



Via email: [regcomments@ncua.gov](mailto:regcomments@ncua.gov)

February 21, 2012

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

Re: Comments of the Wisconsin Credit Union League regarding Proposed Rule on Loan Participations

Dear Ms. Rupp:

The Wisconsin Credit Union League, serving 210 credit unions and over two million members, welcomes the opportunity to provide the following comments on the NCUA's proposed changes to its Loan Participation Rule. Our credit unions appreciate having a voice in your consideration of this important rule revision.

We first wish to address a very important overarching point: that for the first time this proposed rule applies to state-chartered credit unions and threatens a negative impact to the dual-chartering system. In Wisconsin, 208 of our 210 credit unions have chosen to be state-chartered—all for different but very good business reasons. A strong dual-chartering system brings great benefit to credit unions and their members by providing an avenue to work together on system-wide challenges and gain system-wide efficiencies while still recognizing and allowing for varying business options that invite ingenuity, innovation, competition, and growth through new and different financial services. The availability of these options strengthens the entire system and should be carefully but aggressively protected.

The proposal to apply the federal Loan Participation Rule to all federally-insured credit unions will adversely impact the essential role that dual-chartering plays in our credit union system because it requires all credit unions to conform to the same rules and denies state regulators the authority to continue regulating state-chartered credit unions in this important area. The NCUA proposes to extend its reach even further into state-chartered credit unions by claiming it's necessary for protecting the NCUSIF—but without providing any convincing evidence that a clear threat to the fund exists. (*See* the comment letter from CUNA.) As a general proposition, and as a League that represents so many state-chartered credit unions, we oppose any effort—and this proposed rule is just that—to preempt state authority without a clearly evidenced threat to the share insurance fund. We therefore oppose extending the Loan Participation Rule to state-chartered credit unions.

Next, we wish to state strongly that we see this proposed rule's attempt to treat all credit unions the same, no matter size or charter, as a serious flaw. In today's complex financial institution market, one-size-fits-all limiting regulation is rarely constructive. With participation loans, what is appropriate for a credit union depends on its size, its experience and expertise, the type of loans it's participating, and other factors. Regulators already have the authority to enforce safety and soundness concerns regarding participation loans in problematic credit unions through the 2008 Letter to Credit Unions (No. 08-CU-26, "Evaluating Loan Participation Programs"), as well as the concentration risk and other rules or guidance. The justification for yet another rule—one that treats all credit unions as if they are the same—has just not been demonstrated.

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Member Credit Union National Association

As for the specifics of the proposed rule, we encourage the NCUA to eliminate the arbitrary cap that limits loan participation purchases involving a single originator to 25% of the buying credit union's net worth. This is an example of the short-sightedness of a "one-size-fits-all" approach in that it ignores a) the reality of the current NCUA Letter about loan participations as well as the concentration risk guidance that accounts for participation loan risk factors but provides for different circumstances in different credit unions; b) the time-tested, well-performing relationships many credit unions now have that would no longer be permitted; and c) the time and expertise it would take to underwrite and monitor several (or many) originators, which time and expertise would be an extra expense for any credit union and which smaller credit unions may not be able to afford at all. Credit unions that now have one or two established relationships with participation originators may have to add in several lesser-known ones just to stay under the cap. And the fact that no waiver of the cap is even possible tightens the strings around a credit union's option even more.

As an example, several larger Wisconsin credit unions have mortgage loan participation programs with a few smaller credit unions. The relationships are long standing and successful, with the smaller credit unions taking advantage of the staffing or program expertise they could not offer without the larger credit unions' assistance. The loss ratios in these participation programs has been minimal and the income to the smaller credit unions has been essential in today's low interest rate environment. Some of these arrangements would not be permitted going forward under the proposed cap, even though they have worked well for years and the state regulators familiar with them have been very supportive. Placing an arbitrary cap on these arrangements does not promote safety and soundness, does not reduce credit risk, and does not support growth.

Instead of the cap, credit unions that do not do so already can be encouraged by their regulators to adopt a loan participation policy with a limit on loan participations purchased from a single originator—one that makes sense for them in their particular situation given their unique balance sheet and interest rate risk profile. Such an approach addresses the safety and soundness concerns of the NCUA without undermining the ability of credit unions to use participation loans as an earnings, liquidity, and diversification tool in the manner that works best for them.

In conclusion, we respectfully encourage the NCUA to reconsider this proposed Loan Participation Rule in its entirety. As written, it overreaches into the purview of state law and regulation and the dual-chartering system; it aims to box all credit unions into the same lowest-denominator parameters; and it infringes on long-term relationships among credit unions and their business partners (including other credit unions) as well as the business decision-making of credit union senior management and boards of directors. Without any changes to the current rule, the NCUA and state regulators have all the authority they need to regulate a credit union's participation loan portfolio for safety and soundness.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Joanne R. Whiting".

Joanne R. Whiting  
Executive Vice President and Chief Advocacy Officer  
The Wisconsin Credit Union League