

From: [John McKenzie](#)
To: [Regulatory Comments](#)
Subject: Indiana Credit Union League's Comments on NCUA's Proposed Rule on Loan Participations
Date: Monday, February 20, 2012 5:53:17 PM

February 21, 2012

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

Comments on NCUA's Proposed Rule on Loan Participations

Dear Ms. Rupp,

The Indiana Credit Union League (ICUL) appreciates the opportunity to comment on the NCUA Proposed Rule about Loan Participations. The ICUL member credit unions represent 95% of assets and members of Indiana's credit unions, with those memberships totaling more than two million members.

NCUA has previously established regulations addressing loan participations for federal credit unions. It is our belief that the additional requirements of the proposed regulation are unnecessary and represent an overreach of authority by NCUA. This proposed regulation's intent to extend the application of NCUA rules and regulations to state-chartered credit unions is a challenge to the authority of the state regulators' and legislators' authority to promulgate rules for state-chartered credit unions. The Indiana Credit Union Act addresses loan participations and loans to one borrower limits. Using share insurance as the tool to override and usurp the states' regulatory authority is unnecessary and regulatory overreach by NCUA. We strongly encourage NCUA to withdraw this proposed rule.

We believe that NCUA has all of the regulatory authorities necessary to address concerns with loan participations through the requirements related to concentration risk, loan policy reviews, loan quality review, and other existing regulations. We recognize that some credit unions had issues related to loan participations, where the credit union did not do sufficient due diligence prior to entering into the participation. It is our opinion that the proposed rule goes too far in placing limits on all credit unions, given the number that have had significant issues with these types of loans. NCUA has not demonstrated that a "systemic risk" exists, or is likely to exist due to loan participations being done under the current regulations.

NCUA is proposing a limit on participation loans involving one borrower at 15% of a credit union's net worth and an overall limit from any one originator of 25% of net worth. These limits would be very limiting to small and medium sized credit unions. In

today's economic environment, small and medium sized credit unions are particularly challenged in their ability to grow loans. These limits, unsupported by any concrete data from NCUA, will further limit these smaller credit unions' ability to use loan participations as an alternative lending strategy. These limits will also hamper larger credit unions' abilities to utilize loan participation to manage concentration risk in the manner that has worked well for many years. The proposed limits would place restrictions on federally insured credit unions (FICUs) that other financial institutions do not have to follow, leaving FICUs at a disadvantage to manage and mitigate risks. Should NCUA proceed with a regulation in this area, which we strongly contend is unnecessary and should be dropped, these arbitrary limits should be increased significantly. As with other loans, credit unions should be able to determine the concentration risk that they are willing to take, subject to review in the examination process.

NCUA is also proposing that the 25% limit to participation loans to any one originator would not include the ability for a FICU to request a waiver, but would be a firm cap. Given that the need for this proposed limit is not sufficiently supported, we believe establishing it as firm cap without the ability to request a waiver is unfair and unreasonable. Even adding a waiver process would not alleviate credit union concerns. Credit unions have expressed concern over existing waiver guidelines and processes utilized by NCUA in other regulations. Concerns have focused on NCUA's unwillingness to grant waivers, the difficulty of the process, and the lack of timely response from NCUA to many waiver requests.

The proposal also limits what entities FICUs can purchase a participation loan from. The definition does not include state-chartered, privately insured credit unions, and should NCUA move forward with any regulation in this area, this oversight needs to be corrected.

We do not believe the proposed provision limiting loan participations that can be purchased to only those involving loans the purchasing credit union is authorized to originate is necessary. The end result of this provision is to limit the diversification options of the purchasing credit unions, as well as the ability to utilize participations as a tool in addressing concentration risk. This provision also significantly reduces the pool of potential purchasing credit unions, impacting the ability of originating credit unions to manage concentration risk. NCUA is constantly challenging credit unions to manage all types of risk, while at the same time attempting to limit the ability to do so through unnecessary regulations such as this proposed rule.

The current investment environment is not returning yields sufficient to help credit unions that are too reliant on investment income to meet the needs of their members and have sufficient net income to grow or maintain their net worth ratios. Loan participations are an important option, and each credit union should be able to decide how this strategy fits into its business plan. NCUA's proposed rule weakens this option, and will be a disincentive to credit unions considering this. This will result in more credit unions facing greater income challenges with a potential detrimental impact on the NCUSIF.

In its Letter to Credit Unions-2012-01 Supervisory Focus for 2012, NCUA encourages credit unions to do “responsible lending” while monitoring and mitigating concentration, liquidity and interest rate risk. It is our belief that the proposed rule does not allow the credit union to use all of the potential strategies—loan participations being one—available to them to mitigate these risks.

Again, we encourage NCUA to withdraw this proposed rule and allow states’ regulators to continue to regulate state-chartered credit unions use of loan participations as a strategy. Credit unions are challenged by the enormous number of regulations that exist today, not all of which are necessary. We believe that the burden of this proposal is outweighed by any perceived problem being addressed. Withdrawing the proposed rule will also allow FICUs to utilize this strategy in ways that make sense for the credit union, while NCUA can continue to monitor safety and soundness through existing regulations.

Sincerely,

A handwritten signature in black ink that reads "John McKenzie". The signature is written in a cursive style with a large, stylized "J" and "M".

John McKenzie
President, Indiana Credit Union League