

**FIRST ENTERTAINMENT
CREDIT UNION**

www.firstent.org

Sent via email: regcomments@ncua.gov

June 28, 2010

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

Re: First Entertainment Credit Union Comments on Notice of Proposed Rulemaking (Short-Term, Small Amount Loans)

Dear Ms. Rupp:

On behalf of First Entertainment Credit Union, I appreciate the opportunity to comment to the members of the NCUA Board about the proposed rule concerning short-term, small dollar amount loans. First Entertainment is an \$800 million in assets, 57,000 member California-chartered, federally insured credit union headquartered in Hollywood, CA.

The Board of Directors and Management of First Entertainment believe that every member of this credit union benefits from being a member. Our credit union exists to serve our members and we have a long, proud history of doing the job for which we were chartered. In addition, First Entertainment strives to incorporate financial services industry best practices in the areas of governance, business methods, and community involvement. Consistent with California law, as a cooperative the credit union conducts its business for the mutual benefit and general welfare of its members with the earnings, savings, benefits or services of the credit union being distributed to ~~its members as patrons~~. We welcome members from all income levels, financial situations, and stages of life that choose to join.

Summary of NCUA Board's Proposed Regulation on Short-Term Small Dollar Amount Loans

According to the NCUA Board's summary that accompanied its proposed rule, the "NCUA proposes to amend its general lending rule to enable federal credit unions (FCUs) to offer short-term, small amount loans (STS loans) as a viable alternative to predatory payday loans. The proposed amendment would permit FCUs to charge a higher interest rate for an STS loan than is permitted under the general lending rule, but the proposal will impose limitations on the permissible term, amount, and fees associated with an STS loan."

The NCUA Board statement continued, "The STS loan alternative will assist FCUs in meeting their mission to promote thrift and meet their members' credit needs, particularly the provident needs of members of modest means. Permitting a higher interest rate for STS loans will permit FCUs to make loans cost effective while the limitations on the term, amount, and fees will appropriately limit the product to meeting its purpose as an alternative to predatory credit products. The rule also identifies 'best practices' FCUs should incorporate into their individual STS programs."

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NCUA Proposed Rule Well-Intentioned, But Impractical

The NCUA Board's proposed rule will not work. This position is based upon actual experience and the study of payday loan programs at credit unions and payday lenders. First Entertainment offers its members a product similar to a payday loan that also includes free financial counseling, educational materials, and is priced to break even. Our program would not be successful if required to operate under the rule proposed by the NCUA Board.

The NCUA program will not work because it focuses on what is good for the credit union rather than what the members want. A person who needs a short-term loan expects to walk into a store at a neighborhood strip mall and pay about \$15.00 per \$100 for a two week loan. They pay this premium because they know they will get approved – it is automatic assuming the customer has a job with which to repay the amount borrowed.

Every credit union that I have read or heard about cannot compete in this marketplace at the rates imposed by NCUA. The fee for a \$300 payday loan for 14 days at 28% would be \$3.25. To survive with that kind of fee you have to avoid risk. You need to require a savings component or you have to deny the advance to risky members based on their FICO score or other risk factors. You absolutely cannot safely make a real payday loan for a \$3.25 fee. My studies, which are realistic, show that it cost about \$15.00 to originate a payday loan and the breakeven point factoring in losses is about \$26.00 – pretty much the same as a single overdraft fee.

Questionable Application Fee and APR Disclosure

The NCUA's suggestion of an application fee would be a land mine in many states. Any credit union considering an application fee should get a formal legal opinion. My understanding is that the fee has to be charged up front regardless of whether or not the applicant gets the advance. Accepting the member's application fee and then denying the advance is not the type of service we want to provide. Some consumers (and the consumers' attorneys) would consider the application fee to be a way to hide the cost of the loan since it doesn't have to be included in the annual percentage rate (APR) calculation. Payday lenders in some states are not permitted to use this practice. They have to disclose the application fee as a finance charge.

The problem in a nutshell is that there are few within the credit union world that would have the stomach to disclose an APR greater than 100%. A competitively priced credit union payday loan could cost the member about 125 % to 150% APR for advances that automatically get approved. The payday lender charges around 450% to 500%. If credit unions want to get members away from payday loan stores, it could be done with a fee around \$26.00 versus the typical payday lender fee of \$45.00. Once the consumer comes to the credit union we have the opportunity to provide financial and budget counseling.

But the faint hearted and timid approach to payday loans represented by the well-intentioned, but impractical proposed NCUA rule amounts to merely a public relations effort. Very few credit unions will accept the risk of offering this service. Also, credit unions won't get members away from payday lenders unless we compete straight up with these businesses by offering an economic advantage for the SAME product. It is doubtful that there are many within the industry that are ready to do that.

Consider Possible Alternative Approaches to Small Loans

We urge the NCUA Board to rethink its approach to short-term, small dollar amount loans and to consider alternatives better suited to the credit union industry and its members' needs. For example, rather than set a 28% or 36% APR interest rate ceiling on these small loans, why not incorporate by reference the interest rates ceilings that apply on similar loans in each state's laws and regulations? Although some states have essentially prohibited traditional payday lending with unrealistic interest rate ceiling and other unworkable limitations, most states have much more realistic rate ceilings, terms, and conditions than those proposed by the NCUA Board. Rather than focus on capping the APR, the NCUA Board could regulate the maximum loan amount, the term and the maximum fee as is done in most states.

Credit unions might also be better enabled to make such loans if authorized to link them to existing overdraft privilege extensions rather than operate as standalone payday loan-like short-term, small dollar amount programs. Significant cost efficiencies could be generated by a member being allowed to write a personal check that would be covered by the credit union and would automatically trigger an overdraft fee that could be paid back, along with the amount of the check, in two weeks.

Unworkable Rule Should Be Dropped

Based upon its unworkable proposed rule, the NCUA Board is apparently not ready to authorize federal credit unions to actually and practically engage in a safe and sound short-term, small dollar amount loan program similar to payday loans. Even the alternative 36% APR considered by the NCUA would be insufficient to operate a break-even program that would appeal to the typical payday loan customer. The proposed NCUA rule also has so many off-putting conditions and requirements that the typical payday loan customer would rather pay the higher costs at a traditional payday lender.

With all due respect, it looks like the NCUA Board is playing follow-the-leader with the Federal Deposit Insurance Corporation's (FDIC) similar small loan project and is engaged in a public relations exercise rather than a practical effort to help consumers. Neither of the two federal agency's proposals is based upon the true realities involved in payday lending and both are inevitably doomed to fail. If the same proposed restrictions were imposed on First Entertainment, we would be forced to discontinue our current state-authorized program. Sadly, this proposed rule adds to an already significant number of disincentives to ever consider converting to a federal credit union charter as a strategic option.

The NCUA Board should simply drop this proposed rule and should instead consider alternative proposals that involve thinking outside-the-box, that are tailored to the credit union industry, and that recognize the terms and conditions preferences of payday loan borrowers.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles Bruen". The signature is fluid and cursive, with a large initial "C" and "B".

Charles Bruen
President & CEO
First Entertainment Credit Union