

NCUA Proposed Rule

Payday Alternative Loans

Summary

Prepared by NASCUS Legislative & Regulatory Affairs Department

May 2018

NCUA is proposing to allow federal credit unions (FCUs) to offer an additional payday alternative loan (PALs) option as part of FCU lending authority. The changes proposed by NCUA would not replace the existing PALs rule (PALs I). Rather, the proposal would create a second variation (PALs II). The new proposed PALs II loans would incorporate the requirements of PALs I with these differences:

- 1) The minimum and maximum amount of the loans would differ
- 2) The number of loans a member could receive in a 6-month period would differ
- 3) There would be no minimum length of membership requirement
- 4) The maximum maturity would differ

NCUA also seeks comments whether a PALs III should be created with differing fee structures, loan features, maturities, and loan amounts.

This proposed rule, and the existing PALs rule, apply directly only to FCUs. Federally insured state chartered credit unions (FISCU) should look to state law and state regulation for their ability to make PALs loans.

The proposed rule may be read in its entirety [here](#). Comments are due to NCUA 60 days after the proposal is published in the *Federal Register*.

Background & Summary

NCUA authorized PALs I for FCUs in 2010. The framework for PALs I loans is as follows:

PALs I Limitations

Interest Rate	Generally no more than 1000 basis points above the regular interest rate set by NCUA for FCUs
Nature of Loan	Closed-end
Limitations on Loan Principle	Minimum \$200 - Maximum \$1000
Limitations on Loan Terms	Between 1 and 6 months
Aggregate Loans to 1 Member	No more than 1-at-a-time nor more than 3 loans w/in 6 months

Rollovers	Prohibited but extensions w/in maximum loan term permitted so long as no fees nor new credit
Amortization	Full
Membership Requirement	1 Month
Application Fee	Must reflect actual costs and may not exceed \$20.00
Aggregate Program Limit	20% of net worth

Current Data on Pals I Loans

December 31, 2017 5300 call report

Loans Outstanding	190,723
FCUs Offering PALs I	518
Aggregate Balance of PALs I	\$132.4 million

Proposed PALs II

NCUA is proposing the creation of a second payday alternative loan to compliment PALs I. The new PALs II option for FCUs would incorporate many of the existing provisions of PALs I, but would differ in a few significant respects. FCUs could make either PALs I or PALs II or choose to offer both.

Feature	PALs I	Proposed PALs II
Permissible Interest Rate	1000 basis points above the general interest rate set by NCUA	1000 basis points above the general interest rate set by NCUA
Loan Structure	Closed-end	Closed-end
Application Fee	Must reflect actual costs and may not exceed \$20.00	Must reflect actual costs and may not exceed \$20.00
Rollovers	Rollovers prohibited, but PALs I loan may be extended to maximum loan term (6 months)	Rollovers prohibited, but PALs I loan may be extended to maximum loan term (12 months)
Aggregate Lending Cap	20% Net Worth	20% Net Worth
Amortization	Must fully amortize	Must fully amortize
Loan Amount	Minimum \$200 - Maximum \$1000	No minimum – Maximum \$2,000.00
Loan Term	Minimum 1 month – Maximum 6 months	Minimum 1 month – Maximum 12 months
Membership Requirement	Minimum 1 month	No length requirement
Number of Loans to same Member	No more than 1-at-a-time nor 3 loans w/in 6 months	Only 1 loan at a time but no limit on how many times loans made to same member

Compliance with CFPB Payday Loan Rule

On November 17, 2017, the CFPB issued its final [Payday Loan Rule](#), establishing consumer protections for certain credit products and deeming certain practices to be abusive and unfair. Practices deemed abusive and unfair include:

- Failing to reasonably determine that a borrower has the ability to repay a loan in accordance with its terms
- Attempting to withdraw payments from a borrower's account after two consecutive payments attempts have failed

CFPB has granted a safe harbor for any loans made pursuant to NCUA's PALs I rule, exempting PALs I loans from the Payday Loan Rule. **PALs II loans DO NOT automatically qualify for the PALs I safe harbor/exemption.** However, the CFPB's rule also provides a partial exemption for "alternative loans" that meet all of the requirements of the current PALs I rule, not including:

- 1) the minimum membership requirement; nor the
- 2) limit on the number of loans provided to any one borrower in a six-month period

Therefore, a FCU could structure PALs II loans to qualify for an exemption from the CFPB Payday Loan Rule. However so doing would mean foregoing the option of making PALs II loans up to \$2,000.00 and issuing 12 month terms. This would be a business decision for the FCU.

NCUA additional request for comments:

In its proposal, NCUA indicates it is seeking additional comments on further refining payday alternative lending for FCUs. NCUA asks what additional authority FCUs should have, what loan features should be considered, and whether PALs III and additional loan packages should be formally proposed/developed.

-End-