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July 30, 2018

Gerard S. Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314
Via email: regcomments@ncua.gov

RE: Notice of Proposed Rulemaking, Part 701, Payday Alternative Loans II (RIN 3133-AE84)

Dear Mr. Poliquin:

The Credit Union National Association (CUNA) appreciates the opportunity to comment on the proposed Payday Alternative Loans (PAL) II rule. CUNA represents America's credit unions and their 110 million members.

CUNA appreciates NCUA's interest in expanding opportunities for credit unions to provide small-dollar, short-term loans in response to consumer demand. CUNA believes that credit unions are ideally situated to satisfy these lending goals, as opposed to unscrupulous payday lenders. CUNA would prefer a holistic approach to PAL products that would provide credit unions and consumers with flexibility to tailor short-term, small-dollar loans to their needs, without being overly prescriptive. CUNA retains concern over the overall low (9%) representation of credit unions using the existing PAL program, cognizant that the compliance and entry costs often outweigh the potential benefits to consumers. We believe a parameters-based approach would offer greater flexibility for credit unions to engage this market.

CUNA recognizes that the Bureau of Consumer Financial Protection (BCFP or "Bureau") small dollar payday lending rule, which was issued in 2017, the Federal Deposit Insurance Corporation (FDIC) small-dollar pilot program, and the Department of Defense Military Lending Act (MLA) permit a 36% annual percentage rate (APR), while the proposed NCUA rule would cap the rate at 28%. We believe a 28% ceiling is overly conservative, and would continue to hinder market participation and innovation in these products and services. Furthermore, to the extent regulatory agencies with supervisory and/or issue overlap can follow aligned thresholds, the more industry can effectively comply with competing rules and regulations.

For purposes of credit unions and their membership, we believe that one open PAL loan at any given time should be sufficient. Credit unions have no interest in making payday loans their primary book of business, but they would like to be an alternative to the predatory payday loan market, and provide short-term, small-dollar loans to members who may need some form of bridge financing to cover an unexpected expense, and would prefer to obtain that product and service from their trusted credit union financial partner. We do not believe that low-income designated or Community Development Financial Institutions (CDFI) credit unions should be subject to the 20% net worth limit; such exception would echo the Member Business Lending (MBL) rule application and we believe would be appropriately applied here as well.

CUNA also has concerns regarding the $2000 maximum loan value remaining stagnant over time. If the final rule were to retain the $2000 limit, CUNA would like a mechanism to revisit the terms and definitions of what constitutes small-dollar. In considering consumer uses and actual costs of an unexpected medical or automobile expense, which are often the sources of consumer short-term need, the $2000 range commonly seems inadequate, especially in higher cost-of-living regions in the country. Still, we believe that a flexible approach with potentially higher rates (up to 36% APR), longer loan maturities (up to 36 months), and higher dollar value thresholds ($3000-$4000 limit) would be preferable.

In terms of an application fee, credit unions have differing approaches to how they may elect to provide small-dollar loans. We believe a $50 application fee limit would ensure sufficient range for institutions to develop pricing options that would permit new market entrants by supporting the actual costs involved.

Similarly, ability to repay requirements should be determined by individual credit unions. The Bureau's 2017 payday lending rule addressed high-cost, high-risk loans, not of the type expected under NCUA's proposal. Imposition of Bureau-style requirements would disproportionately increase compliance and origination costs, without reducing financial risk. Unlike payday lenders, credit unions would be better positioned for access to a member applicant's employment, direct deposits, revolving loans, assets, and/or overall credit, and should have discretion to make their own ability to repay determinations. Given the nature of how credit unions are and would like to operate in the small-dollar lending space, we do not believe "overdraft fees/charges" would be appropriate for consideration, nor would such be a preferred option.

While we believe that NCUA has legal authority to incorporate the recommendations suggested herein without a full re-proposal of the small dollar rule, we remain supportive of a re-proposed rule that would overhaul the existing and proposed PAL I and PAL II product lines into a cohesive singular PAL program that provides flexible ranges under which credit unions may tailor small-dollar, short-term lending products according to their regional, market, and consumer needs.

Again, CUNA appreciates the agency's willingness to address the small-dollar needs of credit union members, as we believe this is an important business line for credit unions and an area in which trusted insured depository institutions should be encouraged to engage. We urge NCUA leadership to continue to pursue regulatory alignment with the Bureau of Consumer Financial Protection and the banking agencies to ensure NCUA oversight of credit unions' small-dollar lending programs remain exempt from additional, duplicative regulatory burden imposed by non-NCUA entities. Such ongoing coordination will be critical as the Bureau revisits the 2017-promulgated payday lending rule.

Thank you for the opportunity to provide comments. Should you have any questions about CUNA's comments, please feel free to contact me at (202) 626-7627, or Alexander Monterrubio at (202) 508-3629.

Sincerely,

Monique Michel
Senior Director, Advocacy & Counsel
Credit Union National Association