OPEN TECHNOLOGY SOLUTIONS, LLC

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September 22, 2011

Mary Rupp, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428
Email: regcomments@ncua.gov

Re: Comments to the Proposed
Amendments to the NCUA Regulations re:
CUSOs 12 CFR Parts 712 and 741

Dear Ms. Rupp:

Please be advised that Open Technology Solutions opposes the above referenced Amendment to the NCUA Regulations regarding CUSOs for the following reasons.

Our CUSO, Open Technology Solutions (OTS) provides technology services and a serves as the collaborative hub for three large credit unions. We utilize the combined scale of our partner credit unions to negotiate more aggressive pricing from third party vendors for hardware, software, and a myriad of mission-critical services. We estimate that OTS saves each of our partner credit unions $2-3 million annually – savings which are partner credit unions return to their members in better rates and services.

We are in business solely to create value for the owners of our partner credit unions -- the members. NCUA's information disclosure and regulation of CUSOs will stifle our ability to innovate and provide collaborative solutions to sustain our partner credit unions, and provide value to their members. Prospective partners will look first at the obstacles created by these proposed regulatory considerations, and will ultimately be hesitant to consider our collaborative model, or models similar to ours.

NCUA's legal authority to approve the proposed regulatory changes is suspect. NCUA does not have regulatory authority over CUSOs yet this proposal requires CUSOs to provide financial information directly to NCUA which NCUA will retain and evaluate. This looks and feels like vendor authority and direct regulation of CUSOs which has not been authorized by Congress.

By imposing additional regulatory burdens on us, our organization will be put at a competitive disadvantage with non-CUSO competitors. We compete regularly with non-CUSO organizations which do not have these proposed regulatory burdens, and will consequently be able to operate at lower costs. Further, by requiring our organization to provide confidential information to the NCUA, our confidential information will be available to our competitors through FOIA requests.

CUSOs help credit unions earn and save millions of dollars under the current regulatory model. There is no evidence that CUSOs pose a systematic risk to credit unions that requires regulatory change. The aggregate amount invested in and loaned to CUSOs is only 22 bps of industry assets. It's inconceivable that this truly can represent "systemic risk" to the industry, especially when the total aggregate investment in and loans to CUSOs is considerably less than the annual corporate stabilization assessments in any of the last three years. Each credit union's CUSO investment risk is less than 1% of its assets. NCUA already has the ability to examine the books and records of CUSOs and exercise full leverage over the credit union owners to resolve any safety and soundness issues. NCUA cannot make the case that CUSOs had anything to do with the financial difficulties in the credit union industry.

NCUA's two reasons for imposing regulatory authority over all CUSOs are inadequate to justify new regulation. NCUA desires parity with banks' regulatory authority over bank operating subsidiaries yet there is no evidence that the banks' regulatory authority over bank operating subsidiaries mitigated bank losses in the economic crisis. NCUA cites substantial loan losses realized in a certain business lending CUSO. Even if CUSOs that make business loans pose a risk that need addressing, NCUA's attempt to apply a regulatory cure for a business lending CUSO to all CUSOs is misguided when business lending CUSOs are estimated to constitute less than 1% of total CUSOs.

The additional costs of the proposed CUSO rule in staffing and operational budget of NCUA is an unjustified and unnecessary expense the industry will have to bear. If NCUA expects to hire experts in every type of business CUSOs engage in, the costs will be staggering, which will ultimately be paid by credit union members in the form of lower deposit rates, higher loan rates, and reductions in services. In no way does this benefit the owners of credit unions – its members.

NCUA will curtail the power of credit unions with less than 6% capital to invest in CUSOs if the aggregate cash outlay to a CUSO exceeds the CUSO investment limitation on a cumulative basis. How far back does the cumulative calculation go? What if a credit union invested in a CUSO ten years ago, does that count? How do investments in other CUSOs figure in to the analysis?

What is the procedure to obtain NCUA approval to make additional investments? What are the standards of review that NCUA will use? Is there a time period in which NCUA must respond to a request or can the request go unanswered?

Our CUSO does not generate income, yet we provide millions of dollars in operational savings to our partner credit unions annually. There are a variety of operational CUSOs in business today to save the credit union's operating costs and not to make money. Financial service CUSOs are often formed solely for marketing or license purposes and income flows from a third party vendor directly to the credit unions. If NCUA is to review CUSOs based solely on balance sheets and income statements, there are questions that must be answered. How does NCUA expect to see the value of CUSOs to credit unions or analyze risk solely through a balance sheet or income statement? What will be the NCUA's standards of review for CUSO success? Does NCUA intend to shut down a CUSO that does not have a large balance sheet or income statement regardless of the positive financial or service impact the CUSO has for its credit union owners?

I ask the NCUA to withdraw the proposed Amendment in whole.

Very truly yours,

Michael Atkins
CEO, Open Technology Solutions

cc. The Honorable Debbie Matz, Chairman
The Honorable Michael Fryzel, Board Member
The Honorable Gigi Hyland, Board Member