



OSU Federal
Your Community Credit Union™

August 22, 2008

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

Re: *Comments on Advanced Notice of Proposed Rulemaking for 12 CFR Part 723*

Dear Ms. Rupp:

OSU Federal appreciates this opportunity to provide comments to the National Credit Union Administration (NCUA) regarding its advanced notice of proposed rulemaking (ANPR) related to Member Business Loans (MBLs).

NCUA has requested feedback specific to the following components of the regulation: loan-to-value ratio requirements, collateral and security requirements, CUSO involvement in the MBL process, MBL loan participation and waivers. In addition, NCUA is requesting comments regarding imposing greater restrictions to protect against risk and has requested comments relevant to any other MBL issues that NCUA should consider.

1. Loan-to-value (LTV) ratios/collateral and security requirements.

As a general statement, credit unions operate at a disadvantage when it comes to loan-to-value limitations on business loans. This limitation affects our lending ability to qualified business applicants. Our nation's small business owners need more access to capital, not less.

Limitations set under FDIC banking supervisory limits are tiered, and if LTV ratios are exceeded the subject loans must be classified as non-conforming loans. A limit is then set on the aggregate amount of all non-conforming loans, not to exceed 100% of the bank's total capital. In this model, the financial institution is allowed to fund loans based on LTV limits approved by the board of directors. The determination of loan-to-value ratios is a business decision. By placing an overall limit on non-conforming loans, the safety and soundness of the institution is maintained.

When contrasted with credit unions, the board of directors' ability to make a business decision is superseded by that of our regulator. This runs counter to NCUA's desire to minimize unnecessary regulation.

This point notwithstanding, we offer the following opinions regarding conforming LTV limitation for specific business loan categories:

- (a) Unsecured MBL: Although our competitors do not have a cap on the amount they can lend on an unsecured basis, the current limit of \$100,000 for credit unions has been a reasonable level to accommodate the small businesses we serve at this time.
- (b) Credit card lines of credit: These are generally small lines that do not represent a material credit risk exposure. Continuation of the exception to allow credit unions to offer unsecured credit cards to business members helps maintain a competitive marketplace.
- (c) Construction/Development: We are in agreement that construction and development projects are the riskiest member business loans, and must be carefully overseen in respect to safety and soundness. Our competitors have the ability to offer 80% LTV on non-residential construction. We would recommend that NCUA consider incorporating a different methodology. The construction project LTV limits would be the lesser of 75% of value upon completion or 80% of cost.
- (d) Vehicle: The current 100% LTV requirement is adequate for vehicle loans. However, the definition of a "fleet" is too broad and should be narrowed to capture fewer business vehicles. It would seem reasonable to define a fleet primarily based on use and business type and secondly by a specific number more in the range of five vehicles instead of two.
- (e) Conventional commercial real estate: The current limit of 80% is too restrictive and puts credit unions at a competitive disadvantage. It would be appropriate to increase this LTV limit to 85%. We believe this can be done with minimal consequences to safety concerns.
- (f) Inventory and accounts receivable: We agree in many instances a lower LTV limit for loans secured by inventory and accounts receivables is appropriate. However, to require a mandatory lower limit without the benefit of case-by-case management analysis once again puts credit unions at a competitive disadvantage.

2. Credit Union Service Organization (CUSO) involvement in the MBL process and two year experience requirement.

It is our understanding that the conflict of interest provision of the MBL rule does not apply to a CUSO where each of the credit unions has a controlling financial interest in the CUSO.

In establishing our business services program, we greatly benefited from the use of a third party underwriter and continue to utilize their expertise as we grow our program. By knowing that the underwriter was working independently, on behalf of our interest, it increased our confidence in the integrity of the work.

Depending on the strength of management of a credit union, the two-year experience requirement for business lending might be very adequate. Extending the requirement would definitely impose a competitive disadvantage to credit unions involved in business lending due to the cost to retain staff. Rather than regulate an expected number of years experience, NCUA can ensure the appropriate monitoring and risk management processes are in place through the audit and exam process.

3. Participations

There is an opportunity within Member Business Loan Regulation Part 723 and Participation Loan Regulation Part 701 to include cross-references between the two sections for added clarity. The description of the waiver process available related to exclusion of nonmember participations from the aggregate MBL limits is clear.

4. Waivers

Our credit union has applied for two waivers in the past. Both of the waivers were approved without undue hardship, the process was straight forward and the requirements were clearly outlined within the regulations.

5. Imposing greater restrictions to protect against risk.

In the request for comment, NCUA noted that a suggestion was submitted to impose greater regulatory restriction to protect against increased risk, including increasing the list of underwriting factors. We feel this would be a giant step backward for the industry and for the businesses we serve. Responsible and prudent lenders are capable of determining the appropriate level of analysis, due diligence and underwriting necessary to conduct an evaluation commensurate with the level of risk.

6. Other MBL issues that NCUA should consider.

- (a) Call report: The reporting requirements relating to the Risk Based Net Worth (RBNW) calculation are cumbersome. It is our understanding that once a MBL drops below \$50,000, it is removed from the 12.25% MBL limit calculation. However, the loan must still be tracked as a MBL under the Risk Based Net Worth calculation. We recommend that reporting be standardized and loans that drop below \$50,000 be removed from the RBNW calculation.

It is also our understanding that year-to-date funded loans must include all advances on a line of credit. For example a line of credit is established for \$60,000. The borrower advances \$60,000, repays \$60,000, and then later advances \$50,000. Under this example, the year-to-date funded loans would be reported as \$110,000. We recommend that the commitment amount upon funding would be the reportable figure for year-to-date funded loans.

Currently the calculation of the Net Long Term Asset Ratio used by many examiners as a measure of risk includes all member business loans as long-term assets regardless of the final maturity. Even the credit cards, lines of credit and equipment loans which typically have quite short lives are considered long term assets. We suggest that NCUA review the definition of long term assets to better reflect the lower risk associated with these short term member business loans. It might be appropriate for NCUA to handle member business loans in the same manner as consumer mortgage loans for this ratio, with only maturities of longer than five years being considered as long-term assets.

- (b) Although the following items are contained in the Federal Credit Union Act and therefore are statutory in nature, we strongly encourage NCUA to support credit union efforts to ease restrictions which are unique to credit unions as follows:
- Allow credit unions to charge prepayment penalties on member business loans. Imposing prepayment penalties is a standard practice in business lending given the increased overhead expense associated with the analysis and underwriting of such loans.
 - Increase aggregate limit on member business loans from 12.25% to 20% of assets.
 - Increase threshold defining a member business loan from \$50,000 to \$100,000.
 - Exclude Fannie Mae/Freddie Mac compliant non-owner occupied 1-to-4 family dwellings from MBL definition. These loans do not fit the true model of a business loan. Often the borrower is an individual purchasing property as a passive residential investment.

Ms. Mary F. Rupp
National Credit Union Administration
August 22, 2008
Page 5

Thank you for this opportunity to comment on the upcoming proposed rulemaking. In our efforts to provide business members with financial solutions, it is critical that appropriate regulations are in place to ensure safety and soundness, while also providing small businesses with viable financial alternatives. Please feel free to contact me at 541-714-4204 if you have questions or would like to discuss our comments further.

Sincerely,

A handwritten signature in cursive script that reads "Debra Riggle".

Debra Riggle
Vice President Financial Services

cc: Credit Union National Association
Credit Union Association of Oregon