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AMERICA'S CREDIT UNIONS

February 15, 2006

Mary Rupp
Secretary of the Board,
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314–3428

Re: Third-Party Servicing of Indirect Vehicle Loans

Dear Ms. Rupp,

The Georgia Credit Union League (GCUL) appreciates the opportunity to comment on the National Credit Union Administration's proposed rule to regulate purchases by federally insured credit unions of indirect vehicle loans serviced by third parties. GCUL is the state trade association and one member of the network of state leagues that make up the Credit Union National Association (CUNA). GCUL serves approximately 190 credit unions that have over 1.7 million members. This letter reflects the views of our Regulatory Response Committee, which has been appointed by the GCUL Board to provide input into proposed regulations such as this.

Background:

Indirect lending involves credit union financing for the purchase of goods at the point-of-sale. The merchant, typically an automobile dealer, brings a potential member-borrower to the credit union and also assists with underwriting. When done properly, indirect lending has certain advantages for credit unions, including possible growth in lending volume and membership. Still, because the dealer's primary interest is in facilitating a vehicle sale and not always in the underwriting standards performed by credit union staff, indirect lending poses particular risks to credit unions.

Some vendors offer indirect lending programs in which the vendor manages the credit union's relationship with the automobile dealer and, through loan servicing conducted by the vendor or a related business entity, the credit union's relationship with the member. These lending programs, referred to in this preamble as "indirect, outsourced programs," carry all the risks of indirect lending programs as well as additional risks. NCUA is concerned some credit unions may increase risk exposures in indirect, outsourced programs without first conducting adequate due diligence, implementing appropriate controls, and gaining experience with servicer performance. Therefore, the Board has

determined that regulatory concentration limits on indirect, outsourced programs are appropriate.

NCUA is issuing a proposed rule to regulate purchases by federally insured credit unions of indirect vehicle loans serviced by third parties. NCUA proposes to limit the aggregate amount of these loans serviced by any single third-party to a percentage of the credit union's net worth. The effect of the proposed rule would be to ensure that federally insured credit unions do not undertake undue risk with these purchases.

Summary of GCUL's Position:

We appreciate NCUA's concern about possible increased risk exposure in indirect lending. When the regulatory response committee reviewed the proposal we thought that some clarity was needed in the section regarding the regional director's (RD) authority for granting a waiver, specifically 701.21(h) (2) (iii). The committee noted the proposal allows RDs to grant waivers of the limits as provided in paragraph (h) (1) and further states some factors the RD should consider. Specifically it mentions the RD should consider whether the contract provides the ability of the credit union to replace an inadequate servicer. This statement seems to assume a credit union buys 100% of a loan and as such has control over who does servicing. We wanted to make sure this section was a consideration and not a requirement for RDs to take into account when deciding whether to grant a waiver.

Committee members noted that a program could be designed so that loans are accumulated in pools during the month. Then once a month varying percentages of those pools are sold to participating credit unions. A credit union can choose to purchase 10% of a pool. By doing so they are purchasing 10% of each loan in the pool – they are not purchasing whole loans that add up to 10% of the total. This feature could alleviate some of the risk identified in NCUA's proposal. However, this same feature makes it practically impossible for individual credit unions to change servicers. A credit union holding a less than majority percentage cannot compel a sale of servicing.

Again, our concern is to make sure that the regional director has discretion to review the operation and situation and make an appropriate determination, rather than read the language as a requirement.

Additionally we would like to comment on the proposed regulation's definition of third-party servicers of credit union vehicle loans. Section 701.21(h)(3)(i) of the proposed rule gives the following definition for third-party servicers:

> The term "third-party servicer" means any entity, other than a federally-insured depository institution or a wholly-owned subsidiary of a federally-insured depository institution, that receives any scheduled periodic payments from a borrower pursuant to the terms of a loan and distributes the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the loan.

NCUA stressed that they felt the risks to credit unions associated with these servicers are mitigated because federal regulators have access to and oversight of these entities. Of course, credit unions must still conduct appropriate due diligence even when using these servicers.

We request NCUA consider that in the future - credit unions might decide in order to spread risk that a credit union service organization could be owned by more than one credit union and even included credit union related organizations. These CUSOs would not be wholly owned subsidiaries of *one particular* federally-insured depository institution, but rather a majority ownership of such a CUSO could be held by *several* federally-insured credit unions. Under such an ownership structure, the regulatory oversight of the controlling interests is no less stringent than if *one* depository institution were the owner.

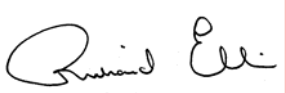
For example in Georgia The Credit Union Loan Source, LLC (CULS) is a Georgia limited liability company and credit union service organization owned by three Georgia state chartered credit unions and the Georgia Credit Union Service Corp. (the League Service Corporation). Each owner has a 25% ownership position, and a single board seat. CULS is not a wholly owned CUSO of any particular federally-insured depository institution. It is not even a majority owned by a single credit union – though a majority ownership is held by federally insured depository institutions.

State chartered credit unions in Georgia have been given regulatory authority to participate in CULS as owners and/or purchasers of participations and CULS is subject to examination by the Georgia Department of Banking and Finance (DBF). Additionally included in the agreement between CULS and each credit union is a clause that will allow not only DBF but also NCUA to examine CULS.

As such, we would ask that the NCUA consider modifying the terminology in the proposed section 701.21(h)(3)(i) to replace the phrase “a wholly-owned subsidiary of a federally-insured depository institution” with the phrase “an entity having a majority of its voting interests owned by federally-insured depository institutions.”

Thank you for the opportunity to comment on the proposed rule to regulate purchases by federally insured credit unions of indirect vehicle loans serviced by third parties. If you have questions about our comments, please contact Cynthia Connelly or me at (770) 476-9625.

Respectfully submitted,



Richard Ellis
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