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National Association of Federally-Insured Credit Unions

December 17, 2018

Kimberly Chuday
Office of Financial Assistance
Small Business Administration
409 Third Street SW
Washington, DC 20416

Thomas Heou
Office of Financial Assistance
Small Business Administration
409 Third Street SW
Washington, DC 20416

RE: Express Loan Programs; Affiliation Standards (RIN 3245-AG74)

Dear Ms. Chuday and Mr. Heou:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), the only national trade association focusing exclusively on federal issues affecting the nation's federally-insured credit unions, I am writing in response to the Small Business Administration's (SBA) proposed rulemaking amending various regulations governing its business loan programs. Small businesses serve a vital role in their local communities, and credit unions were founded on the principle of assisting members in their local communities and still adhere to this core value. NAFCU supported the *7(a) Lending Oversight Reform Act* earlier this year, and remains engaged with the SBA to encourage credit unions to support small business lending efforts through SBA loan programs. NAFCU generally supports the proposed rule, with some apprehension in regards to the personal resources test and cap on lender fees. Additionally, NAFCU requests the SBA reinstate fee waivers to incentivize greater SBA lending.

General Comments

The majority of NAFCU members themselves qualify as "small businesses" as defined by the SBA industry-based size standards. Access to small business lending is vital to ensure our local communities continue to thrive, promote innovation, and provide jobs. Credit unions have not departed from their original purpose and characteristics. At the outset, credit unions served American workers who at the time had no other source of credit or place to make deposits. Similarly, credit unions serve small business owners that might not otherwise be able to receive necessary credit.

Limitations placed on credit unions by the *Federal Credit Union Act's* member business loan (MBL) cap presents a roadblock in providing the necessary lending their communities need. Despite the MBL cap, credit unions have persevered in their efforts to effectuate small business lending to their members. NAFCU members view SBA loans as a service to their members. Credit unions across the country have picked up the slack in small business lending where banks and other lenders have fallen short. According to NAFCU's July 2017 *Economic and CU Monitor Survey*, 65 percent of credit union loan originations were under \$100,000. In contrast, only 6

percent of bank loan originations were under \$100,000. This illustrates the disparity and the reluctance of other lenders to make modest small business loans, and the commitment of credit unions to provide vital small business loans to the members of their community.

Generally, NAFCU members are supportive of the proposed rule. Incorporating the SBA's standard operating procedures (SOPs) into the regulations streamlines the process and reduces regulatory burdens on credit unions. Further, the extension of renewal periods for lenders and preferred lenders is very helpful for those current and future preferred lenders.

NAFCU Members Generally Support the Reinstatement of the Personal Resources Test, but Suggest Reevaluation of the Threshold for Loans Under \$350,000

NAFCU members are generally supportive of the reinstatement of a personal resources test as those members who truly do not have any other lending options or personal resources will be able to obtain SBA loans. This mitigates circumstances where borrowers with significant personal resources are able to obtain a government-backed loan on the taxpayers' dime. The proposed rule requires only liquid assets to be injected into the business and proposes exceptions for extraordinary circumstances whereby a borrower's personal assets would not be required to be injected.

However, the reinstatement of the test has the potential to inhibit members, who would otherwise qualify for the lending programs, from applying due to the injection of capital. This stifles growth and future economic opportunities of communities. It may also encourage credit union members to obtain lending elsewhere, as some small businesses utilize small-dollar, payday loans when capital is needed in a short amount of time or unexpected expenses arise. Secondly, requiring those applicants to inject personal resources into the business prevents applicants from allocating resources elsewhere. For instance, small business owners do not have access to employer-sponsored plans, and are likely to have less in retirement savings than non-business owners. Requiring small business owners to inject more personal resources into a business means less personal resources that can be allocated to future retirement savings and hurts an individual who is already taking a risk in starting a business or securing capital to expand a business. Applicants may also be paying off other debts owed by their business and need excess personal resources to do so.

Although we support the policy rationale behind the reinstatement of the personal resources test, the proposed thresholds may injure those borrowers seeking loans under \$350,000 the most. The proposed rule would require an applicant seeking a loan of \$350,000 or less to inject personal resources that exceed 1.75 times the total financing package, or \$200,000, whichever is greater. NAFCU members typically make loans of less than \$100,000, and NAFCU suggests that the SBA reevaluate the threshold for personal resource injection for those loans under \$350,000 to ensure that these borrowers are not unduly burdened by injecting a significant proportion of their liquid assets into the applicant business.

The SBA Should Reinstate Fee Waivers to Incentivize Lending

NAFCU members do not disagree with the policy rationale driving the proposed cap on lender fees. The proposed rule is meant to protect the borrower from unreasonable or duplicate fees.

Credit unions are supportive of the proposed rule reflecting all the appropriate fees that may be charged when an LSP is involved, as many credit unions utilize an LSP for processing SBA loans. An industry concern exists for those credit unions who are not currently involved in SBA lending as this is now a roadblock to entry. Credit unions primarily provide loans under \$100,000 and the proposed fee cap will impact credit unions who make modest small business loans the most. In order to process SBA loans, credit unions need time and resources, both of which can be limited at smaller credit unions. With the limited cap on lender fees versus the allowance of "reasonable fees," now those credit unions with limited resources may not be able to continue offering SBA lending products. In an effort to offset lower fees that may be charged by lenders, NAFCU suggests that the SBA explore the reinstatement of fee waivers.

Conclusion

NAFCU generally supports the SBA's proposed rulemaking, however, there are concerns with the reinstatement of the personal resources test and cap on lender fees. NAFCU suggests that the SBA reevaluate the personal resources required for those loans under \$350,000, and reinstate fee waivers to incentivize lending. NAFCU appreciates the opportunity to share its members' views on this matter. Should you have any questions or require additional information, please do not hesitate to contact me at (703) 842-2249 or kschafer@nafcu.org.

Sincerely,



Kaley Schafer
Regulatory Affairs Counsel