



February 17, 2012

Ms. Mary Rupp, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428
Via Email: regcomments@ncua.gov

Re: Proposed Amendments to the NCUA Loan Participation Rules
(12 CFR Parts 701 and 741)

Dear Ms. Rupp:

Desert Schools Federal Credit Union appreciates the opportunity to comment on NCUA's proposal to amend its existing regulatory requirements affecting credit union loan participations. As the largest credit union in Arizona with assets of \$2.9 billion, we serve over 270,000 households in Maricopa, Gila and Pinal counties.

NCUA's proposed amendments to the loan participation rules raise concerns for us:

I. The Benefits of Loan Participations to the Credit Union Industry

Loan participations provide distinct advantages to credit unions that sell and purchase loans. Participations provide credit unions that are nearing the member business lending cap a path to sell loans in order to stay under the current cap, provide credit unions of all sizes with geographic and loan type diversification, help credit unions to control concentration risks vis a vis loans to one borrower, and often results in a favorable loan yield that is higher than other forms of credit union investment. In a 2008 Letter to Credit Unions, NCUA acknowledged the beneficial nature of loan participations to credit unions, citing participations as a method to manage interest rate, liquidity, and credit risks, a method to achieve balance sheet diversity, and a method to increase a credit union's ability to serve its member-owners. (*NCUA Letter to Credit Unions, 08-CU-26, November 2008*). It is in the best interests of the credit union industry to retain the ability to purchase loan participations and retain a system of reasonable regulation that does not inhibit the ability of credit unions to take part in the process. We believe that some of the proposed revisions would adversely affect the volume of loan participations and unduly punish credit unions that are successfully purchasing loan participations due to the failures of a few in the industry.

II. Loan Participation Requirements: The Meaning of Underwriting Standards

The proposed rule would require that a credit union only participate in loans that they are "empowered to make" under state/federal regulation and its internal loan policies. This would seem to disallow the purchase of participations outside of a credit union's field of membership, thereby not allowing them the ability to geographically diversify their portfolios. The proposal further imposes a requirement that a credit union only participate in loans that were originated with underwriting standards that are at least as stringent as the standards the credit union would utilize to make its own loans. This proposed standard is vague and leaves credit unions to interpret the meaning of "underwriting standards." Does this proposed definition apply to categories and types of loans or is the scope much narrower? One could reasonably interpret this requirement to mean that if a credit union does not have experience in underwriting the type of loan it wishes to participate in, (i.e. agricultural loans), the credit union would be prohibited from participating in the loan. This would inhibit diversification. In addition, small credit unions that are unable to make member business loans as defined by NCUA Rule 723 often participate with other credit unions in order to make business loans. If a small credit union does not have the experience or expertise on staff to make member business loans and as a result, is unable to participate in larger business loans, this would adversely impact a small credit union's lending portfolio as well as its ability to engage in business lending. If this is not the intent of NCUA's proposed rule, we urge the Agency to develop a reasonable and clearly stated definition of underwriting standards that is not overly burdensome and exclusionary.

III. Loan Participation Requirements: Concentration Limits

NCUA seeks to establish two separate concentration limits: twenty-five percent (25%) of net worth for single originator loans and fifteen percent (15%) of net worth for one borrower or a group of associated borrowers. Although the later limit seems consistent with established limitations on making member business loans to one member or a group of associated members, the twenty-five percent (25%) concentration limit seems arbitrary and unduly restrictive to credit unions. If NCUA's rule is enacted as proposed, a credit union's ability to develop and maintain close, trusted relationships with the same seller would be impacted. This could potentially result in increased risk to credit unions and the share insurance fund if credit unions are required to form multiple relationships with sellers that are not well known to them.

In lieu of concentration limits, NCUA should consider allowing credit union management to exert control, exercise due diligence, and set reasonable concentration limits based upon the individual needs and financial standing of their credit union. Concentration limits will negatively impact the operation of existing CUSO(s) and hinder CUSO formation in the future. This only serves to undermine the collaborative spirit of credit unions and forces credit unions to seek relationships with partners outside of the credit union industry.

IV. Impact to Credit Unions

For those credit unions that are adequately capitalized and have demonstrated the ability to participate in loan participations without risking the health of the credit union and the stability of the share insurance fund, concentration limits and the uncertainty of the underwriting standards requirement could lead to less loan participations in the industry. Credit unions that have developed trustworthy and profitable relationships with a limited set of sellers would be forced to seek potentially risky relationships with sellers that are foreign to them. The concentration limits, particularly the twenty-five percent (25%) limit, could lead to less CUSO formation and operation and treats all credit unions the same, no matter their expertise, financial status, and experience with loan participations. We urge NCUA to clarify the meaning of "underwriting standards" rather than leaving it to the interpretation of field examiners and credit union management. We encourage NCUA to strike a balance between safety and soundness and the benefits of loan participations to the credit union industry. Increased regulation has continued to threaten our competitiveness in the marketplace and this proposal will decidedly put us at a strategic disadvantage to our banking brethren.

Thank you for the opportunity to comment on this proposal. We would urge you to withdraw it and reconsider the need for such a restrictive set of rules which are disproportionate to the risks associated with purchasing and selling loan participations.

Sincerely,



Susan C. Frank
President/CEO

Desert School Federal Credit Union