

February 21, 2012

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

Sent via E-mail to: [regcomments@ncua.gov](mailto:regcomments@ncua.gov)

RE: TCUL Comments NCUA's Proposed Rule on Loan Participations

Dear Ms. Rupp:

This comment letter represents the views of the Texas Credit Union League (TCUL) regarding NCUA's proposal on loan participations. TCUL is the official trade association serving over 500 federal and state credit unions and more than 7.4 million credit union members in Texas. TCUL appreciates the opportunity to comment on this very important issue. TCUL opposes placing additional restrictions on the use of loan participations and respectfully requests that NCUA withdraw the proposal.

As drafted, the proposal would undermine sound participation programs, if not eliminate them completely. The proposal would also undermine lending programs and earnings for some credit unions. Additionally, we feel that the limitations regarding concentration and underwriting will minimize the ability of credit unions to mitigate risk through diversifying sources and types of loan participations. We do not feel NCUA has adequately identified legitimate risks to safety and soundness so as to justify the negative effects of the proposal.

On numerous occasions, NCUA stated that it intends to ease the regulatory burden and tailor regulations to reflect real risk. To the contrary, the proposal adds new regulatory burdens without justification. The proposal is overly broad by failing to focus on real risk, thereby subjecting all credit unions to the same arbitrary caps. Additionally, the proposal makes loan participations much more complicated, thus discouraging credit unions from engaging in loan participations. The proposal would undermine lending programs and earnings for some credit unions, negatively affecting credit unions' abilities to best serve their members.

Specifically, our member credit unions have objected to the provision stating that a credit union may not buy loan participation interests from a single originator that in aggregate exceeds 25% of the purchasing credit union's net worth. Sound judgment and ALM analysis should govern

how a credit union selects loan participations, not a regulation. We see no justified reason to arbitrarily disadvantage credit unions as opposed to banks, considering banks are not subject to a similar restriction. The proposal would also have a disproportionate affect on smaller credit unions that often focus on purchasing loans from a single originator due to the limited resources of small credit unions to provide ongoing monitoring of numerous loan originators. Similarly, large credit unions may be less likely to sell loans and loan participations to smaller credit unions because of the restriction.

The proposed limit on loans to one borrower is unnecessary to address safety and soundness concerns. Such a limit is not required by statute nor is it needed in regulation.

The proposal will severely curtail loan participation programs by preventing credit unions from investing in participations that involve loans that the credit unions does not make. This should not be a problematic safety and soundness concern if such credit unions have the resources to monitor the performance of the loans.

Despite the statutory requirement in the Federal Credit Union Act that selling federal credit unions retain a 10% interest in the loans that they sell, TCUL does not believe such a risk retention requirement should be imposed at this level on all federally insured credit unions. Under the incidental powers provision, NCUA should be able to provide waivers from this limitation for federally insured credit unions.

If, despite our objections, NCUA does proceed with a final rule, then Texas credit unions request that the rule more clearly distinguish between a loan participation (selling a part of a loan pool with or without recourse) versus a loan sale (selling or passing on 100%).

In sum, TCUL urges the NCUA to withdraw the proposal. At the very least, TCUL urges NCUA to delay final implementation of the proposed rule so that NCUA may conduct further discussions with impacted credit unions on the real harm the proposal will cause to the credit union movement. If you have any questions, please feel free to contact me at [syashewski@tcul.coop](mailto:syashewski@tcul.coop) or via telephone at (512) 853-8516.

Sincerely,



Suzanne Yashewski  
SVP Regulatory Compliance & Legal Affairs  
Texas Credit Union League