies (FDIC, OTC, OCC) as set forth in the FFIEC Interagency Guidelines for Real Estate Lending Policies (Title 12, part 365, subpart D, Appendix A) (hereinafter, "Interagency Guidelines").[1] ECCU believes the higher LTV limits described in the Interagency Guidelines also reflects prudent lending guidelines. Furthermore, ECCU believes that the Interagency Guidelines provide more flexibility to meet the needs of borrowers while at the same time balancing risk by providing a mechanism by which a financial institution may exceed the maximum LTV limits on a limited amount of loans (based on the size of the bank) without having to obtain a regulatory waiver.

The Interagency Guidelines provide the following:

"Supervisory Loan-to-Value Limits."

Institutions should establish their own internal loan-to-value limits for real estate loans. These internal limits should not exceed the following supervisory limits:

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[1] In the preamble to the final rule, the NCUA indicated that it had received several requests to adopt the Interagency Guidelines. "As noted above, comments directed at the rule's LTV definition are not relevant to this current rulemaking because the Board did not seek public comment on any changes to that definition. These comments, as well as the suggestion to review the FFIEC Interagency Guidelines for Real Estate Lending, remain under consideration and may be addressed by future rulemaking." 68 FR 56540 (October 1, 2003).

Loan Category	Loan-to-Value limit (percent)
Raw Land	65
Land Development	75
Construction:	
Commercial, multifamily, and other residential	80
1- to 4-family residential	85
Improved property	85
Owner-occupied 1- to 4-family residential and home equity	([2]) 90

"Loans in Excess of the Supervisory Loan-to-Value Limits."

"The agencies recognize that appropriate loan-to-value limits vary not only among categories of real estate loans but also among individual loans. Therefore, it may be appropriate in individual cases to originate or purchase loans with loan-to-value ratios in excess of the supervisory loan-to-value limits, based on the support provided by other credit factors. Such loans should be identified in the institution's records, and their aggregate amount reported at least quarterly to the institution's board of directors…"

"The aggregate amount of all loans in excess of the supervisory loan-to-value limits should not exceed 100% of total capital.[FN]…Moreover, within the aggregate limit, total loans for all commercial, agricultural, multifamily or other non- 1-to-4 family residential properties should not exceed 30 percent of total capital. An institution will come under increased supervisory scrutiny as the total of such loans approaches these levels."

In adopting the final rule, the federal banking agencies expressly validated the argument that LTV is only one of several components in determining the overall creditworthiness of a real estate project and is often not the most important. In implementing its final rule, the federal banking agencies stated:

"Many commenters expressed the view that the approach taken in the Joint Proposal placed too much emphasis on LTV ratios. Numerous comments urged the agencies to include a measure of flexibility to permit institutions to lend beyond stated LTV limits when other underwriting factors indicated that an extension of credit could be made on a safe and sound basis. The agencies have developed the final rule, together with the Guidelines, in response to these comments. The agencies recognize that creditworthy loans may be underwritten at LTV

[2] "A loan-to-value limit has not been established for permanent mortgage or home equity loans on owner-occupied, 1- to 4-family residential property. However, for any such loan with a loan-to-value ratio that equals or exceeds 90 percent at origination, an institution should require appropriate credit enhancement in the form of either mortgage insurance or readily marketable collateral."

levels that exceed those stated in the Joint Proposal. The agencies also recognize that simply satisfying an LTV ratio requirement does not necessarily ensure a prudent and collectable loan. The agencies have concluded that a rule that emphasizes only one element of the underwriting process may not ensure sound real estate lending or contribute to the safety and soundness of the financial system. The approach adopted in the final rule and the Guidelines is intended to provide insured depository institutions and borrowers additional flexibility while promoting prudent real estate lending."

57 FR 62890 (1992).

ECCU fully concurs with the Interagency Guidelines that excessive reliance on LTV limits could unnecessarily impede future economic growth, of both the credit union and the member.

Exclusion of Owner-Occupied Construction Loans from Definition of "C&D Loans

"NCUA is willing, however, to consider comments in support of easing restrictions on C&D loans…"

Beyond adjusting LTV limits, ECCU urges the NCUA to take this opportunity to reconsider its approach to C&D loans. ECCU recommends that the NCUA recognize additional exceptions to the list of construction loans that may be excluded from the aggregate C&D lending limit due to their lower risk profiles.

In the ANPR, the NCUA restates its position that C&D loans are the riskiest of all MBLs. However, ECCU restates its own position that speculative C&D loans are the riskiest of all MBLs and that non-speculative construction and development loans should not be subject to the same harsh limitations and oversight as speculative C&D loans.

ECCU believes that in considering amendments to the MBL Regulation, the NCUA should specifically exclude two additional loan types: (a) Owner-Occupied Construction Loans; and (b) loans for the purpose of financing construction on real property but are not secured by that same property (if such security interest is not required by prudent underwriting practice), from the applicability of the C&D Regulation due to their non-speculative risk profiles.

In 1991 when the construction loan regulation was first articulated, and again in December 2005 when the NCUA revised the definition of a C&D Loan, the NCUA repeatedly explained that the regulation was meant to target "speculative lending," namely, "lending [that] is generally characterized by projects which rely on anticipated

future sale of the project or future cash flow of an uncompleted project in order to repay the debt..."[3]

However, despite the stated purpose of the regulation to address loans that caused the most speculative risk, C&D loans have been broadly defined such that they can be construed to cover any loan where some of the loan proceeds could be used for construction purposes, regardless of whether the repayment source is speculative in nature. Over the course of time, the NCUA has softened the impact of this broad definition by exempting certain loan types from application of NCUA Rules and Regulations Section 723.3 (the "C&D Regulation") where NCUA identified the risk of loss as low: (1) where a prospective homeowner is contractually obligated to

purchase the completed home; (2) where a member-borrower is building only one single-family residence; and (3) where the construction or development is for maintenance, repairs, or improvements that do not change the use of the income-producing property.

Since 1991, the NCUA has implicitly recognized that owner-occupied commercial projects pose significantly *less* risk than their more speculative counter-parts (e.g. loans for projects "which rely on anticipated future sale of the project or future cash flow of an uncompleted project to repay the debt").[4] By identifying the particular characteristics of a true C&D loan, the NCUA was in turn identifying what should not be considered to be a true C&D loan: lending that is not reliant on a future sale or future cash flow of the completed project for debt service.

ECCU's experience in financing Owner-Occupied Construction Loans bears out the NCUA's conclusions. Owner-Occupied Construction Loans expose a lender to less risk than "speculative" construction loans because:

- Reduced Real Estate Market Risk: There is minimal real estate market risk compared to a speculative construction loan. The owner-occupant is responsible for repayment from the existing cash flow of its ongoing operations. Unlike a speculative construction loan, the source of repayment is not dependent on the state of the rental property market or the real estate sales market upon project completion.

  Reduced Real-Estate Market Risk Associated with Change-of-Use: Change-of-use and scope-of-improvement tests, cited in the current C&D Loan definition, become less important from an underwriting perspective because repayment is from existing cash-flow of the ongoing operations; repayment is not dependent on the state of the real estate market upon completion of the project.

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[4] 56 FR 15053 (April 15, 1991); 70 FR 75719 (December 21, 2005).

- Reduced Repayment Risk: Again, because the source of repayment is not a speculative source, but is based instead on historically established revenue from a credit-worthy borrower intending to utilize the building for its own use, the repayment risk is significantly reduced. Because of the absence of speculation, we find that the repayment risk profile of an Owner-Occupied Construction Loan is akin to that of a loan to purchase an existing facility intended for occupation by the owner.

- Reduced Impact of Construction Risk: This risk relates to the nature of the construction project itself. In our experience, the primary construction-related risks are: (i) failure to complete the improvements on time and (ii) failure to complete the improvements on budget. Neither of these risks is shifted to the lender when the owner has demonstrated a historic ability to service debt.

  The timely completion risk is less of a concern because existing operations are the basis of servicing debt. The on-budget completion risk of the project is also mitigated because the lien is against the property for the borrower's existing operations. It is not just a speculative investment made for a greater return. In other words, an owner-occupant would be less likely to default on a mortgage loan and jeopardize losing their existing property. It should further be noted that current construction lending practices manage risks such as these with various forms of contractor agreements that provide for guaranteed maximum price or stipulated sum of construction costs. Prudent underwriting also calls for the underwriting of the general contractor's business as well to ensure that the general contractor will be able to bear the cost if the actual costs of construction exceed the projected costs in a guaranteed maximum price or stipulated sum agreement. Construction lenders can also further mitigate risk by providing project accountability with construction administration procedures and processes like ECCU utilizes.

ECCU further believes that these arguments hold true if the property and the completed construction project is to be owned or occupied by an affiliate of the borrower (i.e. a subsidiary, parent company, sister company, holding company, or other affiliated party). For example, we see little change in repayment risk where a parent corporation is the borrower for the loan (and is the source of repayment), and the completed project is to be occupied in whole or in part by a subsidiary.

It stands to reason that due to their similar nature, Owner-Occupied Construction Loans pose no more speculative risk than a regular member business loan extended to purchase a move-in-ready facility. By subjecting such loans to the C&D Regulation, credit unions are inappropriately limited in the amount of Owner-Occupied Construction Loans that they may offer and make available to their membership.

ECCU points out that the above reasoning has been empirically observed by others n the construction lending industry. In particular, the reduction of risk for properties hat are to be owner-occupied has historically been observed by the other federal banking agencies. For example, in the Comptroller of the Currency's Handbook Commercial Real Estate and Construction Lending," the Handbook observes:

> "Loans secured by real estate can be divided into two categories based on the source of repayment: credit-based loans and project financing. Credit-based loans are loans secured by real estate that will be repaid from the borrower's business operations or personal assets. Although the primary collateral for the loan is real estate, the real estate is not the source of repayment. In many instances, these loans are used to finance the acquisition of an owner-occupied business premise that has an economic life similar to the term of the loan. In other cases, they are term loans used for other business purposes, such as working capital. In both cases, however, repayment is expected from the cash flow of the business rather than the underlying real estate. Examiners should evaluate credit-based real estate loans in essentially the same manner as commercial loans."

3y the same token, construction loans that are secured by real property other than he construction projects are shielded from much of the same risks as Owner-Occupied Construction Loans because repayment will not be dependent on the proper and timely completion of the construction project. The other federal banking agencies have also implicitly recognized this reduction in risk by specifically providing hat such loans are to be excluded from the non-conforming loan limits. See the Excluded Transactions" section in the Interagency Guidelines.

n summary, ECCU asserts that incorporating such changes will better align the egulation with the NCUA's stated purpose for the regulation and will provide ncreased flexibility to credit unions without providing additional risk to the share nsurance fund.

ANPR SECTION 4: WAIVERS

<u>Adequacy of the Current Waiver System</u>

'f commenters support easing LTV requirements for C&D loans, they should address the sufficiency of the waiver provision."

"...it appears credit unions may not be taking full advantage of waiver opportunities. NCUA solicits comments on whether this is the case and, if so, why. Also, it would be helpful to know if this perceived issue is the result of a procedural problem and what NCUA can do to resolve it."

ECCU respectfully submits that the current waiver process is inadequate to meet the needs of the many credit unions and members requiring waivers to the MBL regulation. The problem is especially acute for state-chartered credit unions.

For example, in the past, the NCUA has noted to ECCU that it will only provide waivers to the C&D 25% equity requirement on an individual loan basis. However, the NCUA also indicated that it would not be able to guarantee any type of time frame in which it would be able to respond to a waiver request for an individual loan other than the 45 day response requirement under § 723.12(d). Because state-chartered credit unions are required to first submit any waiver requests to their state regulator for approval before the request can be forward to the NCUA for the NCUA's review, it can conceivably take months before the credit union can receive a response. From a member service standpoint, such a delay is unacceptable. ECCU further notes that under Regulation B of the Equal Credit Opportunity Act, credit unions are required to give small businesses (gross revenues under $1 million) notice of the action taken within 30 days of receipt of the applicant's completed application. There is no exception to this 30 day notice requirement.

ECCU would also like to remind the NCUA that not all state regulators have effective state laws or regulations in place similar to § 723.12(d). Without laws in place with a self-executing enforcement mechanism, the state regulators who are overwhelmed with other regulatory priorities or ill-equipped to handle such requests may have little incentive or opportunity to provide a timely response. Indeed, we are aware of a number of credit unions who have followed NCUA's procedures by first submitting their waiver request to their state regulators, but months later (or even a year later as in ECCU's case), have yet to hear a response from their state regulator. Without any way of forcing a response from the state regulator, many submitted waiver requests may simply never be reaching the NCUA. Furthermore, many states do not have a well defined appeal mechanism if the state regulator denies the request. Stories of such problems with state regulators are not uncommon. In some states, this is the norm, not the exception. It may be that upon hearing such stories, many credit unions do not even bother with the time and expense of engaging in the waiver process.

As such, ECCU has three recommendations to improve the waiver process.

First, ECCU recommends that the NCUA amend Section 723.11 to eliminate the requirement that state chartered credit unions submit their request to their state regulator. Such requirement to first obtain state regulator approval is not statutory and the NCUA has the authority to fully regulate in this arena. Elimination of such requirement ensures that the waiver requests of state-chartered credit unions are judged by the same criteria as federal credit unions, held to the same standard, and are entitled to a response within the same time-frames. ECCU is concerned that if the NCUA simply adopts a bypass mechanism (e.g. if the state authority fails to

espond within a certain timeframe, then the credit union can directly forward the equest to the NCUA), the state regulator may simply automatically deny any request ather than be seen as abdicating their authority to oversee the credit union.

Second, ECCU recommends adopting a mechanism similar to the Interagency Guidelines such that credit unions have the flexibility to make a limited amount of oans in excess of supervisory limits without having to first seek a waiver.

Third, ECCU suggests that that one way to expand waiver use would be to automatically extend the benefit of a waiver approval to purchasers of loan participation interests. For example, if the NCUA approved an individual loan to exceed the LTV limits, the regulation could be clarified to indicate that the waiver would follow the loan such that a credit union purchaser or participant could be assured that it would not have to obtain a new waiver. This concept could also be applied to broader waivers granted to specific credit unions. For example, if a credit

union obtained a waiver permitting them to exclude owner-occupied construction oans from the credit union's aggregate construction loan lending limits, participants of a loan generated under such a waiver would be able to exclude their participation nterest in the loan from their own aggregate lending limit calculations as well.

ANPR SECTION 5: DEGREE OF REGULATORY LIMITS

Reduced Regulatory Limits, Especially for Experienced Credit Unions

"NCUA would appreciate comments on whether part 723 would be a more effective regulation with more, less, or the current degree of regulatory limits."

ECCU does not believe that additional regulatory restrictions are needed to protect he share insurance fund. If anything, ECCU believes that the MBL regulations are overly restrictive and burdensome and that credit unions should be empowered with additional flexibility to meet the needs of its members.

Over the decades, credit unions have amply demonstrated the unique and beneficial ole that credit unions serve in the financial marketplaces. By offering the American eople a competitive alternative to traditional banking institutions, credit unions have een able to bring down the cost of financial services. Regardless of the state of the conomy, credit unions have steadfastly held to their mission of "people helping eople" by maintaining their focus on meeting member needs rather than shifting heir attention to increasing fee income at the expense of risk management. Because f their prudence and discipline, credit unions are in a strong position to provide olutions to members – but only if they are given additional flexibility to timely espond to the unique circumstances of each member.

· attention should further be paid to how the NCUA can best leverage th
ce of its seasoned MBL lenders. It makes little sense to subject experie
-capitalized MBL lenders such as ECCU who have a well-documented
of managing risk to the same regulatory restrictions as a credit union first
the MBL marketplace. Based on this documented track record, we beli
viding experienced business lenders with such regulatory flexibility will c
little cost (in the form of increased risk) to the share insurance fund.

Conclusion

J fully appreciates and respects the mandate of the NCUA to protect the sa
soundness of its insured credit unions while at the same time balancing the
ls of credit union members to access reliable sources of credit. ECCU belie
adoption of the suggestions and recommendations set forth in this comment
er will have a nonmaterial or even slightly favorable impact on the safety and

undness of credit unions, yet will have an enormous positive impact in the abil
edit unions to serve their members.

hank you in advance for carefully considering our comments. I would be please
nswer any further questions that you might have. I can be reached by phone at
14) 671-5700, extension 1312 or via e-mail at mark.holbrook@eccu.org.

incerely,

ark G. Holbrook
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: Bill Cheney, President/CEO
California and Nevada Credit Union Leagues