

February 17, 2012

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

Delivered Electronically

Subject: NCUA Proposal on Loan Participations; RIN 3133-AE00

Dear Ms. Rupp:

The Northwest Credit Union Association (Association)¹ welcomes the opportunity to comment on the National Credit Union Administration's (NCUA) proposal to amend its loan participation regulation and relevant provisions in the eligible obligations rule and the rule governing the purchase of assets and assumption of liabilities. We appreciate being able to help amplify the voice of credit unions in the Northwest and throughout the country. To that end, we implore the NCUA to withdraw the current proposal as the impact on credit unions of all sizes would be devastating.

General Comments

The NCUA cites confusion around the loan participation program and through this proposal aims to "improve understanding of the transactions covered under the rule, as well as the requirements for purchase and ongoing monitoring and the applicability of related provisions." However, this proposal would establish a one-size-fits-all regulation which could damage credit unions, limiting their ability to manage their balance sheet and mitigate risk.

In the current environment of an economy struggling to recover and an ever-increasing load of regulations being placed on credit unions, the rationale for such a proposal is questionable. We believe the NCUA has already established guidelines around such programs and the provisions included in this proposal are unnecessary and should additional guidance be necessary it could be provided in a less formal and burdensome manner.

Regulatory Burden & Promulgation Process

In a post-Dodd-Frank world, credit unions continue to struggle to stay on top of current, proposed, and emerging compliance and regulatory requirements. Further increasing this burden and limiting the

¹ The Northwest Credit Union Association is a regional trade association representing the interests of more than 200 credit unions and their six million consumer-members; institutions that employ and engage more than 10,000 people and hold more than \$50 billion in aggregate assets. The Association is a nonpartisan advocacy organization representing the interests of its member institutions on a variety of systemically important banking issues.

Credit unions affiliated with the Association are principally domiciled in the Northwest quadrant of the United States, but the Association also has members from the states of Alaska, Idaho, California and Hawaii. Learn more about the Association at www.nwcua.org.

options for credit unions to manage their own balance sheet risk is not in the best interest of the industry. It is discouraging to see the NCUA continue to issue proposals which seem to take the tact of killing a fly with a cannon—taking isolated incidents and tightening down on the industry as a whole for fear of losses to the insurance fund.

We certainly support a strong regulator but also want to ensure that credit unions are able to grow, thrive, and serve their members during these times of rebuilding.

Beyond this rule, the Association would again urge the NCUA to move toward a model of cooperative rulemaking, bringing in stakeholders before putting out draft regulations. Promulgating in a vacuum creates a sense of uncertainty. NCUA and credit unions working together to craft needed and reasonable proposals would help ensure that credit unions can add value and input at an earlier stage—so that credit unions do not feel blindsided and NCUA is not hit with an onslaught of comments laying out many of the same concerns.

Loan Participations Do Not Pose a Significant Risk to the NCUSIF

We understand the concern the NCUA has for the safety and soundness of the credit union system and its charge to protect the National Credit Union Share Insurance Fund (NCUSIF). We appreciate the NCUA's work in this area, however, we believe it may often lean too far to protecting the insurance fund rather than seeking to help advance credit unions and ensure that they are viable and relevant in the future.

The Association does not believe that loan participations pose a large systemic risk. Participations loans account for only 1.3 percent of credit union assets and 2.3 percent of all credit union loans. While there have been some losses from a handful of institutions, participation loans play a small part in the overall safety and soundness of the credit union system while playing a much larger role in the safety and soundness of individual institutions.

Participations Limitations Not Beneficial

Loan participations are a useful tool for credit unions to help diversify their balance sheets and mitigate risk. From large to small credit unions, participations provide the opportunity for more lending and provide a broader pool of loans from varying type, size, and geographic location.

Interestingly, other financial regulators (such as the FDIC) are not considering similar programs, leaving those in the financial sector free to manage their programs as they see fit without such limits. This could disadvantage credit unions in the lending space.

Below are the Association's concerns about the specific proposed limitations.

25 percent net worth cap on participations from one originator, 15 percent net worth cap on loans to one borrower.

The caps set out in the proposal seem arbitrary. The proposed 25 percent cap on loans from a single originator (which would not be eligible for waiver) would be problematic for both large and small credit unions. Small credit unions express concerns that large credit unions will be less inclined to sell participations to credit unions in the small segments required for them to stay under the 25 net worth percent cap. Because of this cap, both small and large credit unions would need to seek out new participation partners. With the resources involved in finding partners, conducting appropriate due diligence, and monitoring these partners, participations would become a less viable option for many.

Further, a credit union's ability to help support their communities through multiple channels would be diminished. As one representative of a low-income credit union in the Northwest put it "...credit unions support low income credit unions through loan participation. Limiting their ability to support community development or low income credit unions, limits their ability to support their communities. Most credit union models are not set up to serve all segments of a community, thus leaving a gap—the underserved/unbanked. Because of groups like "Bank On", they make available savings accounts but that is not coupled with education and full services. They [large credit unions] support their communities by loan participations with these kinds of credit unions."

Conforming underwriting standards.

Credit unions have expressed concerns that limiting their ability to purchase only loans that the individual credit union would be authorized to originate could shrink participation programs. While a credit union may not make a certain type of loan, it does not mean it does not have the sophistication or resources to monitor those loans. Taking participation in these loans off the table limits the ability of a credit union to diversify its balance sheet, expand reach, and ultimately serve members.

10 percent skin-in-the-game requirement.

While this has been a requirement for federally-chartered credit unions (FCUs) this proposal would impose this requirement on all federally-insured credit unions (FICUs) which would apply to most state-chartered credit unions (SCUs).

The Association believes in the strength and viability that a strong dual charter system provides. Credit unions should, and do, have the ability to choose their primary regulator. This proposal would take the power to regulate loan participations out of the hands of state authorities. Any such move that begins to erode the dual-chartering system is of great concern to credit unions, regulators, and the Association.

In this case the NCUA would have total oversight of participations including the ability to grant waivers. We would urge the NCUA not to preempt the role of the state regulator and expand this provision.

Association recommendations on proposed limitations.

NCUA has issued significant guidance in the past in relation to loan participations², in light of its concerns the Association would urge NCUA to resend the letter to ensure credit unions are aware of current requirements.

The Association would recommend allowing the credit union board to determine the appropriate concentration limits for their credit union. They serve their member-owners by providing products and services that meet specific needs. The proposed one-size-fits-all approach is not the way to help credit unions provide those needed services. While still subject to examiner review, credit unions should be empowered to set the appropriate policies for loan

² NCUA Letter to Credit Unions Re: Evaluating Loan Participation Programs.
<http://www.ncua.gov/Resources/Pages/LCU2008-26.aspx>

participation purchases as well as loans to single groups or borrowers that fit their size, scope, sophistication, and resources.

Additionally, if adopted, we believe that a waiver process should be established for flexibility around common underwriting standards as well as the current 10 percent skin-in-the-game requirement for FCUs. This is not a time to limit the ability of credit unions to manage their books, and adding flexibility in a safe and sound manner is a bonus for all involved.

Waivers & Process

Because no two credit unions are alike, the Association believes an easily navigated and efficient waiver process is essential. While some regulations must be set in stone, others should be flexible to allow institutions to serve their member-owners.

Credit unions repeatedly have expressed dismay with the current system (and the NCUA acknowledges that in its proposal) and concern about any requirement to rely on that system. From delayed or misplaced applications to what may seem like arbitrary denials and a general attitude that the waiver system should be avoided, there is a disconnect.

The Association believes this is a bigger issue than just presented in this proposal and would urge the NCUA to seek comments from credit unions on this process. From those who have participated to those who have avoided it, all have valuable feedback. Further, we would encourage NCUA to work with examiners and staff to help ensure that the process is internally examined and treated as the valuable resource it could be. We would be happy to add to this process in any way possible.

Conclusion

We cannot strongly enough urge the NCUA to entirely withdraw this proposal. The level of intrusion as well as heavy compliance burden associated with this proposal make it unworkable and without further justification and information, it should not proceed.

The Association believes a balance must be struck between safety and soundness and the ability of credit unions to thrive, innovate, and serve the needs of their member-owners. We would be pleased to offer assistance or input on this or any matter and would be happy to answer questions you may have.

Thank you again for the opportunity to maintain an open dialogue.

Respectfully,

Jaycee Winn
Director of Regulatory Advocacy
Northwest Credit Union Association