

From: [Beverley Rutherford](#)
To: [Regulatory Comments](#)
Subject: VACU Comments on Notice of Proposed Rulemaking - CUSO
Date: Friday, September 23, 2011 2:37:55 PM

Our credit union appreciates the opportunity to comment on your proposed revisions to Parts 712 and 741 regarding CUSOs. I am responding on behalf of the largest state chartered credit union in Virginia, with over \$2 billion in assets and over 200,000 members.

At Virginia Credit Union, Inc. (VACU) we have found CUSOs to play a vital role in our ability to expand our offering of financial services to our members. As way of background, in 2006, Virginia Credit Union Inc., created Virginia Credit Union Financial Services, LLC as a CUSO to help provide other products and services primarily to members. Since 2006, Virginia Credit Union Financial Services, LLC has made investments in the following businesses: Virginia StateWide Title Services, LLC (Title Insurance), Virginia CU Insurance Services, LLC (Property and Casualty Insurance) and Virginia CU Realty, LLC (Real Estate Services). Since 2006, these businesses have continued to help provide quality products and services to credit union members and through the insurance related CUSOs, we are able to find the best coverage at the best price and provide our members with choices. In the event the coverage is on the credit union's collateral, the **credit union** is further protected because the collateral has the proper insurance coverage through a quality carrier.

Accordingly, we have several concerns with NCUA's proposal and ask NCUA to consider withdrawing the proposal in its entirety, or as an alternative, substantially revise it. We believe NCUA's regulation in this area should begin and end with the credit union developing policies and procedures for their investment in the CUSOs including areas such as limiting the amount of investment, strong governance, internal controls, and oversight of these investments.

We have briefly summarized our concerns below, and where appropriate, expanded these in more detail following the summary.

- We are concerned with the potential for increased costs related to annual audits, preparation of quarterly financial statements, and reporting to state and federal regulators
- We question whether these regulations will have the effect of "piercing" the corporate veil
- There is adequate regulatory oversight currently in existence and the addition of these rules does not appear to add any further recognizable value
- We are concerned with the competitive disadvantage to non-CUSOs
- Systemic risk relative to the size of the credit union does not appear to prompt the need for these changes

Potential for Increased Costs for Annual Audits and Financial Reporting

We oppose the proposed rule that imposes obligations directly on all CUSOs to prepare quarterly financial statements, obtain an annual audit, and to provide an annual report to state and federal regulators, all conforming to generally accepted accounting principles (GAAP) or generally accepted

auditing standards (GAAS). We believe these requirements exceed NCUA's authority as well as puts an unnecessary financial burden on credit unions, especially smaller ones where the costs can be potentially prohibitive. Further, in our credit union, CUSOs are included as part of our consolidated financial statements and subject to review and audit by our external auditors; in addition, our internal auditors perform a limited review. Should NCUA finalize the annual audit requirement as proposed, we do not support a separate audit unless the investment or impact on the income statement is material.

Piercing the Corporate Veil

The use of a subsidiary company is used to shield a credit union from liability exposure and protect the credit union from additional risk. By NCUA finalizing these rules, it appears NCUA may further create a situation in which business transactions, accounts, and records are intermingled between the credit union and the CUSO. In an effort to satisfy these NCUA guidelines, the credit union could potentially dominate the CUSO to the extent that the CUSO is treated as a department of the credit union, not a separate legal entity.

Adequate Regulatory Oversight

In our case, each of the CUSO businesses are already highly regulated. Virginia Statewide Title Services and Virginia CU Insurance Services are regulated and licensed through the state's Bureau of Insurance. Virginia CU Realty is regulated and licensed in Virginia by the Department of Professional and Occupational Regulation. NCUA's reasoning for imposing regulatory authority over these businesses is duplication and only contributes to additional financial burdens and unproductive uses of limited resources. Further, in our state, there are extensive laws in effect which CUSOs must follow.

Credit Unions Competitive Disadvantage to Non-CUSOs

These additional regulatory burdens will put credit unions at a disadvantage to other similar businesses that are not CUSOs. Independent insurance agencies and real estate firms do not have the burden of NCUA oversight. CUSOs should only need to follow the regulations of those agencies that are responsible for those industries. Those agencies have the industry expertise to regulate and examine these companies. Further, information NCUA is asking CUSOs to submit may expose private business secrets via public dissemination through Freedom of Information Act (FOIA) requests.

Risk Relative to the Size of Credit Union

There does not appear to be any evidence that CUSOs pose a systemic risk to credit unions that would prompt regulatory change. For example, the amount VACU has invested in CUSOs is only .04% of credit union assets. Further, according to the National Association of Credit Union Service Organizations (NACUSO), based on aggregated current investment risk levels, the amount invested in and loaned to CUSOs is only 22 basis points of industry assets with each credit union's investment risk less than 1% of its assets.

Thank you again for considering our comments as you finalize the proposed rule. Should you have any questions about our comments, please feel free to contact me.

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