



June 20, 2008

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

Re: Washington Credit Union League comments on Proposed Rule 712, CUSO Amendments

Dear Ms. Rupp,

As the trade association for Washington's 122 state and federally chartered credit unions, who have a total of more than 2.4 million members, the League is pleased to have the opportunity to comment on the NCUA's proposed rule 712 regarding CUSO operations.

Respectfully speaking, the League does not agree with the NCUA's proposed expansion of oversight over CUSOs held by FISCUs. It is our belief that the NCUA does not have the authority to require FISCUs to provide access to their CUSOs' books and records for three reasons: (1) first, we do not believe that the NCUA has the statutory authority to examine CUSOs, (2) second, because CUSOs are not federally insured, we do not believe the NCUA should spend its time and attention examining CUSOs, and (3) third, the NCUA has tremendous expertise and experience with respect to examining credit unions, but this expertise does not extend to other business structures or product offerings outside the scope of services offered by credit unions.

#### **Statutory Authority**

In its proposed rules, the NCUA states that its regulatory authority for this change derives from 12 U.S.C. 1781-1790d, a segment of the Federal Credit Union Act. This section concerns insurance coverage of state chartered credit unions, the requirements for share insurance, and the NCUA's authority to ensure the safety and soundness of credit unions that are federally insured. The Federal Credit Union Act does not extend the NCUA's authority to the oversight of CUSOs.

While the NCUA's authority certainly does extend to oversight of a credit union's investments, that authority does not allow the NCUA to inspect the books and records of the entities the credit union is invested in. The NCUA's authority

extends over the credit union, and it has the authority to review the credit union's process of determining whether or not to invest in an entity, but it does not have the authority to substitute its judgment for that of the credit union.

Rather than expanding its authority in violation of its enabling act, perhaps the NCUA should explore the powers it already has over FISCUs. In the proposed regulation, the NCUA points out several risks to a FISCU stemming from mismanagement of its investment in a CUSO. The NCUA should use its authority to examine a FISCU for safety and soundness concerns to assure that FISCUs are using sound investment practices and doing their due diligence with respect to investing in CUSOs.

### **Federal Insurance**

CUSOs are not federally insured. We believe the NCUA should focus its examinations on organizations that pose a risk to our federal insurance fund. This might even include requiring a credit union to divest itself from a CUSO perceived risky, but should not include an assessment of the CUSO itself.

We remain unconvinced by the NCUA's argument that it has oversight authority over CUSOs through its general authority over the safety and soundness of federally insured state chartered credit unions.

### **Experience & Expertise**

CUSOs are not credit unions. CUSOs have different powers than those of credit unions, a different corporate organizational structure than credit unions, and different objectives and aims than those of credit unions.

While the League recognizes that the NCUA has tremendous expertise in its dealings with credit unions, it does not have the expertise that would be necessary to properly examine other business structures and other business products. Further, some of these products are already examined by other regulatory agencies. For example, a credit union offering payday lending through a CUSO organized as an LLC in Washington would be licensed and regulated by Washington's Department of Consumer Services.

Thank you for your time and consideration. Please contact me if you have any questions or concerns.

Sincerely,

Mary Sroufe  
Director of Regulatory Affairs  
Washington Credit Union League