February 17, 2012

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

VIA Email
regcomments@ncua.gov

Re: Participation Proposal

Dear Ms. Rupp,

Thank you for the opportunity to provide feedback on the proposal to further clarify and limit participation lending between credit unions. I agree that there should be increased attention brought to the risks of participation lending and concern for possible impact on the safety and soundness of participation purchasers should excessive concentrations be held. And I commend the NCUA for addressing many items that, while perhaps followed in practice by the majority of credit unions, need to be formalized and documented.

Limiting loan participation concentration at the borrower level, consistent with member business loan regulation, is obviously in everyone's best interests. But how can a waiver of this risk be justified when a waiver of participation concentration by source is not allowed at all? Except in cases of originator fraud, participation programs offer extensive diversity of actual risk, because each portfolio contains numerous borrowers with independent repayment abilities. It seems illogical to allow a waiver at a concentrated borrower level, but deny one with portfolios of borrower diversity.

Monitoring and controlling limits on participation purchases from one originator might make sense for some, but I have very significant concerns about the proposal in this regard. First, however, I must state that my comments assume that the definition of "originating lender" excludes CUSOs that essentially serve as facilitators of loans for their credit unions. The proposal is silent relative to CUSOs and your definition of originating lender should specify the identity as the lead financial institution (i.e. membership credit union). CUSOs may be an originator in name only, and to view a CUSO as an originator would immediately end many credit union lending programs that leverage the cost and risk sharing attributes of CUSOs to achieve efficiencies and reduced risk profiles. In most of these cases the CUSO serves as a shell function at the direction of their owner credit unions, does not hold the risk of the loan, and is not the most appropriate party to view as the originator. It is critical to remember that in these situations the credit unions must independently inspect and accept the CUSO work, the credit unions have sole credit approval authority and that the borrower is in fact a member of one or more credit unions participating in the transactions. If the proposal is intended to view CUSOs as originators, then I strongly encourage you to note this direction so that more specific and relevant feedback may be obtained.

Our company is a CUSO in service to a small number of credit unions. Regardless of the definition of originator, the use of the CUSO to support origination capability, and the reliance each credit union has on each other's loan origination success, allows for lower costs and improved distribution of risk. Loan participations are the single greatest reason why success has been achieved by credit unions in member business lending. The proposal, as written, will discourage participation exchange between institutions and cause for more risk to be concentrated in fewer credit unions. This will increase the risk to the share insurance fund. In our case, this impacts our largest credit union, and our smallest credit unions. Our largest credit union has been the most active, and relies upon other credit unions for funding support. The CUSO provides independent oversight to the exchange. The current proposal would immediately require that the large credit union rely less on participations, and would also immediately put some of the smaller members out of compliance.

As previously noted, I do believe that some overall limits make sense, however to establish those limits without exception denies qualified credit unions the opportunity to reduce risk through close relationships that have been developed through extensive due diligence and historical success. As a long time banker, it has been incredibly impressive to see how credit unions help their members and communities through a cooperative and collaborative spirit. The security, capacity and sustainability of lending programs have been rooted in this spirit and are at risk with this proposal.

I would also like to take this opportunity to remind you of your pledge, made during the consideration of changes to Regulation Part 742, to address the process of obtaining waivers from NCUA. To date, we have seen no change or improvement in the process of obtaining waivers. The need to obtain NCUA approval for routine loan to value waivers on renewal loans causes significant cost and time delay to credit unions and their members, and frankly exposes the credit union to increased likelihood of strategic defaults by borrowers. The process to obtain waivers for new credits adds approximately 75 days to the process for State chartered credit unions and interferes with credit unions' ability to serve exceptionally high quality borrowers in the marketplace.  I can cite many specific examples of both and I encourage you to prioritize improvement to this process as soon as possible.

Additionally related to the above topic is the issue of needing to secure waiver approvals for each participant in a loan. This adds significantly to the work involved, creates coordination challenges both at the credit unions and NCUA, and great burden and inefficiency for what could be several different examiners even perhaps in multiple regions.  I can appreciate why approval at the credit union level is necessary.  But I'd like to suggest that actual waiver is approved once, perhaps by a centralized body of the NCUA or by the examination team of the originating credit union, with subsequent expeditious acceptance or rejection of the approval by the examiners of participant credit unions.  The participant approvals would generally be more at the credit union level than the loan level, i.e. the examiner may only receive a summary of the waiver request and not the whole package.  This would preserve field management of individual credit unions but eliminate the inefficiency created by requiring independent reviews of the same loan.

As always, I welcome any opportunity to provide additional thoughts or to clarify my recommendations; all of which are made in the spirit of balancing safety and soundness with credit union competitiveness and viability.

Sincerely,

William P. Beardsley
President