The Wisconsin Credit Union League

One League, One Focus - Your Success!

Submitted via email to: *boardcomments@ncua.gov*

Nov. 20, 2017

Mr. Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Arlington, VA 22314-3428

Re: NCUA Regulatory Reform Agenda

Dear Mr. Poliquin:

On behalf of Wisconsin's credit unions® and their more than 3 million members, the Wisconsin Credit Union League (the League) is pleased to comment on the National Credit Union Administration (NCUA) Regulatory Reform Agenda.

We appreciate the efforts of the Regulatory Reform Task Force in comprehensively reviewing NCUA's regulations and recommending amendment or repeal of outdated, ineffective, or excessively burdensome rules. As an independent regulator, the NCUA was not required to comply with Executive Order 13777, but we are grateful that it chose to comply with the order's spirit and seek out ways to alleviate unnecessary regulatory burdens. We hope that the efforts will result in meaningful regulatory relief for our credit unions in the coming years.

Regulatory relief is a pressing need for credit unions and their members. Nationally, regulatory burden diverts a staggering $7.2 billion a year from credit union services, as reported by the Credit Union National Association.[1] Statewide in Wisconsin and in 2014 alone, the burden of federal financial regulation imposed an annual cost of $133.8 million in direct costs to comply, plus $28.1 million in reduced revenue from not being able to invest resources on member service. That's a total impact of $161.9 million in 2014, or $62 per credit union member in our state.

That harsh regulatory compliance is a particular hardship for smaller credit unions. In March 2017, Wisconsin's 140 credit unions had a median asset size of just $44 million. At that size, a Wisconsin credit union has, on average, just 10.5 employees. With limited resources, credit unions have few choices to address growing compliance costs. In many cases, they are forced to consider increasing fees, ending certain services, or abandoning plans to introduce new services – difficult decisions for credit unions, which pride themselves on delivering superior value to their member-owners.

Certainly, NCUA regulations account for only a portion of those costs, but the Task Force's recommendations are an important step toward easing the overall federal regulatory burden our credit unions face. That's why we appreciate the NCUA's efforts in this regard.

This letter will focus only on the Task Force recommendations that are most important for Wisconsin's credit unions. (The numbering in the remainder of this letter corresponds to the Task Force's numbered recommendations.)

[1] See http://www.cuna.org/regburden/

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Tier 1 Recommendations (First 24 months)

1. Loans to Members and Lines of Credit to Members: We support the recommendations that address loan maturity limits, which would give federal credit unions (FCUs) more flexibility and reduce confusion about how the rules are applied to specific situations like loan modifications. In particular, we would welcome an amendment to §701.21 allowing longer maturity limits for 1- to 4-family real estate loans and similar housing loans (such as home improvement and mobile home loans). The change would allow credit unions to compete more effectively in the real estate lending market without having to seek NCUA "case-by-case" exceptions.

We also favor eliminating portfolio limits and related waiver provision for third-party servicing of indirect vehicle loans. A comprehensive third-party due diligence regulation could effectively address the minimum expectations for credit unions using any third-party loan servicers.

2. Loans to Members and Lines of Credit to Members: Compensation in connection with loans: We back the Task Force's recommendation to modify §701.21, giving credit unions more flexibility to offer their senior executives compensation plans that reflect the credit union's organizational goals and performance measures. Individual credit unions can best craft plans to meet their needs, and they should be given freedom to do so without undue regulatory restrictions.

4. Appendix A to Part 701 – Chartering and FOM Manual: The League supports the recommended revisions to the NCUA's chartering and field of membership (FOM) rules. Removing the population limit on a community statistical area makes sense. The Federal Credit Union Act does not require that cap, and it serves no reasonable purpose. Rather than set an arbitrary population ceiling, the NCUA should approve FOM requests based on the FCU's demonstrated ability to serve members within a community, regardless of population. In addition, we agree that FCUs should be given more freedom to demonstrate (via a narrative) that the common interests or interactions among residents of an area qualify it as a well-defined local community.

7. *Appendix B to Part 701—Capital Adequacy:* We agree that the NCUA should delay implementation of its risk-based capital (RBC) rule, to give credit unions more time to make needed system changes and to give the NCUA more time to review its rule and thoughtfully develop the necessary call report changes. RBC rules and regulations must be narrowly tailored to capture only the appropriate risk profiles intended; concurrently, the call report must be modernized to reduce credit unions' reporting burdens and will give regulators better tools for on-site examinations and off-site monitoring.

9. Part 704 - Fidelity Bond and Insurance Coverage: We agree that credit unions should be allowed to make their own business decisions on required fidelity bond and insurance coverage. Each credit union should have the flexibility to assess its own product and service needs and to make prudent business decisions without undue regulatory interference.

11. Part 715 – Supervisory Committee Audits and Verification: Audit per Supervisory Committee Guide: The Task Force has recommended removing references to the NCUA's Supervisory Committee Audit Guide. "In its place, include minimum standards a supervisory committee audit would be required to meet if they do not obtain a CPA opinion audit." Without further details, we cannot support or oppose this recommendation; however, if the NCUA pursues this change, it must take care not to impose new additional compliance burdens. Instead, its goal should be only to simplify, clarify and streamline the "minimum standards" required for supervisory committee audits.

13. Part 722 – Appraisals: The NCUA should, as the Task Force recommends, raise the commercial real estate loan appraisal threshold from $250,000, to $400,000. We would prefer that the NCUA act on its own authority (not through interagency rulemaking with the other banking regulators) to raise both the commercial real estate appraisal threshold and the threshold for certain qualifying business loans not dependent on the sale or rental income of the property.

14. Part 740 – Accuracy of Advertising and Notice of Insured Status: Certainly, the NCUA should revise its advertising rules, which impose unnecessary burdens on federally insured credit unions, to give credit unions parity with FDIC-regulated banks. Specifically:

- The League urges the NCUA not to require the advertising statement for radio or TV spots as short as 15 seconds (as the current rule now does), and instead to extend its exception to ads of 30 seconds or less.

- We see no valid reason to continue requiring credit unions to include the advertising statement on published statements of condition; that requirement provides no discernable public benefits and is merely a "compliance trap" for unwary credit unions.

- We strongly agree that "the regulation should be modified to accommodate advertising via new types of social media, mobile banking, text messaging and other digital communication platforms, including Twitter and Instagram." Current NCUA advertising rules are inadequate to address credit unions' social media usage. Any new or modified rules should be designed to ensure that credit unions retain maximum flexibility to use new forms of social media and to take advantage of changing technologies effectively, without waiting for regulators to catch up as tech evolves.

In addition, the NCUA should take any appropriate steps to emphasize that Part 740 preempts state advertising restrictions for both FCUs and federally-insured state-chartered credit unions (FISCUs). For example, at a minimum, any modifications to these rules should retain the first sentence of Part 740: "This part applies to all federally insured credit unions." Additional revisions to bolster the preemptive force of part 740 could provide additional clarity for both FCUs and FISCUs and ensure that all credit unions operate under fair and consistent advertising rules. (The League recently asked the NCUA's Office of General Counsel to issue a Legal Opinion that §740.2 preempts the application of these certain state advertising laws to FCUs and to FISCUs.)

15. Part 741 - Requirements for Insurance: The League strongly supports this recommendation. In September, when we commented on the NCUA's proposed NCUSIF equity distribution, we addressed our concerns about distributions to credit unions that had terminated federal share insurance coverage:

> The Board has proposed to amend its rules to prohibit NCUSIF equity distributions at year-end to any FICU that has terminated federal share insurance coverage during the year. This proposed "bright line" rule seems fairer to FICUs than the NCUA's current practice, which allows pro-rata distributions to credit unions that terminate NCUSIF coverage during the year. It is inherently inequitable to let credit unions terminate federal insurance coverage mid-year, and thereby avoid the risks of a premium assessment or capitalization deposit increase for the remaining months of that year, and still reward them with equity distributions at year-end. That practice disadvantages FICUs that remain federally insured throughout the calendar year and bear the risks others may avoid. (All Wisconsin state-chartered credit unions are FICUs, because state law prohibits the use of private share insurance.) In addition, FICU management

that is considering terminating federal share insurance coverage should factor in the risk they may bear of missing out on a year-end equity distribution.

The same principals apply to the payment of NCUSIF dividends.

Tier 2 Recommendations (Year 3)

1. §701.22—Loan Participations: The League supports the Task Force's recommendation to eliminate the prescriptive limit on the aggregate amount of loan participations that may be purchased from any one originating lender. Credit unions should be allowed to set their own prudent limits, based on the levels of risk involved and their boards' established policies. The current limits unfairly hamper responsible credit unions' loan participation programs, based arbitrarily on how the loans were originated.

7. Part 702 – Capital Adequacy: The League backs the recommendations to change the definition of "complex" in the NCUA regulations, thus reducing the applicability of RBC and risk-weights for smaller credit unions. As we (and CUNA) stressed during the RBC rule-making process, these rules should be narrowly-focused and simplified; to the extent credit unions must meet RBC requirements, supplemental capital should be permitted to count toward the requirements.

Tier 3 Recommendations (Year 4+)

2. §701.21 - Preemption of state laws: We support efforts to address the confusing landscape of NCUA preemption. We agree that FCUs operating in multiple states can face a daunting array of sometimes conflicting and overlapping state lending laws. Enhancing preemption would help to level the playing field for those credit unions. We want to remind the NCUA that preemption impacts FISCUs as well as FCUs. As previously explained, The League recently asked the NCUA's Office of General Counsel to issue a Legal Opinion that §740.2 preempts the application of certain state advertising restrictions for both FCUs and FISCUs. The NCUA should take steps, where appropriate, to clarify the scope of preemption as it applies to FISCUs, not just FCUs.

3. §701.21 - Interest rate ceiling: We agree that the NCUA should consider tying its interest rate limit to a domestic index. The change would give much-needed elasticity to a rate cap that hasn't changed since 1987, despite dramatic economic swings over the past 30 years.

9. §741 - Requirements for Insurance & maximum borrowing authority: The League agrees that the 50% borrowing limit for federally insured, state-chartered credit unions should be eliminated, and that states should be left to set their own limits, based on state-specific policies.

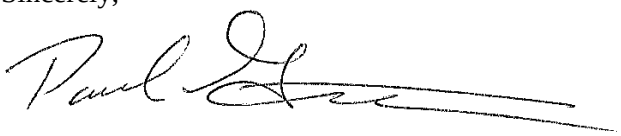
11. Part 748 - Security Program, Report of Suspected Crimes, Suspicious Transactions, Catastrophic Act, and Bank Secrecy Act Compliance: BSA compliance is a major obligation for all credit unions. Given the current dollar amount thresholds for Currency Transaction Reports (CTRs) and Suspicious Activity Reports (SARs), we question how useful they are to the nation's law enforcement community. The League is in complete agreement with CUNA, which has commented that the thresholds for CTRs and SARs should be raised – since they have been unchanged since 1972. A $20,000 reporting threshold would help ensure that only effective and useful data is transmitted, and it would significantly lower the reporting burdens on credit unions.

Conclusion

The League wants to express its appreciation to the NCUA and its Regulatory Reform Task Force. These recommendations, if implemented, would make significant dents in the federal compliance burdens facing our Wisconsin credit unions. We urge the NCUA to move forward on this agenda as expeditiously as it can.

Thank you.

Sincerely,



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