

February 21, 2012

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

**Re: Loan Participations; Purchase, Sale and Pledge of Eligible Obligations;  
Purchase of Assets and Assumption of Liabilities**

Dear Ms. Rupp:

On behalf of the more than 150,000 member-owners who have entrusted more than \$1.6 billion in assets, Western Federal Credit Union (Western) thanks the Agency for the opportunity to comment on the proposed changes dealing with loan participations, sale and pledge of eligible obligations, purchase of assets and assumptions of liabilities.

While Western believes that the Agency proposed this rule with the best of intentions, however, Western must strongly oppose the rule as written dealing with loan participations.

The Agency has not quantified nor demonstrated that the "concentration risk" imposed by loan participations has led to the failures of any federally-insured credit unions nor imposed any direct costs to the National Credit Union Share Insurance Fund (NCUSIF). Without demonstrated loss statistics, Western does not believe that the imposition of this onerous new regulation upon loan participations will reduce any risk to the NCUSIF.

**Loan Participations**

At year-end 2011, Western maintained less than \$99 million in loan participations in its portfolio (mostly consisting of member business loans). With a current Regular Reserve and Undivided Earnings of more than \$147 million, the percentage of all loan participations to net worth was hovering around 66 percent.

In its history of participating with other credit unions on loans, Western has worked with three other credit unions as a purchaser of loans. Currently, there are two credit unions Western partners with on participation loans. These credit unions have been the subject of numerous due diligence reviews and consistently demonstrate the ability to underwrite loans to high standards that meet the approval of Western's Board of Directors.

Two-thirds of the Western loan participations acquired over the last three years have been from one credit union and to date Western has not suffered any losses in participations from this credit union. These participations range from Western taking a minority interest in the loan to acquiring 99 percent of the loan (with the originating credit union keeping one percent).

Western has considered its options in the unlikely event that the originating credit union is liquidated and its assets not transferred to another credit union or financial institution. Those participations majority-owned by Western would be serviced by Western or an entity selected by Western. Where Western has a minority interest, the loan servicing rights can be delegated to another entity and the loans would continue according to contractual terms. Of course, if the credit union were merged or become the subject of a liquidation and assumption, then the acquiring credit union would become the servicing entity (or find a third party to do so). Western's interest and cash flow from the participation would continue.

### **Impact upon Credit Unions and CUSOs**

Western has concerns about the unintentional impacts of this proposed regulation on federally insured credit unions and CUSOs that have been created to participate loans between credit unions.

The artificial limit of 15 percent of net worth in loan participations (with a maximum of 25 percent with Regional Director approval) will limit the marketplace for those credit unions who have built an in-house participation team to work with other credit unions. With the marketplace limited for purchasers of loan participations, the going-concern or market value of those investments will decrease placing additional negative impact upon the net worth positions of the credit unions and/or CUSO investors. If there is a reduced marketplace for loan originations, the value of the CUSO will decrease and its owners (credit unions and ultimately their member-owners) will be forced to write-down their capital investment thereby absorbing net worth that can only be obtained thru earnings.

These are larger questions that the Agency has not addressed within its rulemaking. 1) Is it good public policy for credit unions to be forced by regulation to seek new loan participation entities and spend limited resources on proper due diligence? 2) Will credit unions expend resources to find new loan participation partners or just stop partnering on good quality loans that benefit our nation's economy because of artificial limits imposed by a federal regulatory agency?

The proposed regulation runs contrary to Chairman Matz's testimony before the current Congress supporting legislation that would increase the amount of member business loans permitted for individual credit unions. This proposal would add tremendous restrictions on member business loans (which make up a large percentage of loan participations) at the same time Congress is considering granting credit unions greater flexibility in this area.

Absent documented evidence that loan participations proximately cause failures of federally-insured credit unions, this proposal runs contrary to the Chairman's public statements that the Agency would not impose additional, new, and unnecessary regulatory burdens upon credit unions, keeping with the goals of Executive Order 13563 signed by President Obama on January 18, 2011 to reduce such burdens on American businesses.

### **Conclusion**

Again, Western respectfully requests that the Agency withdraw this proposal and work with federally-insured credit unions on a consensus regulation that would allow credit unions to effectively participate on loans within reasonable limits that protect the safety and soundness of credit unions and their member-owners' deposits that fund such loans.

If I can be of further assistance in this matter, please feel free to contact me at 310-536-5330.

Sincerely,



Greg Badovinac  
Assistant Vice President – Compliance & Governmental Relations