

January 23, 2012

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

Dear Ms. Rupp:

Enclosed please find my official comment on the “proposed Rule on Loan Participations”, which are due on or before February 1, 2012.

As President and CEO of the Millbury Federal Credit Union, I am very concerned about regulations written with a broad-brush approach in an attempt to control the poor judgment of some credit unions but having the unintentional consequences of limiting those credit unions that show good judgment.

This particular proposed regulation appears to be an attempt to limit smaller credit unions that do not have the professional experienced staff from taking on risk that they cannot manage. What it actually does is limit an important tool that can be used responsibly to spread risk.

My attached comments cover my concerns with this proposed rule as it applies to my credit and CUSO's.

Sincerely,

Joseph F. Barbato  
President and CEO

JFB/sep  
Enclosure

## **PROPOSED RULE**

### **LOAN PARTICIPATIONS; PURCHASE, SALE AND PLEDGE OF ELIGIBLE OBLIGATIONS; PURCHASE OF ASSETS AND ASSUMPTION OF LIABILITIES**

#### **“PROPOSE RULE ON LOAN PARTICIPATIONS”**

#### **General Comment**

Chairman Matz stated, “Some credit unions have already failed because of loan participations, so the agency is responding to real situations”. Clearly, the credit union industry does not need another one size fits all regulation to protect credit unions from themselves due to the poor judgment on the part of a few. We are already being taxed with assessments to pay for the losses of failed credit unions due to bad decision-making. We do not need broad based regulations that limit our ability to spread risk and generate income so that we can maintain net worth, all while serving our members, contributing to our communities and paying extraordinary assessments.

#### **Policy Requirements**

The Millbury Federal Credit Union board of directors and management agree that formal written loan participation policy, procedure and agreements are good practice and necessary. All of this documentation is in place at MCU and is compliant with the current regulation. MCU agrees with tightening up the regulation in terms of documentation by formally requiring that a participating credit union use the same underwriting standards that they use in making loans. MCU also agrees that the originating lender keep at least 10% of the loan through its duration.

#### **Concentration Limits on Loan Participations**

NCUA proposes to limit loan participation purchases involving a single originator to a maximum of 25% of the net worth of the acquiring credit union. The NCUA board states that it is seeking to mitigate risk without discouraging continued growth and is doing so because large volumes of loans tied to a single originator has the potential to affect multiple credit unions if a problem arises. That may be the case for credit unions that do not underwrite individual loans, yet still participate in larger pools of loans. Implementing a 25% overall limit without a waiver option will in fact discourage continued growth and the ability to spread risk.

**Specific example:** MCU currently has a long-standing participation relationship with Industrial Credit Union (ICU). Both credit unions underwrite every loan with which they participate. Most loans are participated at 50%. Proper policies, procedures and agreements are in place. This long-term successful arrangement has allowed MCU to spread its residential and small business lending risk because ICU’s field of membership includes areas outside of MCU’s. ICU’s field of membership has experienced lower unemployment, more stable home and business real estate values and substantially higher income levels.

Currently MCU and ICU each have \$12 million loans participated. Additionally a new 5/1 ARM program has been introduced that will substantially help both credit unions replace fixed rate mortgage balances with adjustable rate real estate loans thus helping both credit unions ALM programs. There are agreed dollar limits in place and underwriting guidelines for the program. Monthly review assessments will be made. The proposed arbitrary 25% concentration cap would eliminate this program and all future programs for the years to come. MCU would be limited to \$5.4 million in participations with ICU and ICU would be limited to \$3.8 million in participations with MCU.

The MCU board strongly suggests that real estate based loans that are individually underwritten by both credit unions and are participated on a 50/50 bases be eliminated from the 25% cap and that regional NCUA offices be given the ability to grant waivers on this cap.

Both MCU and ICU monitor participation delinquencies and charge offs. Neither credit union experiences any higher delinquencies or charge offs in their respective participation portfolios compared to their own loan portfolios.

The majority of the aforementioned participation loans are originated by MCU's wholly owned CUSO, Security First Mortgage Funding. ICU's President and CEO sits on the board of that CUSO.

The MCU board feels that limiting or stopping such a well thought out arrangement is an unintended consequence and that NCUA should seriously consider our recommendations.