Alabama Credit Union League

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February 20, 2006

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

FEB21'06 PM 1:48 BOARD

Dear Ms. Rupp:

On behalf of the Alabama Credit Union League, and the credit unions we represent as well as the members they serve, I am pleased to comment on the proposed changes to NCUA Rule 701 and 741, Third-Party Servicing of Indirect Vehicle Loans.

After the issuance of Risk Alert 05-Risk-01, the Alabama Credit Union League became increasingly concerned about how it was being enforced by NCUA Examiners around the country. Unfortunately, during many examinations of credit unions involved in making loans through third party, indirect lenders, there was a very real problem of inconsistent enforcement of the Risk Alert, most often resulting in what amounted to a cease and desist order from the NCUA. This was especially unfortunate, since many of the examiners in the field did not have adequate understanding of the programs that they shut down. We are pleased to see that the NCUA is willing to set regulatory guidance for both credit unions and examiners, and hope that this will give credit unions the certainty they need to make automobile loans available to their members, especially those who might not otherwise qualify for an affordable loan.

That being said, there are some areas of the proposed amendments to Parts 701 and 741 that should be addressed in order to provide a sound regulatory framework that accomplishes this certainty and stability.

First, we request that the proposed language of Rule 701.21(h)(2) be strengthened to answer some ambiguities that may exist if the rule were to be adopted as written. There should be a specific time line for review and response by the Regional Director for any requested waiver. Also, there should be specific guidance from the NCUA on what information will need to be provided to the Regional Director to prove the required understanding of the third party's organization and business, and to show that the credit union has performed its due diligence. Given the recent history between the NCUA and third party indirect auto lending through credit unions, credit unions would not be unreasonable to envision repeated delays in response in an effort to keep the concentration limit at the lowest level. Also, without some guidance on how to prove due diligence, credit unions may well see repeats of earlier examination issues in which Board members were

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asked about specific dollar figures or liquidity of the third party insurer, which is actually a management responsibility.

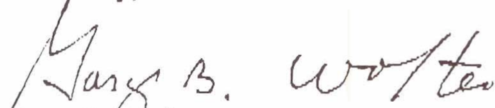
Related to this, we believe that the NCUA Regional Examiner should consider the soundness of the company insuring the loans when making the determination of whether to grant a waiver from the concentration limits. Certainly an "A Rated" insurance company assuming the majority of any risk to these loans would lessen the exposure of the credit union and the NCUSIF. While this may be included in Part 701.21(h)(2)(iv) as "other factors relevant to safety and soundness" consideration of the strength of the company insuring the loan should not be left to the discretion of examiners or Regional Directors. This is a significant factor in the safety of these programs, and should be weighed heavily in determining whether to grant a waiver.

Second, we recommend that the 30 month requirement proposed for credit unions to increase their concentration limit from 50% of net worth to 100% be changed to 18 months. A 30 month period seems unnecessarily long, especially in light of the fact that the NCUA has not shown any significant losses for credit unions through third party indirect auto lending. Eighteen months should give the NCUA sufficient time to conduct a review of the credit union's participation in such a program, including the credit union's due diligence, as well as portfolio trends and evaluation of performance of the third party.

Finally, the proposed rule change does not appear to address what net worth will be compared to, other than to state that loans through a third party program may not exceed either 50% or 100% of net worth. Since the purpose of this rule, and the issues that have preceded it, have been concern over safety of the credit union and the NCUSIF, it is appropriate that the rule should only address loans that could conceivably pose a threat to either (although we maintain that these loans have shown a history of safety and good return for the credit union). We would urge the board to clarify Part 701.21(h)(3)(iv) by including a provision that only active loan balances will be measured against net worth. While we certainly hope that this is the intention, any lack of clarity or ambiguity could lead to the same inconsistencies we have seen in the past, as it relates to enforcement of Risk Alert 05-01.

Thank you for the opportunity to provide input into the proposed rule. We look forward to working with the NCUA on this and other issues that will help strengthen the credit union movement, and allow credit unions to continue to provide the products and services that their members need, as we all work together to ensure that credit unions remain a source of support for their members and their communities.

Sincerely,



Gary B. Wolter,
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