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July 21, 2015

The Honorable Richard Shelby
Chairman
Committee on Banking, Housing,
& Urban Affairs
United States Senate
Washington, D.C. 20510

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing,
& Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Chairman Shelby and Ranking Member Brown:

On behalf of the more than 6,000 community banks represented by ICBA, I write to request that you convene a hearing on a recently published National Credit Union Administration (NCUA) proposal to loosen critical safeguards on tax exempt credit union member business lending (MBL), change the calculation of MBL cap in a way that is contrary to statute, and create new exceptions to the cap. The NCUA proposal would encourage reckless lending endangering the credit union system and the National Credit Union Share Insurance Fund.

On July 1, the NCUA published in the *Federal Register* a broad proposal that would comprehensively revise its regulation governing credit union member business lending. One very egregious aspect of the proposal would change the calculation of the MBL cap so that it is significantly higher, in defiance of the plain language of the statute which sets the cap at 12.25 percent of assets. The proposal would also facilitate expanded commercial lending outside of the MBL cap. As members of Congress know, the MBL cap has been contentiously debated in Congress. The NCUA should not be allowed to end run Congress by making a change of this significance by regulatory fiat.

The proposal would also discard or significantly weaken a series of prudential restrictions on member business lending such as borrower guarantee requirements, loan-to-value caps on collateral used to secure loans, and loan-to-a-single-borrower limits. These provisions are critical to prudent credit union business lending.

Reckless business lending has already jeopardized the credit union system. Credit unions lack the experience and the expertise to safely conduct business lending, and the NCUA lacks experience in supervising business lending. In the background to the NCUA proposal, the agency itself concedes that: "Poorly managed business lending activities were a contributing factor in the failure of at least five credit unions since 2010. They account for roughly \$141 million, or 25

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percent of total share insurance fund losses over the last five years." Elsewhere, the NCUA has stated that MBLs are delinquent at 2.5 times the rate of all loans, and imprudent business lending has led to the weakening or failure of hundreds of credit unions.¹

The 2012 failure of Telesis Community Credit Union in California was directly attributable to a special exemption granted by the NCUA from the MBL cap of 12.25 percent of assets.² Telesis' costly failure was a direct result of its aggressive business lending and the NCUA's inexperienced supervision. Telesis and other credit union failures should sound the alarm against any expansion of credit union business lending or any loosening of lending safeguards.

More fundamentally and as a matter of public policy, credit unions were created to serve people of modest means with a common bond among them. This is the basis and the rationale for a costly tax exemption that strains budgets at the federal, state, and local levels. Business lending does not serve the original credit union mission. This is why member business loans were capped at 12.25 percent of assets.³

The NCUA proposal is an attempt to end-run Congress following the credit unions' failed campaign to raise the MBL cap. ICBA urges the Financial Services Committee to examine the NCUA proposal in depth and ask critical questions about its purpose and likely consequences.

Thank you for your consideration.

Sincerely,

/s/

Camden R. Fine
President & CEO

¹ Testimony of Deborah Matz, Chairman, National Credit Union Administration, before the Senate Banking Committee, December 9, 2010.

² "Telesis Community Credit Union member business loans swimming in red ink." Credit Union Times, March 26, 2012.

³ According to the Senate Banking Committee Report accompanying 1998 Credit Union Membership Access Act (Senate Report 105-193), "Those restrictions [the 12.25 percent of assets MBL cap] are intended to ensure that credit unions continue to fulfill their specified mission of meeting the credit and savings needs of consumers, especially persons of modest means, **through an emphasis on consumer rather than business loans.**

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