 Office of Credit Unions Policies and Procedures	POLICY NUMBER
	10340
LENDING	EFFECTIVE DATE
	11/01/2018
SUBJECT	REVISION DATE
	11/01/2018
Purchase/Sale of Eligible Obligations	PAGE(S)
	Page 1 of 3

I. PURPOSE

Credit unions may sell or pledge obligations of its members under certain conditions. Examiners must ensure that obligations meet the requirements of the MCUA, bylaws and lending policies as established by the Board.

II. PRIMARY REFERENCES / RELATED REGULATIONS

1. Michigan Credit Union Act: [Section 432](#): Purchase, sale or pledge of member obligation
2. NCUA Rules & Regulations, [Part 701.23](#) (reference only – N/A for FISCUs)

III. MINIMUM PROCEDURES

1. Review the Credit Union's Policy

The MCUA requires a written policy outlining the conditions of purchases and/or sales of member obligations.

2. Review Sample of Purchases and/or Sales

a. Purchases require:


- i. The Board to approve the obligation purchase, or approve to purchase a class of obligations that includes the obligation.
- ii. The credit union must retain, at its principal place of business, the written agreement for the purchase and a schedule of the obligations covered by the agreement.
- iii. That if the obligation is purchased at a discount or premium, if the discount or premium is amortized monthly over the remaining term of the obligation.

b. Partial purchases require:

- i. The purchase agreement must disclose the responsibilities of each party if the obligation is subject to collection, loss or foreclosure.
- ii. The purchase agreement must provide that, in the event of a loss, each owner shares in the loss in proportion to the owner's interest in the obligation.

c. Sales of all or part of a member's obligation require:


- i. The Board to approve the sale.
- ii. The credit union must retain, at its principal place of business, the written agreement for the sale and the schedule of obligations covered by the agreement.

 Office of Credit Unions Policies and Procedures	POLICY NUMBER
	10340
LENDING	EFFECTIVE DATE
	11/01/2018
SUBJECT	REVISION DATE
	11/01/2018
Purchases/Sale of Eligible Obligations	PAGE(S)
	Page 2 of 3

- iii. The sale agreement may not include a recourse or repurchase provision other than one or more of the following:
 - (1) A provision which requires the seller to repurchase the obligation because of a breach of warranty or misrepresentation;
 - (2) A provision which allows the credit union to repurchase the obligation at its discretion;
 - (3) A provision which allows substitution of one loan for another loan.
 - d. Pledges of member obligation(s) requires:
 - i. The pledge must meet the conditions of the pledge policy adopted by the Board of Directors.
 - ii. The Board must approve the pledge.
 - iii. The agreement to pledge must identify the obligations covered by the agreement.
 - iv. The agreement to pledge must set forth the responsibilities of each party if an obligation covered by the agreement is subject to collection, loss, foreclosure, or default.
 - v. The pledge must be authorized and comply with Section 401(2) of the MCUA.
 - e. In General:
 - i. For a fee, the credit union may agree to service all or part of an obligation it purchases or sells.

3. Review Controls

- a. Conflict of Interest: Pursuant to the MCUA, a member shall not (directly or indirectly) give, and a senior management employee shall not (directly or indirectly) receive a fee, compensation, commission, gift or other consideration as an inducement to purchase, sell or pledge an obligation of a member.
- b. Internal Functions/Controls:
 - i. There must be a policy pertaining specifically to the purchase/sale/pledge of member obligations, the procedures related to such, including individual and aggregate loan limitations, to control risk.
 - ii. There should be controls in place to ensure only loan interests are acquired which meet the credit union's underwriting standards, comply with all pertinent regulations, and comply with the Purchase Agreement. The responsibility to ensure safe and sound lending

 Office of Credit Unions Policies and Procedures	POLICY NUMBER
	10340
LENDING	EFFECTIVE DATE
	11/01/2018
SUBJECT	REVISION DATE
	11/01/2018
Purchases/Sale of Eligible Obligations	PAGE(S)
	Page 3 of 3

practices, including sound underwriting standards, cannot be outsourced.

- iii. Management should have legal counsel review material contracts, including Purchase, Sale, and/or Pledge Agreements to ascertain the legality, compliance and to ensure that risks to the credit union have been identified and mitigated/minimized.
- c. External Functions/Controls:
 - i. There should be initial and ongoing evaluation of any external entity responsible for administering the Participation Agreement (particularly those providing collections and/or servicing functions). Should such an entity fail to meet their obligation, the credit union should have a contingency plan for ensuring those functions will continue.
 - ii. There should be procedures in place to ensure proper verifications/reports are received on the purchased, partially sold or pledged loans/portfolio, and that any outsourced collection responsibilities are being performed.
 - iii. There should be clear responsibility assigned for reviewing initial documentation and subsequent reporting. Accordingly, for errors or irregularities identified, there should be procedures and persons responsible for researching and seeking resolution.