



Via email: regcomments@ncua.gov

September 24 ,2011

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

Re: Comments of the Wisconsin Credit Union League regarding Proposed Rulemaking: Access to Information from a CUSO by Regulators

Dear Ms. Rupp:

The Wisconsin Credit Union League, serving 215 credit unions and over two million members, welcomes the opportunity to provide the following comments regarding the NCUA's plan to amend 12 C.F.R. Part 712 to expand reporting requirements for CUSOs and any CUSO subsidiary.

Because we appreciate that there have been some problems in a very few CUSOs, it is understandable that the NCUA wishes to review whether additional rules are required to address those problems satisfactorily for safety and soundness reasons. However, we have a real concern that many of the proposed provisions will have a considerable chilling or negative impact on all CUSOs, most of which are well-run and serve as an important tool for credit unions in finding the most cost effective ways to serve the needs of their members.

We offer the following comments on the proposed rule:

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 oppose the requirement that CUSOs provide financial statements directly to NCUA and state regulators on the grounds that this exceeds NCUA's authority. However, we do support enhanced transparency for credit unions, including more information from CUSOs to participating credit unions—including quarterly financial statements prepared under GAAP, an annual audit prepared under GAAS, and any other information that credit unions need to perform proper due diligence. We also support an exemption or waiver process from the requirements to follow GAAP and GAAS for small CUSOs for which such requirements would impose a significant burden.

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Member Credit Union National Association

Tying CUSO Rule Compliance to Conditions for NCUSIF Coverage

Currently, state chartered credit unions can lose their NCUSIF coverage if they do not comply with requirements in the CUSO rule regarding access to their CUSO's books and records to regulators and requirements to maintain separate corporate identities from their CUSO. The proposal would expand this to make the requirements 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 or they risk losing NCUSIF coverage. Other proposed requirements such as those regarding CUSO subsidiaries addressed below would also become conditions of NCUSIF coverage. The proposal would make these requirements conditions of NCUSIF coverage for federal as well as state chartered credit unions that lend to or invest in CUSOs.

We oppose these proposed provisions as punitive and regulatory overkill—and appear to be part of a new regulatory maneuver to use the threat of loss of NCUSIF coverage as a sword of Damocles hanging over the heads of credit unions. Moreover, NCUA does not need to adopt these sanctions in order to enforce regulatory provisions.

Exemptions

The proposal would allow state credit union regulators to seek an exemption for their credit unions from the proposed provisions to require NCUA access to CUSO books and records and to require the preparation of financial reports and audits.

We oppose most of the underlying provisions, as discussed above. However, if NCUA should go forward with these provisions, we certainly support exemptions and waivers for state and federal credit unions.

“Subsidiary CUSOs”

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

We oppose these provisions as NCUA's authority for them is questionable at best.

Limits on Undercapitalized Credit Unions' Participation in CUSOs

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 safety and soundness and because federal credit unions are already subject to it, we generally support this requirement.

In closing, we urge the NCUA to consider the potential negative effects and costs of these proposed rule changes on the great majority of CUSOs that operate soundly and provide both reasonably priced and necessary services to America's credit unions—perhaps most especially of value to smaller ones. Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "Joanne R. Whiting". The signature is written in a cursive, flowing style.

Joanne R. Whiting
EVP and Chief Advocacy Officer
The Wisconsin Credit Union League