

From: [Brian Eyestone](#)
To: [Regulatory Comments](#)
Subject: Proposed Business Lending Regulatory Changes
Date: Wednesday, February 08, 2012 11:47:06 AM

February 8, 2012

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

Re: Proposed Amendments to 12 CFR Parts 701 and 741 Pertaining to Loan Participations

Dear Ms. Rupp:

This is a comment letter to the proposed changes in the loan participation regulation. Loan participations are very important to credit unions as they generate liquidity, assist in the management of loan concentration issues, provide better returns for credit unions that do not have a significant lending demand, diversify lending risk by asset class, assist smaller credit unions who are can not afford to hire a business development specialist to generate their own business loans and serve as a tool to help larger credit unions manage the aggregate business lending cap. Many credit unions are seeking ways to increase their interest income. There is a greater likelihood that credit unions will understand the risks in buying loan participations than more complicated investment products. Putting limitations on loan participations will also reduce the funds available to many smaller businesses that are currently struggling to find financial institutions willing to make loans to them.

1. **Part 701.22 now applies to state chartered federally insured credit unions (“FISCUs”) in addition to federally chartered credit unions (“FCUs”), collectively “FICUs”.**

I support the requirement to apply uniform rules to all FICUs.

2. **The underwriting standards in purchasing a loan participation interest may not be less stringent than the underwriting standards in originating the same loan.**

I support this requirement.

3. **The originating credit union must retain at least a ten percent interest in the loan throughout the life of the loan.**

I support this requirement.

4. **A credit union may not buy loan participation interests from a single originator**

that in the aggregate exceeds 25% of the purchasing credit union's net worth. There is no ability to seek a waiver from this restriction.

The proposal appears to be intended to act as a protective measure to keep the potential problems from the originator's loans from spreading to a small group of credit union participants. While I agree with this requirement in principle, I believe there is room to allow for an exception to the requirement. One exception would be where the underwriting is performed a third party such as a Credit Union Service Organization (CUSO). One requirement would be that originating credit union does not own a majority interest in the CUSO. Here in Missouri, several credit unions have formed a business CUSO to provide the necessary expertise for underwriting business loans. No one credit union may own more than five (5) shares in the CUSO with total shares equaling fifty (50). This prevents any originating credit union from having undue influence on the management of the CUSO including loan underwriting. Any loans that an originating credit union desires to participate must meet the strict underwriting standards of the CUSO. In addition, each credit union has its own business loan policies that the participation loan must meet in order for the credit union to purchase participate in the loan.

- 5. A credit union may not buy loan participation interests in loans to a single borrower or group of associated borrowers where the aggregate amount exceeds 15% of the purchasing credit union's net worth. This provision can be waived.**

I support this requirement as our current business lending policies are more stringent than the proposed 15%. Clarification on what the requirements for granting a waiver would be helpful.

- 6. Clarification of comments regarding pools of loans.**

We have never been involved with this type of transaction so I have no comment.

- 7. Recommended new term: Regarding the ability of a purchaser of a loan participation interest in buying a loan where the originator credit union obtained a regulatory waiver.**

Currently, a credit union that buys a loan participation in such a loan must also obtain the same waiver. This makes the loan participation interest unsalable from a practical standpoint, especially where there are multiple participants. No buyer wants to go through the waiver process. My recommendation would be that if the originator obtains a waiver for a loan, a credit union that buys a loan participation interest in that loan does not also have to obtain the same waiver.

Thank you for the opportunity to comment on this important proposal.

Sincerely,
Brian Eyestone, CCUE
President

Southpointe Credit Union