League of Southeastern Credit Unions

September 26, 2011

Ms. Mary Rupp
Secretary to the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

RE: NCUA / RIN 3133-AD93 / Proposed Rule – Credit Union Service Organizations

Dear Ms. Rupp:

The League of Southeastern Credit Unions (LSCU) appreciates the opportunity to submit comments to the National Credit Union Administration (NCUA) in response to the proposal that seeks to amend current Credit Union Service Organization (CUSO) rules. Under the proposal, the NCUA is proposing to expand the current CUSO requirements to include provisions that add additional regulatory requirements to state and federal credit unions and may even place the NCUSIF coverage of some credit unions at risk. By way of background, LSCU represents an estimated 6 million credit union members through more than 300 state and federal institutions in Alabama and Florida.

Currently, credit unions investing in or lending to CUSOs must agree to allow NCUA to examine the books and records of the CUSO. The proposal would expand this requirement to impose obligations directly on all CUSOs that credit unions lend to or invest in to prepare quarterly financial statements, to obtain an annual audit, and to provide an annual report to NCUA and state regulators, as appropriate, all in conformance with generally accepted accounting principles (GAAP) or generally accepted auditing standards (GAAS).

We are opposed to requiring CUSOs to provide financial statements directly to the NCUA and state credit union regulators. It is our belief this obligation placed on CUSOs exceeds the NCUA's authority. Over a decade ago, Congress authorized the NCUA to review CUSO activities but ultimately allowed those provisions to expire. In the time since, no steps have been taken to renew or reauthorize the provisions to make permanent the NCUA's authority to regulate CUSOs. With that said, I want to emphasize that our organization supports enhanced transparency for all credit unions, including increased information provided by CUSOs to

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participating credit unions. Our League believes that credit unions who have invested in CUSOs should have the expectation of receiving quarterly financial statements prepared under GAAP, annual audit reports prepared under GAAS, and pertinent information that allow credit unions to perform the appropriate amount of due diligence as it relates to the CUSO. In addition to these items, it is our belief that an exemption or waiver process with requirements that follow GAAP and GAAS for small CUSOs should be created. Small CUSOs would greatly benefit from the elimination of the significant regulatory burdens they will surely face if held to the very same standards as CUSOs of far greater size and resources.

As you know, state chartered credit unions can lose access to National Credit Union Share Insurance Fund (NCUSIF) coverage if they do not comply with current requirements in the CUSO rule regarding access to their CUSO's books and records by regulators and additional requirements to maintain separate corporate identities from their CUSO. The current proposal would expand this to make the requirement to provide financial statements and financial audits prepared under GAAP or GAAS also conditions that must be met for credit unions lending in or investing to CUSOs. The proposal would make these requirements a condition of continued NCUSIF coverage for federal as well as state chartered credit unions that lend to or invest in CUSOs.

LSCU opposes these provisions and consider them to be punitive and burdensome to credit unions. Furthermore, it is unnecessary for the NCUA to adopt additional sanctions as an enforcement tool. The NCUA has numerous enforcement provisions from which to choose when addressing questions of a credit union's compliance with regulatory statutes. To expand the rule to require financial statements and financial audits as conditions that must be met or risk losing NCUSIF coverage is unacceptable.

The proposal as presented for comment would require entities termed "subsidiary CUSOs" that CUSOs invest in to comply with the CUSO rule. CUSOs subsidiaries funded by CUSOs that receive investments or loans from state chartered credit unions would have to also meet state requirements.

NCUA's authority to apply these provisions is questionable at best. LSCU is opposed to the attempt to apply this requirement to CUSOs. As I stated earlier, it is our belief that the NCUA is exceeding its delegated authority when it attempts to apply provisions such as these. The decision to require provisions such as this for state chartered credit unions rests with state regulatory agencies rather then the NCUA.

Currently, federal credit unions that are less than adequately capitalized may not invest in a CUSO if the investment would require a total cash outlay of more than 1% of the credit union's paid-in and unimpaired capital and surplus, unless the credit union receives prior written approval from its NCUA regional director. The proposal would apply this general requirement to undercapitalized state chartered credit unions, which would have to obtain approval from their state regulator and notify NCUA of the request for approval. The limit on the amount of the investment would be determined by state law; if such limits do not exist under a state credit union's state laws, the 1% limit on undercapitalized federal credit unions would apply.

Because this requirement is consistent with generally accepted safety and soundness procedures and because many of our member affiliates that are federal credit unions are already subject to it, LSCU is generally supportive of this requirement.

In conclusion, we have found that credit unions throughout our membership are very concerned about the overall ramifications of this proposal. Based on those concerns, we strongly urge the agency to discontinue efforts to finalize the proposal as presented for comment. Over the years the NCUA has had at its disposal, resources available to respond to instances of questionable credit union activities involving CUSOs. These NCUA resources make passage of the provisions in the proposal unnecessary and burdensome. Current requirements already in place require credit unions to take documented steps to perform reasonable due diligence regarding their involvement with CUSOs. Examiners should, as part of their defined duties, ensure that credit unions are completing their due diligence in a satisfactory manner and in return are receiving satisfactory information from their CUSOs. A review of this information should include an examination of 5300 reports and related documents to clearly define the relationship between credit union and CUSO.

Additionally, under the proposal no undercapitalized federally insured credit union would be allowed to make new investments in CUSOs without prior approval from either NCUA or the designated state credit union administrator. This arrangement would provide for the NCUA's participation in arguably every request for investment approval from a credit union seeking to invest in a CUSO and would allow for adequate risk oversight of the credit union and NCUSIF. Finally, we call into question whether the agency can legally expand its authority to include the direct oversight of CUSOs as provided in the proposal. We believe this effort exceeds NCUA boundaries and again urge the agency to work within its current structure to ensure credit unions meet their due diligence obligations and future examinations are reviewing the related CUSO activities thoroughly. Rather than adopting additional burdensome regulations, we view the improved use of existing supervisory methods as a more efficient use of agency time and resources.

We appreciate the opportunity to comment on the NCUA's CUSO proposal and thank you for your consideration of our concerns. I would be happy to respond to any questions regarding our position on these important issues.

Sincerely,

Patrick La Pine
President/CEO