



January 30, 2012

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

Subject: Proposed changes to 12 CFR Part 701 and 741, Loan Participations; Purchase, Sale and Pledge of Eligible Obligations; Purchase of Assets and Assumption of Liabilities

Dear Mrs. Rupp:

As a financial professional within the credit union industry I have been involved in the buy and sell side of loan participation programs. I also have experience in establishing and strengthening loan participation frameworks. The foundation to loan participations is built on two anchoring fundamental footings. They are sound underwriting on behalf of the originating credit union and appropriate due diligence on behalf of the loan participation purchaser. My experience has allowed me to witness firsthand the costs, benefits and risks of running the buy and sell side of loan participation programs.

Credit unions with these fundamentally building blocks have strengthened the credit union industry. The diversification impacts of participations lowers systemic risk to the share insurance fund and allow credit unions to help stimulate the economy with business and job growth by providing credit unions with:

- Geographic distribution of loans;
- Loans outside their membership base;
- Higher risk-adjusted returns as compared to investments;
- Diversification for loan losses among multiple participants;
- Funding of safe and sound loans outside their members' appetite for loans;
- A larger base of shares for spreading out assessments with less concentration.

I am in favor of proposed rule changes which improve the actual results of regulatory requirements and remove burdensome tools for achieving regulatory ends. I am also in favor of rule changes which establish standards and measures which make it easier for participants to complete their due diligence and provide consistency in the review process for examiners.



Recommended Rule Changes

There are several examples of where the NCUA has provided high value guidance to credit unions, which should be included in proposed rule changes. First, Evaluating Loan Participation Programs, within 08-CU-26, provides several examples of items credit unions should include within a loan participation program. Additionally, the NCUA Examiner's "Loan Participation Tab", provides guidance to examiners for completing reviews and examination of loan participation programs. These previously provided tools should be the framework for new rule changes governing loan participations. In the case of 08-CU-26 replacing the word "should" with "will" in almost every case would provide consistency of guidance for credit unions and enforcement and review by examiners. Additionally, formalizing a requirement for credit unions on the purchasing side to complete a portion of the Examiner's "Loan Participation Tab" would improve examiner's ability to apply consistent measures and documentation for review and evaluation. Both of these proposed rule changes meet the desired requirements improving the actual results of regulatory requirements without placing burdensome tools for achieving regulatory ends.

Negative Impacts of Proposed Rule Changes to the Industry and Share Insurance Fund

The current proposed rule changes as published by the NCUA create additional restrictions which would have significant and unintended negative impacts to the credit union industry and increase systemic risk to the share insurance fund. My concerns with specific proposed rules changes are as follows:

- Removal of 701.22(c)(4) as an exception, which allows credit unions to purchase loan participations that were originated with different underwriting standards than its own – *This standard ignores credit unions' ability to purchase assets with risk adjusted returns above comparable alternatives. Although a credit union may not have the expertise in-house to appropriately build risk adjusted pricing models, credit unions with expertise in this area can originate and participate loans with higher risk adjusted returns than comparable alternatives, while expanding the number of members serviced within the industry.*
- Increasing state chartered credit union retention requirements to 10 percent for the loan's duration – *The retention requirement is required to maintain the membership relationship with the loan participation seller. There is no evidence that a 10 percent retention amount provides any more protection for purchasers than a 5 percent retention amount. Long term loan participation sellers must provide consistently well underwritten loans in order to maintain loan participation purchasers as active participants. Additionally, the representations and warranties for non-recourse transactions provide protection, assuming the agreements are established with the appropriate level of fraud and misrepresentation warranties.*
- Limiting loan participation purchases involving a single originator to a maximum of 25 percent of the FICU's net worth, with no provision for a waiver of the proposed 25 percent limit – *Credit Unions are looking for relationships with selling participants that have strong underwriting, core competencies and access to member borrowers with loan demand. Loan participation buyers are not looking to work with more partners, particularly when they have long running relationships and successful programs. Additionally increasing the number of participant purchasers in a given deal will drive up costs and offer lower pass through rates to participating*



credit unions. In certain circumstances this new limit would prohibit smaller credit unions from purchasing participations as minimum purchase quantities exceed the 25 percent limit.

- *Limiting loan participation purchases involving one borrower or group of associated borrowers to 15 percent of a FICU's net worth, with exceptions requiring waivers, along with the proposed new definition of associated borrower – The complexity of tracking off-line loans from multiple sellers and combining the measurement and tracking with in-house loans for a given credit union has not been considered with this proposed change. One of the objectives of participations to begin with was to allow credit unions to provide diversification of loans and remain below the 15 percent threshold for member business lending with one borrower or associated borrower. I recommend the associated borrower definition be amended to include any borrower or associated borrower involved in the debt service coverage ratio supporting the funding decision or contractual obligation as a co-borrower on a given loan. Insurers should be excluded from the definition.*
- *A safety and soundness provision requiring supervisory approval before a federally insured credit union may purchase a loan from an entity that is not insured by the NCUSIF – Examiners' approval for these types of relationships would force more loans to be sold outside of the credit union network. The cost of doing business with other credit unions could exceed the benefit. I do believe it would be appropriate for the NCUA to require credit union purchasers to review non NCUSIF credit union sellers to ensure they are in compliance with NCUA seller standards.*

Any rule changes should be drafted in partnership with participants at the table to provide insight and guidance as to the positive and negative impacts to credit unions. I believe the current proposed rule changes are premature in nature and recommend after evaluating comments provided by industry experts that the NCUA establish an advisory committee, chartered to assist and support the NCUA in drafting different rule changes. These changes need to be aligned with the needs of the industry and the interests of protecting the Share Insurance Fund.

I would like to be part of the process and extend an invitation to openly discuss and evaluate data and conclusions, along with providing feedback on the recommended rule changes beginning on page two of this letter.

Respectfully,

A handwritten signature in black ink that reads "Jeremy R. Calva".

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Providing strategies and consulting to the financial services industry...