Louisiana
Credit Union League

Mr. Gerard Poliquin
Secretary to the NCUA Board
1775 Duke Street
Alexandria, VA 22314

Re: Comment Letter to the Proposed Amendments to NCUA's MBL Rule

Dear Mr. Poliquin:

On behalf of the Louisiana Credit Union League (LACUL), I would like to thank you for the opportunity to express our views on the recent proposal by the NCUA Board addressing the Member Business Lending (MBL) rules of the National Credit Union Administration in Section 723.

LACUL commends the NCUA Board for its willingness to consider much needed reforms to the current MBL rules. Although we believe more can and should be done with MBL reform, we believe this proposal is indeed a huge step toward returning to a more positive regulatory environment for those federally-insured credit unions offering MBLs to their qualifying members.

That said, we are pleased to provide the following comments and recommendations regarding the proposed amendments to NCUA's MBL Rule.

Personal Guarantee Provisions

LACUL commends NCUA for returning to credit unions the authority originally granted under RegFlex to make their own underwriting decisions as to whether a personal guarantee should be required on every business loan. While even the most liberal MBL lender in the credit union marketplace would agree that the vast majority of business loans indeed should require a personal guarantee, this proposed rule would allow credit unions to determine – based upon their own underwriting standards and institutional policies – whether a personal guarantee should be required. Should any credit union become unsafe in its utilization of this authority to waive the personal guarantee, we would expect that NCUA would address those concerns through the supervisory process. This is as it should be.

No credit union makes a loan indiscriminately. Credit unions regularly go back to borrowers for additional documentation, more security, stronger collateral and even personal guarantees when the credit union feels the need to protect its position on a business loan. Credit unions are not looking for losses. They are doing everything reasonable to manage risk in their lending and to add performing loans to their portfolio. Unnecessary regulatory limits on lending and time consuming waiver requirements often put those credit unions at a competitive disadvantage with other financial institutions that do not face such restrictive regulatory requirements. By removing the arbitrary

personal guarantee requirement in this proposal NCUA rightly recognizes that strong credit unions with proven underwriting standards should not have to lose top quality business simply because they are not permitted to make the decision on a good loan because it exceeds some one-size-fits-all regulatory standard designed to protect against credit union lending that is not as strong and with underwriting standards that are not as proven.

LACUL fully supports the removal of the personal guarantee requirement as proposed.

Commercial Loan Policy

LACUL is generally supportive of the amendment to Section 723.4(c) which provides that that the limitation of loans to one borrower or group of associated borrowers may not exceed the greater of 15% of the credit union's net worth or $100,000, plus an additional 10% of the credit union's net worth if the amount that exceeds the credit union's 15% general limit is fully secured at all times with a perfected security interest by readily marketable collateral.

While it could be argued that a higher limitation (if any regulatory limitation, at all) should be allowed since this proposed rule is based upon a presumption that the credit union knows how to manage its lending risk better than a federal regulator, LACUL believes this increase is significant in that many credit unions regularly find themselves up against this cap for some of their best proven business borrowers. The result is driving some of the best business to other lenders to the detriment of their credit unions with which the borrower member would prefer to do business.

Removal of the Loan to Value Cap

LACUL also supports the proposal to remove the current 80 percent loan-to-value cap on collateral used to secure a business loan. Although most credit union underwriting standards will have a loan-to-value limitation and sound business lending decision making will require such limitations, LACUL feels strongly that this should be an institutional decision made on a loan-by-loan basis. It is not the type of decision that can be mandated by federal regulation without hamstringing the lender and, in many cases, costing the credit union the ability to effectively underwrite the loan and remain competitive with other lenders. For these reasons, we are supportive of this proposed change.

Prohibited Activities

LACUL has some serious reservations regarding the proposed prohibition for a management employee or other officer of a credit union to receive a business loan, within established credit union lending policy and sound underwriting standards. Such an approach seems inconsistent with the general reform approach of this proposal. While perhaps well intentioned, the imposition of this one-size-fits-all prohibition fails to recognize, in our view, the ability of the credit union to manage such issues within well-established underwriting and lending policies. If senior management employees and their immediate families are able to obtain a mortgage, car and other consumer loans from the credit union, we see no reason why they should be treated differently on a member business loan provided that there are appropriate safeguards in the lending policies and conflict of interest provisions in place to protect from insider abuse.

MBL Loan Participations

LACUL believes this proposal could be significantly enhanced by allowing all loan participations – from either a member or a non-member - to be exempted from the member business loan cap entirely for all purchasing credit unions as they did not originate the loan.

Furthermore, the proposal states that in order for a loan participation interest to be excluded from the calculation of the aggregate loan limit it must be without recourse and qualify for true sales accounting treatment under GAAP. LACUL is concerned that such an approach will be problematic and quite difficult to implement given that securing a true sales analysis is often a very costly and time consuming item. True sale opinions are very difficult to secure and involve a myriad of accounting and legal issues that in our view should not be tied to this regulatory proposal. We recommend retaining the "without recourse" requirement and deleting the "true sale" requirement as currently proposed.

Exemption of Credit Unions with Assets Less than $250 million

We support the proposed amendments that would result in the exemption of credit unions with both assets less than $250 million and total commercial loans less than 15% of net worth who are not regularly originating and selling or participating out commercial loans. We believe such an exemption is appropriate and will help the agency focus its supervisory attention and resources on those institutions actively engaged in member business lending activity.

As always, thank you for the opportunity to provide our thoughts and comments. Again, we commend the NCUA Board for their willingness to address this important issue for credit unions.

Sincerely,

Anne M Cochran
President/CEO

Cc: NCUA Chairman Debbie Matz
NCUA Board Member Mark McWatters
NCUA Board Member Rick Metsger