June 20, 2005

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

Dear Ms. Rupp:

I am writing in response to the proposed amendments to Part 723, Member Business Loans. I represent a state chartered credit union in California with $2.7 billion in assets serving 160,000 members through 21 branch locations and our website, www.sdccu.com.

The following are comments on the amendments related to corporate credit union capital requirements, definitions of net worth and construction or development loans, and government guaranteed loan programs that were outlined in the Federal Register in which the NCUA requested comments on proposed rules and regulations.

Corporate Credit Union Minimum Capital Requirements

San Diego County Credit Union believes that the primary purpose for Corporate Credit Unions is to provide credit and services to member credit unions and CUSOs. As such, they are permitted to operate with capital ratio guidelines that differ from those applicable to non-Corporate Credit Unions.

We believe that the differing capital guidelines are appropriate for Corporate Credit Unions with regard to credit and services that are provided to member credit unions and CUSOs; however, we do not feel that the relaxed guidelines should be applicable with respect to unsecured Member Business Loans granted to its members other than member credit unions and CUSOs.

The basis for our opposition to allowing Corporate Credit Unions to make unsecured MBLs at capital ratios below that applicable to non-corporate credit unions is based on the fact that doing so would provide them with an unfair competitive advantage.

Non-corporate credit unions must be well capitalized as defined by 702.102(a)(1) before they may make unsecured member business loans. Generally, this requires that they maintain a capital ratio of seven percent (7%) or better. Were these same credit unions operating with a capital ratio as low as four percent (4%), they would be considered as being "Undercapitalized" and therefore precluded from being able to make unsecured MBLs while a Corporate Credit Union operating at the same capital ratio would be permitted to do so.

This disparity provides an unfair competitive advantage and it is our belief that a "level playing field" is the most equitable way to remove any competitive advantage that would accrue to Corporate Credit Unions by holding them to a "lower standard". Therefore, it is our opinion that it is not in the best interest of the industry to provide differing minimum capital ratio requirements for unsecured Member Business Loans based on whether or not the credit granting credit union is a Corporate Credit Union or not.

Definitions

We agree with the NCUA proposal to revise the definition of "net worth" to be consistent with the definition of that phrase found in the Act and PCA.

The proposed change in the definition of "construction or development loan" is perceived as being a positive one, albeit one that would appear to have a bias against such loans that involve "income producing property" to be held or for sale. As drafted, the definition seems to apply to properties that are income producing but not to properties that will be borrower occupied or held for sale. We interpret the term "income producing property" to designate a property held for lease or rent irrespective of whether or not it is commercial, industrial or residential in nature.

We fail to see the difference between a "construction or development loan" where the property is held for use or sale and one where the property is held or to be sold for the generation of income. Accordingly, we believe that the definition should be amended so as to remove any disparity based on the whether the property will be for borrower use, resale or held by the borrower for rent or lease. We believe that the most appropriate way to address this is to remove any reference to "income producing property" from the definition and/or adopt definitions for "construction" and "development" loans as defined by the "Interagency Guidelines for Real Estate Lending Policies" used by regulators of other financial institutions.

"Construction loan means an extension of credit for the purpose of erecting or rehabilitating buildings or other structures, including any infrastructure necessary for development."

"Land development loan means an extension of credit for the purposes of improving unimproved real property prior to the erection of structures. The improvement of unimproved real property may include the laying or placement of sewers, water pipes, utility cables, streets, and other infrastructure necessary for future development."

Use of these definitions would not only seem to remove any disparity based on the type of property and its end use but would also conform to standard industry definitions for "construction" and "development" loans.

The same Guidelines previously cited also provide for "Supervisory Loan-to-Value" limits for real estate loans that differ from the maximum allowed Loan-to-Value (LTV) for real estate loans as promulgated by NCUA. In the spirit of improving the ability for credit unions to make "construction" and "development" loans, we would ask that NCUA consider adopting the LTVs for "Land Development" and "Construction Loans" as used by these regulatory agencies. By so doing, credit unions making these loans would be able to more effectively compete with other types of financial institutions.

Government Guaranteed Loan Programs

We believe the NCUA should broaden the MBL rule to allow credit unions to permit more favorable treatment for all government guaranteed loan programs. While it might not be possible for the NCUA to identify all programs, we feel it would be beneficial if the NCUA provided a list of all federal government guaranteed loan programs that would be covered by this change. The list would be periodically updated to ensure credit unions have the resources to meet the needs of our membership.

We also believe that any added ability to make government guaranteed loans should include a provision that all such loans may be granted based on the guarantor's lending requirements instead of under the MBL rule. This would serve to allow these loans to be made in the same way as SBA loans as permitted under the October 2004 amendment (69 FR 62563).

We commend NCUA's efforts to make the process of evaluation of legislative and regulatory framework inclusive. Thank you for the opportunity to comment. If you or other Board staff have questions about our comments, please give our Compliance Administrator, Cynthia Abram or me a call at (877) 732-2848.

Sincerely,

Rod Calvao
President and CEO
San Diego County Credit Union
Charter number 61004-5858
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