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February 17, 2012

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

RE: Comments on NCUA Loan Participation Rules Parts 701 and 741

Dear Ms. Rupp:

On behalf of Gwinnett Federal Credit Union (GFCU), we respectfully submit these comments on the proposed loan participation rules issued by the NCUA on December 22, 2011.

We strongly urge NCUA to withdraw this proposal as we believe it to be unjustified by facts and contrary to the best interest of credit unions and their members. Due to the limited amount of time afforded us to properly review, evaluate and craft our response; we will attempt to be brief. We will also reference or incorporate the responses of others. We wish to associate ourselves with the responses to these regulations by CUNA and the Georgia Credit Union League.

#### Response Time Limitations

By releasing the proposed regulations on December 22<sup>nd</sup>, federal and traditional holidays consumed significant time that would otherwise be available for careful review by individual credit unions, their CUSOs and other support organizations. Christmas, New Year's, Martin Luther King Jr. and President's Day holidays plus school holidays and plant shutdowns during the last two weeks in December reduced public response time to about half the normal time allotted. I am not suggesting that this was done on purpose but it could and should have been avoided.

#### Systemic Risk

In my opinion, NCUA has not demonstrated that any rule is needed. It claims it is being put in place to reduce systemic risk but little or no objective evidence has been offered to show that systemic risk actually exists. I would refer to and incorporate the comments submitted by Evangelical Christian Credit Union and the comments made in his blog by Keith Leggett of the American Banker Association (copy attached). Some of largest losses suffered by the NCUSIF to which NCUA sometimes refers, are largely due to malfeasance of originators and the failure to perform basic due diligence by the participating credit unions. NCUA should hold these folks

accountable rather than impose severe limitations on everyone else. No matter how many regulations you put in place, there will always be violators. Furthermore, deliberate violations will rarely be caught until it is too late but the losses resulting from “due diligence” failures should have been caught by NCUA examiners.

#### Net Worth Limitation

Limiting participations to 25% of a credit union’s net worth unnecessarily restricts our ability to work collaboratively with trusted business partners and forces us to limit our lending activities thereby reducing income. It might be prudent to limit credit unions that are just getting started with participation loans and origination partners but after a year or two, NCUA has had sufficient time to evaluate the credit union’s policies, due diligence practices and managerial oversight of these processes. If deficient, NCUA could and should involve itself. Otherwise, stay out of the day-to-day management of the credit unions.

Through our ownership involvement in two lending CUSOs, we also wish to point out that we have worked with numerous credit unions in Georgia and adjacent states to craft loan participations on large residential mortgages as well as business loans. Our practices have been reviewed by numerous NCUA and Georgia Department of Banking examiners. Few, if any, issues have arisen and our portfolio (over \$200 million) has virtually no delinquencies. In fact, we always have to confirm that we have no participation delinquency with each 5300 report.

We urge you to withdraw this proposal, sit down with industry representatives and craft a regulation that incorporates best practices without stifling successful credit union collaboration.

Sincerely,

A handwritten signature in black ink that reads "R. Marshall Boutwell". The signature is written in a cursive, flowing style.

R. Marshall Boutwell  
President/CEO

***Wednesday, January 25, 2012***

## **NCUA Overusing Systemic Risk**

The National Credit Union Administration (NCUA) has become very fond of tossing about the term "systemic risk" when justifying changes to its regulations.

Sometimes the use of systemic risk is warranted, as in the case of the new corporate credit union regulations. But in other cases, it appears that the this agency has not done the necessary analysis to justify the regulatory change -- so it leans on systemic risk as a justification for the regulatory changes.

The latest example is where the agency justifies it loan participation proposal by stating that "loan participations ... create more systemic risk to the share insurance fund (NCUSIF) due to the resulting interconnection between participants."

I will grant you that loan participations result in greater interconnectiveness between participants; but do loan participations at federally-insured credit unions really rise to the level of systemic importance to the NCUSIF?

According to NCUA, 1,458 federally-insured credit unions reported almost \$12.8 billion in outstanding loan participations at the end of the third quarter. This is equal to 2.25 percent of the industry's loan balances.

In addition, there are 117 federally-insured credit unions that have outstanding loan participations (lines 691E and 691L from the Call Report) in excess of their net worth. Outstanding loan participations at these credit unions equal \$3.2 billion.

There are only 20 credit unions with a risk exposure greater than 300 percent of their net worth with approximately \$764 million in outstandings.

While I recognize that some credit unions have gotten into trouble due to loan participations, I don't believe that at this time loan participations represent a systemic threat to the NCUSIF.

POSTED BY KEITH LEGGETT AT 7:02 AM 1 COMMENT

LABELS: COMMENTARY, NCUA, REGULATION