



February 21, 2012

Mary Rupp, Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria, VA 22314-3428  
Email: [regcomments@ncua.gov](mailto:regcomments@ncua.gov)

Re: Comments to the Proposed Amendments to 12 CFR Parts 701 and 741 – Loan Participation Rule

Dear Ms. Rupp:

Thank you for allowing Affinity Plus the opportunity to comment on the proposed *Loan Participation Rule* (Rule). We value the opportunity to provide input into the future of the credit union industry and the specific regulatory changes.

***We strongly urge the Agency to withdraw this proposal because it provides unnecessary regulatory burden on credit unions and is counter intuitive to sound concentration, interest rate and liquidity risk management practices.***

As The Honorable Debbie Matz outlined in Letter to Credit Unions 12-CU-01, "Credit unions must employ sound risk mitigation and diversification strategies to effectively manage concentration risks and prevent concentrations from reaching unsafe levels." We agree and believe the NCUA's emphasis on concentration risk provides the necessary regulatory direction and oversight to mitigate the potential risks associated with loan participations.

We have purchased and sold loan participations that have provided Affinity Plus, the counterparty credit union and our Members with significant benefits. This Rule will limit credit unions ability to provide sound loans to its Members and also hurt the industry as a whole by reducing investment opportunities, forcing other higher risk investments and increasing the costs associated with loan participations.

We believe the current rules, regulations, guidance letters and the emphasis on concentration risk already provide sufficient limits that protect the insurance fund.

If they Agency should proceed with the proposed loan participation regulation, we offer the following comments:

**1) The proposed regulation is unnecessarily complicated and will reduce the number of credit unions that can use this useful ALM tool to effectively manage their balance sheets.**

This seems counterproductive to credit unions that are making loans to members. Loan participations allow for credit unions to continue with loan programs and share the volume with other credit unions that do not have the current loan demand. This is not a systemic risk, but overregulation and limiting credit union's ability to effectively use loan participations actually increases the overall risk to the insurance fund, not limit the risks.

**2) The underwriting standards in purchasing a loan participation interest may not be less stringent than the underwriting standards in originating the same loan.**



All credit unions are different. Members are different. The risks are different. Requiring the same *underwriting* standards does not equate to the same level of risk. We recommend either no change or a statement focusing on the overall risk profile of the participation pool, as opposed to specific underwriting standards.

As an example: Credit Union A offers loans with limited income documentation due to a long-standing relationship, direct deposit of payroll and a solid payment history on existing loans. Credit Union B requires income documentation through a paystub. In this case, even though the risk profile may be similar or even less risky, Credit Union B would not be eligible to purchase credit union A's loans due to the technical nature of the same or more stringent underwriting standards.

**3) The originating credit union must retain at least a ten percent interest in the loan throughout the life of the loan.**

We generally agree through some mechanism that an economic interest should be maintained. This could be obtained by servicing the loan participation, limited recourse or through the current rule requiring 10% ownership. The current 10% requirement is a significant portion to retain. We would recommend reviewing alternatives to this 10% retention requirement, such as limited recourse, or by reducing the requirement to a smaller requirement, such as 5%.

**4) A credit union may not buy loan participation interest from a single originator that in the aggregate exceeds 25% of the purchasing credit union's net worth. There is not ability to seek a waiver from this restriction.**

We do not agree with the NCUA setting an arbitrary and unsubstantiated concentration limit for credit unions on what can be purchased through loan participations. We believe a better path to managing the risks associated with the interconnections between single originators would be to focus on supply side of the loan participation arrangement. Examiners currently have the authority to regulate and limit credit unions they believe pose a significant risk to the insurance fund.

The NCUA has multiple other avenues to mitigate systemic risks in the credit union industry without adding new regulation requirements and limits. The recent emphasis on concentration risk seems to cover the basic concerns the NCUA has with loan participations and the interconnection between participants.

It seems prudent to allow each credit union to set limits on loan participations based on its own size and complexity. As with interest rate risk, it should be each credit unions responsibility to set limits based on the size and complexity of its balance sheet.

**5) Recommended new term: Regarding the ability of credit unions to sell loan participations in a loan purchased under the eligible obligation rule.**

A credit union can resell assets it owns and loan participations shouldn't be any different.

**6) Recommended new term: Regarding organizations eligible to buy a loan participation interest.**

As stated in the background section of the proposed rule: "...loan participations also create more systemic risk to the share insurance fund...". Allowing investors (insurance companies for example) outside of the credit union industry to purchase loan participations would limit the risk to the insurance fund.

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Thank you again for taking the time to consider the feedback provided above regarding the new Rule.

Sincerely,

A handwritten signature in black ink, reading "Kyle L. Markland". The signature is written in a cursive style with a large initial "K" and "M".

Kyle L. Markland  
President / CEO  
Affinity Plus Federal Credit Union

cc. The Honorable Debbie Matz, Chairman  
The Honorable Michael Fryzel, Board Member  
The Honorable Gigi Hyland, Board Member