



September 12, 2011

Ms. Mary Rupp, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

Via Email: regcomments@ncua.gov

Re: Proposed Amendments to the NCUA CUSO Regulations
(12 CFR Parts 712 and 741)

Dear Ms. Rupp:

I. Adequate Capital Requirements

We acknowledge that there have been some CUSO failures that have caused losses to credit unions. We further acknowledge that safeguards should be in place to limit the likelihood of credit union losses. Therefore, the expansion of existing capital rules for federally chartered credit unions to state-chartered credit unions is reasonable. State-chartered credit unions that are less than adequately capitalized should be required to submit a request to the appropriate state regulator prior to investing in a CUSO that exceeds investment limits set by a particular state. However, it seems redundant to require credit unions to submit the same request to their appropriate NCUA regional office. Dual control is not necessary and is inefficient and costly. The decision should rest with the state regulator, who is certainly able to determine if a credit union should be permitted to invest in a CUSO.

II. NCUA Reporting Requirements /Access to CUSO records

The proposed rule would require both state and federally chartered credit unions to include in their CUSO agreements a provision that would require CUSO(s) to directly submit financial reports NCUA and the State Regulator, if a state-chartered credit union is involved. We are strongly opposed to this requirement. This is direct regulation of a vendor, which NCUA does not have legal authority to do. Previously, Section 206A of the Federal Credit Union Act (12 U.S.C. §1786) permitted NCUA to examine CUSO(s) that were owned by federally-insured credit unions. This authority terminated on December 31, 2001 and Congress has not renewed this authority. Rather than seek a legislative change, NCUA instead relies on its safety and soundness powers to regulate CUSO(s).



NCUA intends to collect balance sheet and income statement information, yet it is unclear what actions or steps NCUA will take after receiving this information. Does NCUA plan to add staff and devote additional resources in order to gain expertise in interpreting the financials of the types of CUSO(s) that are in existence today? CUSO(s) offer a variety of services. In addition to providing lending and financial planning services, there are also CUSO(s) which provide operational support such as shared branching, ATM network, and other back office functions. Without expertise in these areas, a requirement to submit financial reports is not likely to yield much benefit to the credit union industry or prevent losses in the future. Additionally, this requirement adds another burdensome regulatory requirement for credit unions who are already struggling under the weight of new and revised regulatory requirements with the creation of the new Consumer Financial Protection Bureau. NCUA should consider requiring credit unions to include additional information in their call report submissions rather than creating a separate reporting requirement for CUSO(s).

Additionally, the information required in this report is overreaching. Not only is NCUA seeking financial information, they are also seeking information about a CUSO's client/customer listing and level of activity for each customer. This information is not relevant and may inadvertently disclose potentially sensitive information. The industry should at least be given an opportunity to review the actual report that NCUA intends for CUSO(s) and provide comment before being subject to this requirement.

The proposed rule also seeks to require state-chartered credit unions to have agreements in place that would allow NCUA to have access to CUSO books and records. Although this is an expansion of existing rules for federal credit unions, additional regulation seems overreaching. State regulators have the ability to request this of state-chartered credit unions currently if they have safety and soundness concerns. It is important to note that some CUSO(s) are already subject to rigorous regulation and oversight from other regulatory bodies, such as the SEC on the federal level and various state regulatory bodies in the areas of securities, insurance and real estate. Additional oversight will have a chilling effect on the CUSO industry and hamper their ability to compete with non-CUSO entities seeking to provide services and investment opportunities to credit unions.



III. CUSO Subsidiary Rules

The proposed rule would prevent credit unions from investing in a CUSO unless all of the CUSO's subsidiaries comply with NCUA's CUSO regulation. The definition of subsidiary CUSO seems vague and should be clarified to ensure that it is not overreaching. Does a CUSO have to wholly own the subsidiary? What if the CUSO has a modest ownership interest in a company? Is this a subsidiary? Certainly an organization in which a CUSO has less than a controlling interest should not be included in the definition of a subsidiary.

IV. Impact to Credit Unions

For those credit unions that are adequately capitalized and able to invest in CUSO(s), this regulation will result in increased paperwork, increased investment costs, and increased operational costs for the CUSO. As mentioned above, the regulation as proposed will negatively impact the operations of existing CUSO(s) and hinder CUSO formation in the future, undermining the collaborative spirit of credit unions. Credit unions that depend on the services that CUSO(s) provide will have to seek relationships with vendors outside of the credit union industry instead of being able to form relationships with their industry peers.

Small credit unions will be adversely impacted by the increase in regulatory burden. Small credit unions lack the resources and staffing to adequately handle many of the regulatory requirements that are imposed on them. Rather than seeking to alleviate or improve the regulatory burden for credit unions, NCUA is again seeking to increase the burden at a time when many credit unions can least afford it. A theme that resonates throughout our member credit unions, no matter the size, is the expense and staff time that increased regulation has caused the credit union industry. We urge NCUA to reconsider this proposal and find ways to reduce regulatory burden. An open dialogue between NCUA, credit unions, and CUSO(s) should be commenced prior to finalizing this CUSO proposal. Once again, we appreciate the opportunity to comment on this proposal.

Sincerely,

/s/ Nicole M. Soto

Nicole Soto, Esq.
General Counsel