June 20, 2005

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

Re: Part 723, Member Business Lending Rule

Dear Ms. Rupp:

The National Association of State Credit Union Supervisors (NASCUS)[1] submits comments in response to the National Credit Union Administration's (NCUA) request for comments on proposed changes to NCUA's Part 723, Member Business Lending rule.

Consult and Cooperate with State Regulators

State and federal credit union regulators work cooperatively to ensure the safety and soundness of state-chartered credit unions as well as the integrity of the credit union share insurance fund. NCUA worked closely with state regulators when promulgating many of the implementing regulations associated with HR 1151 and subsequently adopted several MBL provisions from state-specific MBL rules enacted in the past several years. When considering future changes to Part 723, we encourage NCUA to consult and cooperate with state regulators when developing a proposed rule. 12 U.S.C. 1757a(e).

Amending Part 723 to make the Rule Consistent with Existing Corporate Credit Union Regulations is Appropriate

NASCUS believes NCUA's broad application of Part 704 unnecessarily preempts state authority and results in an unsound homogenization of the corporate credit union system. However, within the context of this request for comments, NASCUS supports NCUA's amendment of Part 723 to accommodate the distinct capital requirements for corporate credit unions.

NCUA's Proposed Amendments to the Definition of Construction and Development (C&D) Lending is Overly Broad

Legitimate safety and soundness concerns require regulators to ensure that a regulatory definition of C&D lending does not create too large a loophole for speculative business lending. However, the NCUA's proposal may be overly broad and result in classification of simple improvement loans as C&D lending. Under the proposed rule, cosmetic or other improvement loans that do not result in a significant change in either the value or the nature of the property could be classified as C&D lending. It is unclear if that truly is the result NCUA is attempting to achieve with this amendment. If it is not, then the rule should be modified to distinguish between true C&D borrowing and borrowing for basic improvements that are part of any ongoing business concern.

[1] NASCUS is the professional association of the 48 state and territorial credit union regulatory agencies that charter and supervise the nation's 4,000 state-chartered credit unions.

NCUA Should Expand the Government Loan Program Exception

Given the public policy considerations attending to government loan programs as well as the regulatory requirements of such programs, NCUA should expand the SBA lending exception. At the least, NCUA should establish a presumption that such government loan programs meet NCUA's criteria for safety and soundness. In the future, NCUA can revisit specific programs if safety and soundness considerations warrant. Given that the regulatory process often lags behind industry innovation and market place responsiveness, waiting for "credit union demand" for other such programs to be granted an exception unnecessarily burdens innovative and adaptive institutions. Presumably, the safety and soundness considerations will not change based upon the credit union demand. Therefore, NCUA should weigh those safety and soundness considerations now and allow those institutions that can recognize a benefit to their members to participate in those guarantee programs.

NASCUS appreciates the opportunity to comment on NCUA's proposed revisions to its Part 723, Member Business Lending rule. Please do not hesitate to contact NASCUS if you wish to discuss our comments.

Sincerely,

Brian Knight
Vice President, Regulatory Affairs