



**CUNA & Affiliates**  
A Member of the Credit Union System

**Credit Union  
National Association, Inc.**

601 Pennsylvania Ave. NW, South Bldg.  
Suite 600  
Washington, D.C.  
20004-2601

Telephone:  
(202) 638-5777  
Fax:  
(202) 638-7734

Web Site:  
www.cuna.org

VIA E-MAIL – [regcomments@ncua.gov](mailto:regcomments@ncua.gov)

February 21, 2006

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

Re: Proposed Rule – Specialized Lending Activities

Dear Ms. Rupp:

The Credit Union National Association (CUNA) appreciates the opportunity to comment on the proposed rule to regulate purchases by federally-insured credit unions of indirect vehicle loans serviced by third-parties. The rule will limit the aggregate amount of these loans serviced by any single third-party to 50% of a credit union's net worth during the first 30 months of a new third-party servicing relationship and to 100% of the credit union's net worth after the initial 30-month period. The rule also includes provisions allowing credit unions to request a waiver to exceed these aggregate limits, as well as a "grandfather" provision so credit unions will not be required to divest these types of loans if they currently exceed the limitations. CUNA represents approximately 88 percent of our nation's 8,900 state and federal credit unions, which serve nearly 87 million members.

## **SUMMARY OF CUNA's COMMENTS**

- It is unclear how NCUA determined the limits on the aggregate amount of vehicle loans serviced by a third party.
- NCUA should consider whether RegFlex credit unions could be exempt from the rule.
- If NCUA does not exempt RegFlex credit unions it should consider whether RegFlex credit unions could qualify for more flexible limits without having to seek a waiver.
- The waiver process should be clarified.
- The proposed definition of "third-party servicer" excludes entities that are wholly-owned subsidiaries of federally insured depository institutions. We



believe this should be changed to entities having a majority of its voting interests owned by federally-insured depository institutions.

### **Discussion of CUNA's Comments**

CUNA recommends that NCUA consider several changes and clarifications to the proposal, which are addressed below.

As indicated above, the proposal would limit the aggregate amount of a credit union's vehicle loans and interest in such loans serviced by a third-party during an initial period. After that time, the aggregate could not exceed 100% of the credit union's net worth.

NCUA states that it examined the average life of loans that make up an indirect, outsourced program portfolio in determining when a credit union may move from the 50% to 100% limitation. However, the agency does not sufficiently discuss how it arrived at the 50% level, except that it is less restrictive than the Office of the Comptroller of the Currency's limits on asset backed securities collateralized by loan receivables. In the absence of such information, higher and more flexible limits, as some credit unions have suggested, seem reasonable, such as 75% of net worth for the first 18 months, as long as due diligence requirements are met. We recommend the agency consider whether higher limits during the initial period are appropriate, if the selection of the proposed limitations cannot be explained more thoroughly.

Key aspects of the proposal would grandfather existing programs and allow credit unions that have met due diligence requirements to apply for a waiver to obtain higher limits. We support these provisions and encourage NCUA to consider whether broader use of waivers might be appropriate for other regulatory requirements that do not currently include such a process. The proposal states the factors that the regional director will consider in granting a waiver. The rule should also address the documentation a credit union is expected to supply to the regional director and how long the process will take.

While we support the waiver provisions, we also encourage NCUA to consider whether a more efficient process would be to adopt more flexible limits in the rule accompanied by the due diligence requirements, rather than require credit unions that meet due diligence requirements to undergo the burden of having to seek a waiver.

Along those lines, we also recommend NCUA consider whether RegFlex credit unions could be eligible for an exemption from the rule, as long as they have satisfied the agency's due diligence and other requirements.

The proposed definition of "third-party servicer" excludes entities that are wholly-owned subsidiaries of federally insured depository institutions. As the Georgia

League has recommended, we believe this should be changed to “an entity having a majority of its voting interests owned by federally-insured depository institutions.” This change will broaden the exception to cover, for example, servicers that are jointly owned by credit unions and other credit union-related organizations even if no one owner owns more than 50 percent of the servicer. Such a change should raise no additional safety and soundness considerations as federal regulators will have access and oversight of servicers that are owned in this manner.

Thank you for the opportunity to comment on the proposed rule to regulate purchases by federally-insured credit unions of indirect vehicle loans serviced by third-parties. If you or other Board staff have questions about our comments, please give me a call at (202) 638-5777.

Sincerely,

A handwritten signature in cursive script that reads "Mary Mitchell Dunn". The signature is written in black ink and is positioned to the left of a vertical red line.

Mary Mitchell Dunn  
CUNA Associate General Counsel and Senior Vice President