



October 31, 2012

## NCUA ADVANCE NOTICE OF PROPOSED RULEMAKING ON PAYDAY-ALTERNATIVE LOANS

The National Credit Union Administration Board is seeking comments through November 26, 2012 on an Advance Notice of Proposed Rulemaking regarding payday-alternative loans that are currently authorized for federal credit unions.

### Current Authority for FCUs to Offer PALS

- Under NCUA's general lending rule that was amended in September 2010, the agency authorized small dollar payday-alternative loans for FCUs that may have higher interest rates than other loans that are subject to the usury ceiling under the FCU Act.
- Currently, FCUs may offer PALS that have a loan amount of \$200 to \$1000; have a maturity of one month to six months; have an interest rate of up to 1000 basis points above the maximum rate permitted for non-PALS (28% is currently allowed for PALS); do not rollover; do not result in more than three such loans to the same borrower in six months or more than one loan at the same time to the same borrower; are fully amortizing; and do not have an application fee that is more than \$20. Also, the borrower must have been a member for at least one month and the FCU must include a limit on the total dollar amount of PALS, up to a maximum of 20% of net worth, and underwriting standards in its written loan policies.

Questions under the ANPR on Payday-Alternative Loan (PAL) Authority for FCUs and CUNA's Initial Responses

NCUA is seeking comments on several questions relating to PALS. Here are those questions and CUNA's first reaction, as well as additional issues CUNA will be addressing. CUNA will be working with our Consumer Protection and Federal Credit Union Subcommittees to develop our response to NCUA that will be reflected in our comment letter.

- Should NCUA allow a higher application fee than \$20 associated with PALS?  
**CUNA's Initial Response:** Yes, a higher application fee should be permitted.
- Should the higher fee be associated with a lower maximum interest rate?
- **CUNA's Initial Response:** No, NCUA should allow credit unions to impose an interest rate that is at least 1000 basis above the maximum rate allowed on other loans. As with other loans, credit unions should have the flexibility to set interest rates that reflect the risks associated with an individual borrower's situation.
- NCUA did not ask this directly but another question that arises is whether credit unions should be able to charge application fees that reflect risks or offset losses associated with this type of loans.

**CUNA's Initial Response:** Credit unions should be able to vary application fees, in a reasonable way that reflect PALS program risks and losses.

- Another question NCUA did not ask is the impact of its best practices section accompanying the rule on PALS programs.

**CUNA's Initial Response:** Examiners should not be implementing these best practices provisions as if they are part of the regulation.

- Should NCUA allow a higher interest rate than the current 28%?
- Should NCUA expand the current \$200 to \$1000 range for these loans?
- Should NCUA allow maturities that are shorter than one month and longer than six months?

- Should more than one PAL at a time or more than three such loans in a six month period be authorized for a borrower?
- Should NCUA eliminate or decrease the member requirements for PALs?
- Should NCUA increase the 20% of net worth ceiling on total PALs?
- 

**CUNA's Initial Response:** Yes, NCUA should make changes in its final rule on PALs to allow these flexibilities. To the fourth question above, credit unions should have flexibility to allow additional PALs to an individual borrower during those time frames if the borrower's needs warrant it and the borrower is able to repay the loans on a reasonable basis. CUNA also encourages NCUA to work with state regulators so that state chartered credit unions will have equivalent authority to offer these loans to their members to the extent permissible under applicable state laws.

Please share your comments with CUNA by November 13. You can file your comments directly with NCUA through [regcomments@ncua.gov](mailto:regcomments@ncua.gov). Include your name, Comments on NCUA's Advance Notice of Proposed Rulemaking on Part 701, PAL Amendments, in the email subject line. For questions, feel free to contact CUNA Deputy General Counsel Mary Dunn at [mdunn@cuna.coop](mailto:mdunn@cuna.coop).