Submitted via email to: regcomments@ncua.gov

Aug. 1, 2018

Gerald Poliquin
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Re: Comments on Notice of Proposed Rulemaking (PALs II), RIN 3133–AE84

Dear Mr. Poliquin:

The Wisconsin Credit Union League, representing Wisconsin's credit unions® and their 3 million plus members, appreciates the opportunity to comment on the National Credit Union Administration's (NCUA's) proposal to amend its general lending rule and give federal credit unions (FCUs) a new option for payday alternative loans (PALs).

We support any efforts to give consumers meaningful alternatives to unscrupulous payday lenders. They prey on the poorest in our society and those who lack access to other sources of credit, charging usurious interest rates and high fees to trap customers in endless cycles of repeat borrowing. Payday lenders defend their tactics by claiming their rates are reasonable in light of the short terms of their loans. That's hardly the reality. The payday lenders' business model relies on borrowers being unable to repay their initial loans. Payday borrowers who live paycheck-to-paycheck regularly find that their only option when that loan comes due is to take out another loan, and another, and another. They quickly become trapped in a spiral of growing debt, pyramiding fees and high interest rates. These loans are routinely targeted at low-income Wisconsinites and people of color, with devastating impacts for already vulnerable communities, according to Wisconsin Public Interest Research Group (WISPIRG).

The statistics are simply shocking. For example, payday borrowers in Wisconsin paid an average 595.50% APR in 2017, according to the Wisconsin Department of Financial Institutions.[1] According to WISPIRG[2]:

- The average payday loan in Wisconsin is $320.30.

- Wisconsin's average payday borrower may pay as much as $866 in charges on a $320 loan.

- That average Wisconsin borrower takes out about 12 loans per year, with about 75% of borrowers taking out more than six loans a year.

- The typical payday borrower in Wisconsin makes less than $19,000 a year.

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[1] "Wisconsin Guide to Payday Loans" (Feb. 2018), which is based on "data reported to the Wisconsin Payday Loan Database by licensed Wisconsin payday lenders." https://www.wdfi.org/_resources/indexed/site/fi/lfs/pdl/dfi-lfs-001P.pdf

[2] "Stop Payday Predators" (May 2016). https://wispirg.org/sites/pirg/files/reports/WISPIRG%20Fdn.%20Wisconsin%20Payday%20Fact%20Sheet_5.17.16.pdf

As an industry, credit unions must recognize that consumers need and demand small-dollar, short-term loans. Nevertheless, the Dec. 31, 2017, Call Reports showed that only 518 FCUs offered PALs loans, with 190,723 outstanding loans and an aggregate balance of $132.4 million. Why aren't PALs programs more popular? With all due respect, part of the problem is that the PALs I program and the PALs II proposal, while steps in the right direction, are too rigid. Their restrictions actually discourage FCUs from launching such programs. If NCUA's regulations were more flexible and realistic, FCUs would be incentivized to develop payday-alternative programs and better meet consumers' needs.

In particular, we believe that the PALs II proposal's caps on interest rates, loan limits, and application fees are impractically low:

- <u>The 28% interest rate cap is too low, and it is out of sync with caps imposed by other federal regulators.</u> PALs I allows (and PALs II proposes to allow) an interest rate that that is 1000 basis points (10%) above the general interest rate (18%) that the NCUA allows FCUs to charge. In other words, FCUs could charge no more than 28% interest on PALs. NCUA should do more than merely allow PALs programs; it should incentivize them, and one way to do that would be to allow FCUs to earn reasonable returns on their loans. It would make more sense to let FCUs charge up to 36% APR on PALs, matching the caps set by the CFPB's small dollar payday lending rule, the FDIC's small-dollar pilot program, and the Department of Defense Military Lending Act rate caps. Even at 36% APR, consumers would fare much better than they would paying predatory lenders' rates that typically exceed 500% APR.

- <u>The $2,000 loan limit is too low, and it may not reflect the consumers' needs.</u> The PALs II proposal would set a $2,000 loan limit; however, it is not uncommon for medical bills, layoffs, evictions, auto repairs, or other financial emergencies to exceed $2,000 these days. For example, among those who reported a major unexpected medical expense in a 2016 Federal Reserve Board survey, the median out-of-pocket cost was $1,000 and the mean was $2,519.[3] FCUs should be allowed to lend more under the PALs II program – up to $4,000. Ideally, the cap could be based on local costs of living, which can vary significantly across the country (and even from urban to rural areas within states).

  In addition, if the PALs II loan limit is increased beyond the proposed $2,000 cap, it would make sense to extend the maximum loan term – currently proposed at 12 months – perhaps to 36 months, so that FCUs could better keep their members' periodic payments manageable.

- <u>The $20 application fee cap is too low, and it would not allow FCUs to recoup actual costs</u>. Under PALs I and as proposed in PALs II, FCUs may charge an application fee that reflects the actual costs associated with processing the application but no more than $20. It is unlikely that any FCU can underwrite a loan – including the costs for consumer credit reports, document preparation, and staff time – for less than $20. "Actual costs" are higher. A more realistic application fee of $40 to $50 dollars would encourage more FCUs to offer PALs and cover their real costs of doing business.

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[3] "Report on the Economic Well-Being of U.S. Households in 2016" (May 2017).
https://www.federalreserve.gov/publications/files/2016-report-economic-well-being-us-households-201705.pdf

The NCUA has asked whether a future PALs proposal (PALs III) should include an ability to repay requirement, similar to that required by the CFPB's Payday Loan Rule. We don't believe that credit unions need such a requirement. It would increase origination costs far out of proportion to the risks involved in such relatively small loans. Also, unlike payday lenders, credit unions are more likely to be familiar with their member-owners' financial histories and abilities to handle the payments on such loans. An ability to repay requirement would be unnecessary and unduly burdensome given the small size of the loans involved.

In conclusion, we are pleased that the NCUA is taking steps to address the need for payday alternative lending. Consumer demand for low-dollar, short-term credit is real and growing. The NCUA should craft rules that make such loans worthwhile for credit unions so that more FCUs can offer consumers responsible alternatives to predatory payday lenders.

Thank you for considering our views on this matter.

Sincerely,

Paul Guttormsson
Vice President – Legal & Compliance
The Wisconsin Credit Union League