



August 3, 2018

Gerald Poliquin  
National Credit Union Administration  
1775 Duke Street  
Alexandria, Virginia 22314

Re: Payday Alternative Lending II

Dear Mr. Poliquin,

The Ohio Credit Union League (OCUL) welcomes the opportunity to submit comments concerning the National Credit Union Administration's (NCUA) proposed rule on Payday Alternative Loans (PAL) II.

OCUL represents Ohio's 274 credit unions and their nearly three million members. As of Q1, Ohio is home to 148 federally-chartered and insured credit unions, 76 state-chartered, federally-insured credit unions, and 50 state-chartered, privately-insured credit unions.

The dual-charter system is recognized in 47 states and provides choice as to whom will serve as their institution's chartering authority and prudential regulator. In Ohio, that ratio leans to the federal-charter from a credit union number standpoint, while the majority of assets are held by state-chartered credit unions. The dual-chartering system nourishes greater diversity of credit unions and reflects the specific needs of their unique membership. By providing flexibility in loan products, specifically PAL, NCUA keeps the federal charter competitive, ensuring a thriving dual-charter system by creating a regulatory scheme that allows consumers to have a viable alternative to payday and cash advance lending.

This flexibility which PAL II would provide to federally-chartered credit unions is much needed. According to Pew Charitable Trust, the state of Ohio has the most expensive payday loans nationwide, with an annual percentage rate of 591% APR.<sup>1</sup> By population, roughly 1 million Ohioans have taken out a payday loan or 1 out of 10.<sup>2</sup> In an attempt to curb this predatory lending, the Ohio Generally Assembly recently approved a payday lending reform law (House Bill 123). The new law will provide borrowers with a minimum of three months to repay, an annual interest rate cap of 28%, and a monthly fee of no more than \$30.

As the Ohio Legislature considered House Bill 123 and payday lending reform, state-chartered Wright-Patt Credit Union (WPCU) CEO Doug Fecher testified in favor of the law<sup>3</sup> stating that "HB 123 is good public policy because it balances the needs of consumers with the needs of responsible lenders and keeps the costs of small-dollar loans sustainable for all parties." WPCU

---

<sup>1</sup> Pew, *Ohio Has the Highest payday Loan Prices in the Nation*, Major fact and figures (Dec. 16, 2016), available at <http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2016/12/ohio-has-the-highest-payday-loan-prices-in-the-nation>.

<sup>2</sup> *Id.*

<sup>3</sup> Douglas Fecher, Testimony (June 21, 2018), available at <http://www.ohiosenate.gov/committees/finance/document-archive>.





currently offers short-term loans to its members through a program called StretchPay. Through this program, Doug Fecher has witnessed firsthand how many families have been damaged by predatory payday loans as these families under financial duress do not often qualify for mainstream loans and must turn to payday lenders to get by.

Ohio's federally-chartered credit unions also seek to be a part of the solution similar to other state-chartered credit unions like WPCU. OCUL and its member credit unions appreciate NCUA's commitment to instituting rules which provide for flexibility so that Ohio's credit unions can compete as a viable alternative to high-cost payday lenders. Like NCUA, Ohio's credit unions remain committed to helping their members escape the cyclical and predatory practices by the payday industry. Approximately 15% of Ohio's federally-chartered credit unions offer PAL which total 2,500 outstanding loans in the aggregate amount of \$1,316,085.

To provide NCUA with a brief overview of how the original PAL have allowed credit unions to serve their membership, OCUL has compiled a few examples below.

**Firelands FCU** *Bellevue, Ohio*

As the credit union with the largest PAL portfolio, Firelands FCU (Firelands) currently has 1,500 PAL on its books totaling \$876,717. Firelands appreciates being able to serve its membership through PAL as the lending program is a great first step in allowing underserved community members to engage with a mainstream financial institution. Firelands' PAL loans have an average life of 3-4 months, and borrowers make payments based on their pay schedule (bi-weekly or weekly). This unique pay schedule has allowed the credit union and its membership to see success in the PAL loans. The losses at the credit union were much higher when Firelands first began offering PAL. Currently, their losses remain at 8%, netting about a 20% yield on the PAL product. By offering this product, Firelands provides their membership with access to credit, structures payments to be affordable and align with pay schedules, introduces members to mainstream financial intuitions, and creates confidence through budgeting and money management skills.

**Fasson EFCU** *Painesville, Ohio*

Fasson Employees FCU (Fasson) began providing PAL loans to their membership in May 2017. Fasson is excited to serve their membership in this way, and their members have been highly appreciative of this loan product. Since the program's inception, the credit union has granted 38 loans totaling \$35,113. The majority of borrowers are individuals who have suffered a financial set back and/or wouldn't have qualified for a traditional loan product due to their credit score or debt-to-income ratio. Outside of providing access to credit, a portion of Fasson's membership who have requisite credit for a traditional loan product utilize the PAL because the membership perceives that it is quicker and does not have to go through the credit committee review process. Fasson looks forward to growing their PAL program throughout the remainder of the year.

**Mercy Health Partners FCU** *Toledo, Ohio*

As an employer-based credit union, Mercy Health Partners FCU (Mercy Health) began offering PAL in 2015. In the first year, the credit union did not have any losses in their PAL portfolio.





OHIO CREDIT  
UNION LEAGUE

However, in 2017, the loss ratio increased to 2.78%. Despite the traditionally lower profit margin on PAL, Mercy Health continues to offer PAL to its membership, because it benefits the members and is a much needed service. As a conservative lender, the credit union does impose additional protections outside of what NCUA requires, such as direct deposit and active accounts with the credit union. Mercy Health is excited about the prospect of PAL II loans and supports NCUA's current proposal.

In fact, Mercy Health emulates the mission of people helping people. In addition to offering PAL, Mercy Health partners with its employer group to provide up to \$1,500 to help their members exit a cyclical and predatory relationship with payday lenders. The credit union offers an Employer Sponsored Small Dollar Loan at 18% for emergent needs, which is structured similar to their PAL. This emergent need loan can be used to pay off existing payday loans that a member has with traditional payday lenders. If NCUA moves forward with its PAL II proposal, Mercy Health could categorize their Employer Sponsored Small Dollar Loan as a PAL II and potentially increase the limit to \$2,000 which would better serve those members who refinance their payday loans with the credit union.

### **TopMark FCU**

*Lima, Ohio*

TopMark FCU (TopMark) currently is entering its fourth year of offering its PAL program to the membership. Currently, the credit union has 68 outstanding PAL loans aggregating a total of \$31,000 outstanding. Since the inception of its PAL program, TopMark has charged off \$2,555 in PAL loans. While traditionally conservative, only charging a \$15 application fee and an 18% interest rate, TopMark is considering changing its structure to cover charge-off costs. Increasing the application fee to \$20 is one possibility. While the credit union prides itself on offering this important service to its members who have fallen victim to predatory lenders, management has noticed that a diverse cross-section of membership has utilized this product for other reasons. In fact, the average hourly wage of a PAL borrower is estimated to be \$25 per hour. TopMark looks forward to working with NCUA to expand its PAL program to serve more eligible members in its community.

### **PAL II Will Provide Needed Flexibility to Serve Membership**

OCUL supports NCUA's proposal (PAL II) which would provide flexibility through removing the minimum membership requirement, eliminating the restriction on the number of loans provided to a borrower, and increasing the maximum loan term to \$2,000 and the maximum loan maturity to 12 months.

OCUL commends NCUA for recognizing the importance of maintaining the original safe harbor of PAL loans in the Bureau of Consumer Financial Protection (Bureau)'s Payday Loan Rule. OCUL supports NCUA's approach to preserve the original PAL loans as PAL I to ensure credit unions are able to offer a product which is exempt from the Payday Loan Rule. Additionally, OCUL believes that creating a regulatory environment where credit unions may offer a PAL II loan product is beneficial even if the PAL II falls under the Bureau's Payday Loan Rule.

### **PAL III**



AMERICA'S  
CREDIT  
UNIONS



OHIO CREDIT  
UNION LEAGUE

In order to allow credit unions to fulfill their member-oriented service mission, NCUA must continue to alleviate regulatory hurdles by creating an operating environment where credit unions are empowered to offer competitive loan products and services to their membership. As such, OCUL supports a third PAL proposal and urges the agency to continue working on a PAL III proposal.

Like NCUA, OCUL is concerned that overall only 9% of federally-chartered credit unions nationwide utilize the existing PAL program. Despite NCUA's commitment to the PAL program and the agency's work to harness credit union participation, credit unions are not being properly enticed by the agency to fill the gap in the payday lending space due to high entry cost and compliance burdens. To realize success, measured by credit union participation and PAL lending to members, a revamped PAL program must create a systematic change where credit unions are empowered to be the solution. Simply put, a 9% participation rate is not indicative of credit unions' perceived lack of desire to offer this product; rather, a 9% participation rate is exhibitivie of credit unions being forced out of this space due to the cost of offering PAL products and low product margins. As a responsible, prudential regulator, we are hopeful that NCUA will modify the PAL program so credit unions can compete as a part of a holistic solution, rather than force them out.

In order to compete holistically, OCUL urges the agency to provide credit unions and their members with flexibility to tailor short-term, small-dollar loans to their needs. This includes addressing the overly conservative 28% rate cap, the minimum threshold of \$2,000, and the application fee.

Specifically, OCUL regards the application fee as crucial item in which more flexibility would greatly benefit credit unions and their members. As a lower performing revenue generating product, PAL have little margin for profit. Typically, half of the interest income on a PAL goes toward loan charge-offs. Having more flexibility in the application fee would allow credit unions to recoup some of the expenses associated with this product.

Because any PAL III loan will likely fall under the Bureau's Payday Loan Rule, which requires a lender to conduct an ability to repay determination, federal credit unions will already undergo this analysis. Therefore, OCUL does not regard it as necessary for NCUA to codify the same requirement. Should NCUA require an ability to repay determination, NCUA's provision may struggle to achieve parity with the Bureau's as the agency may update the rule in the future. In fact, Acting Director Mick Mulvaney has stated that the agency intends to reopen the Payday Loan Rule.

## **Conclusion**

Overall, OCUL and Ohio credit unions remain hopeful about the prospect of more flexible PAL, which will allow credit unions to fulfill their mission of promoting the well-being of their members. OCUL applauds the proactive approach the agency is taking to ensure credit unions are equipped to serve their membership, especially in this critical way. As NCUA continues the dialogue and rulemaking process for changing PAL, OCUL looks forward to collaborating with the agency. If you have further questions or would like to discuss OCUL's comments in more detail, please feel free to contact us at 800-486-2917.



AMERICA'S  
CREDIT  
UNIONS



OHIO CREDIT  
UNION LEAGUE

Respectfully,

A handwritten signature in black ink, appearing to read 'Paul L. Mercer'.

Paul L. Mercer  
President

A handwritten signature in black ink, appearing to read 'Miriah Lee'.

Miriah Lee  
Regulatory Counsel



AMERICA'S  
CREDIT  
UNIONS

---

10 West Broad Street, Suite 1100, Columbus, Ohio 43215  
614-336-2894 • 800-486-2917 • fax 614-336-2895 • [www.OhioCreditUnions.org](http://www.OhioCreditUnions.org)