

**From:** Julia R. Timbrook [jtimbrook@genfed.com]  
**Sent:** Monday, April 06, 2009 6:44 PM  
**To:** \_Regulatory Comments  
**Subject:** GenFed FCU, Joyce Jones- Comments on Advanced Notice of Proposed Rulemaking for Part 704

Please see GenFed Comments below in blue font below each applicable section of the ANPR:

7535-01-U

**NATIONAL CREDIT UNION ADMINISTRATION**

**12 CFR Part 704**

**RIN 3133- AD58**

**Corporate Credit Unions**

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Advance notice of proposed rulemaking and request for comment (ANPR).

**SUMMARY:** In the light of current economic circumstances affecting the U.S. economy and, in particular, the financial sector, NCUA is evaluating and reconsidering the role corporate credit unions currently play in the credit union system, including corporates' membership structure, size, and types of services they offer. NCUA is also considering whether to amend its regulation governing corporate credit unions to clarify or revise current provisions, including those related to: capital; permissible investments; management of credit risk and liquidity; and corporate governance. NCUA seeks comment on these issues and any others commenters think NCUA should consider.

**DATES:** Comments must be received on or before...

**ADDRESSES:** You may submit comments by any of the following methods (Please send comments by one method only):

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- NCUA Web Site: [http://www.ncua.gov/RegulationsOpinionsLaws/proposed\\_regs/proposed\\_regs.html](http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html). Follow the instructions for submitting comments.
- E-mail: Address to [regcomments@ncua.gov](mailto:regcomments@ncua.gov). Include "[Your name] – Comments on Advanced Notice of Proposed Rulemaking for Part 704" in the e-mail subject line.
- Fax: (703) 518-6319. Use the subject line described above for e-mail.
- Mail: Address to Mary Rupp, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.
- Hand Delivery/Courier: Same as mail address.

**PUBLIC INSPECTION:** All public comments are available on the agency's website at <http://www.ncua.gov/RegulationsOpinionsLaws/comments> as submitted, except as may not be possible for technical reasons. Public comments will not be edited to remove any identifying or contact information. Paper copies of comments may be inspected in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9:00 a.m. and 3:00 p.m. To make an appointment, call (703) 518-6540 or send an e-mail to [OGCMail@ncua.gov](mailto:OGCMail@ncua.gov).

**FOR FURTHER INFORMATION CONTACT:** Ross Kendall, Trial Attorney, Office of General Counsel, at the above address or telephone: (703) 518-6540, or David Shetler, Senior Corporate Program Specialist, at the above address or telephone (703) 518-6640.

## **SUPPLEMENTARY INFORMATION:**

### **A. Background.**

The Federal Credit Union Act (Act) authorizes natural person federal credit unions (FCUs) to invest in shares or deposits of any central credit union (corporate credit union). 12 U.S.C. 1757(7)(G). A corporate credit union is an organization, chartered under the Act or under applicable state law as a credit union that receives shares from and provides loan and other services primarily to other credit unions. 12 CFR 704.2. Historically, corporate credit unions have fulfilled an important role in the credit union industry and have provided credit unions with payment and clearing services, including access to wire transfer facilities and automated clearing house transactions. Corporate credit unions have also provided investment services, enabling smaller credit unions to achieve economies of scale and access to greater market returns otherwise unavailable to them. Corporate credit unions have been an important source of liquidity for credit unions through short and medium term credit facilities, and have served as agents on behalf of NCUA's Central Liquidity Facility (CLF) in connection with loans funded by the CLF. Corporate credit unions have also provided other operational services, such as coin and currency services and safekeeping of investments. There are currently twenty-eight corporate credit unions serving the nation's approximately 7,900 credit unions. As with all credit unions, corporate credit unions are organized as cooperatives, owned by their members and responsive to their needs, enabling members to receive access to necessary products and services at affordable rates. They provide a level of expertise and market presence that would be unavailable to most of their members if required to rely solely on their own resources.

### **B. Current Economic Climate and Remedial Measures Taken.**

Over the last year, many corporate credit unions have experienced a dramatic reduction in the value of their investment portfolios. These reductions, coupled with, in some cases, the virtual freeze-up of the market for trading in certain types of investment securities, have undermined the stability of the corporate credit union system. Simultaneously with the issuance of this Advance Notice of 5

Proposed Rulemaking, which is designed to identify issues that may have contributed to the current state of affairs and to solicit comment and ideas on how to address them as the industry moves ahead, the NCUA Board has taken several actions with a more immediate, remedial impact, designed to stabilize the industry and maintain confidence in the corporate system. These actions include the following:

- An infusion of \$1 billion in capital into U.S. Central Federal Credit Union, the corporate system's wholesale credit union, by the National Credit Union Share Insurance Fund (NCUSIF); and
- A temporary NCUSIF guarantee of all member shares, for any corporate credit union that decides to participate in a voluntary guarantee program offered by NCUA.

The Board believes these extraordinary measures, which are mandated by the exigent economic conditions affecting the country, will help stabilize the corporate credit union system and enable credit unions return to their primary mandate, which is to provide affordable financial services to their members. The Board believes that identifying and addressing the issues discussed in this ANPR will help continue to assure stability and confidence in the corporate credit union system in the future.

### **C. Issues for Consideration.**

Notwithstanding the successful role that corporates have played in the credit union sector, events of recent months have highlighted several areas in which re-evaluation is appropriate and necessary. As set out more fully below, these include some fundamental aspects concerning the structure, role and services offered by corporate credit unions to the credit union industry.

1. The Role of Corporates in the Credit Union System. Recent events have highlighted structural vulnerabilities in the corporate credit union system. NCUA is considering whether comprehensive changes to the structure of the corporate system are warranted. Possible approaches the agency is considering include eliminating the second or wholesale tier from the corporate system, modifying the level of required capital, isolating payment services from the risks associated with other lines of business, determining which product and service offerings are appropriate for corporates, requiring a restructure of corporate boards, and tightening or eliminating the expanded investment authority that is currently available to corporates.
  - a. *Payment system.*

Some of the questions and issues arising in this context, on which the Board is seeking comment, include matters such as whether payment system services should be isolated from other services to separate the risks. If so, what is the best structure for isolating these services from other business risks? Specific comment is solicited concerning whether, for example, it would be better to establish a charter for corporate credit unions whereby a corporate's authority is strictly limited to operating a payment system, with no authority to engage in other services, such as term or structured investments.

**GenFed Comment:** If we do see corporates survive and try to continue meeting NPCU liquidity needs while offering the many additional products and services they now do, is it practical to look at operational and legal firewalls between payment system services and other services of corporates? The obvious concern is ability for a corporate to maintain adequate earnings to support this plan or any similar alternatives such as separate charters for payment systems versus investment services. If there are realistic solutions proposed that support the 'firewall' proposition, we would be eager to learn more.

Additionally, a separate charter may be available for corporate credit unions that want to engage in providing investment services. Another alternative would be for NCUA to establish distinct capital requirements for payment systems risk and the risks of other corporate services. NCUA could also require that a legal and operational firewall be established between payment system services and other services. In connection with this topic, comment is also sought on the question of whether there is sufficient earnings potential in offering payment systems to support a limited business model that is restricted to payment systems services only.

**GenFed Comment:** We do not understand how separate charters would completely alleviate risks unless the corporates with the "investments" charter would pay into a separate insurance pool other than NCUSIF eliminating all risks to NPCU's and non-investment corporate CU's. The same goes for legal firewalls, exactly how would this change the risk to NPCU's relating to NCUSIF? We see where the risk for NPCU paid in capital would be reduced with the separate charters and that would be somewhat helpful. Obviously, all capital requirements should be higher than now required and should also be risk-based, especially if expanded investment authorities continue. In relation to "sufficient earnings potential if offering payment systems services only", if current low capital levels of corporates (with the advantage of expanded investment authority for higher income) are any indication of past net income, how could a business model succeed if restricted to payment systems services alone? Only the corporates know if they can tighten their belts enough to make this business model a success without work and maintain competitive fees for servicing NPCU's.

- b. *Liquidity and liquidity management.* Historically, the primary role of corporate credit unions has been to provide and ensure liquidity. Corporate investments were made with an eye towards ensuring funds would be available to meet members' short-term liquidity needs. Recent events underscore the need to assure a corporate properly considers its investment position relative to its cash flow needs. The Board recognizes and understands that providing liquidity for the credit union system is one of the principal purposes of the corporate credit union network.

One question for consideration and comment is whether liquidity ought to be considered a core service of the corporate system, and if so, what steps should be taken, and by whom, to preserve and strengthen corporates' ability to offer that service? For example, should NCUA consider limiting a corporate's ability to offer other specific types of products and services in order to preserve and defend the liquidity function? What specific types of products and services should corporates be authorized to provide?

**GenFed Comment:** Should the corporate system survive, NPCU's want to continue to use more than one corporate, seeking unique products/services as needed from additional corporates beyond the one with whom we have a primary relationship. Any new proposal that is accepted will include increased oversight, regulation, needed expertise, and in general increased cost to everyone concerned. If the corporate system is worth the cost and risk, economies of scale need to be improved by reorganizing and consolidating corporates, leaving maybe 8-10 corporates nationwide instead of 28. This will be especially important if they are disallowed (which we recommend) riskier investments to make income, instead needing to charge higher fees to support their service offerings. Services should be centralized, instead of different entities trying to duplicate efforts and overly competing for members. Despite the positive impacts of consolidation (efficiency/economies of scale) on the corporate system, consolidation could actually end up increasing our

overall risk (corporates that are “too big to fail”), especially if the same non-risk- based insurance, uninsured funds, expanded investment authority, and regulatory situations remain.

NCUA is considering additional cash flow measuring requirements to assist corporates in achieving and maintaining proper liquidity management. In this respect, comment is specifically solicited on the question of whether NCUA should add aggregate cash flow duration limitations to Part 704. If so, commenters are invited to describe how this requirement should be structured, and also to identify how such limitations would benefit liquidity management.

**GenFed Comment:** We don't have confidence in a magical solution to solve the many problems with the corporate structure. We also have fears about what unforeseen disasters wait as a result of changes, but are certain of future additional disasters if there are no changes. We anticipate that masterminds are on the sidelines (and more are joining them each day especially if we end up with displaced executives from consolidated corporate CU's) with their own ideas and plans to address vulnerabilities in the current system. CUSO's may be among those on the sidelines or unpredicted entities may arise to fill the gaps if/when some corporate services cease. At this point we are trying to shake the feeling that they're like vultures circling the CU movement. Obvious to us right now is that CU's currently have no risk in using the Fed and banks. While we would have a lot of 'busy work' to move ACH, checks, debit, investments, etc. back to the Fed and banks, it is possible to make the change. In fact, we have learned that one corporate intends to farm out their debit card processing, and that we would have more support in this area from a different vendor that we recently contacted. We also wonder if corporates will keep offering SimpliCD, or if we could use SimpliCD through a CUSO without going through a corporate.

Finally, comment is solicited on the question of what cash flow duration limits would be appropriate for corporate credit unions, particularly in an evolving interest rate market with previously unseen credit risk spreads.

**GenFed Comment:** If the corporate system survives we would like to see the corporates continue to offer existing services (other than investment services that require them to take excessive risks) for our NPCU. However, liquidity for borrowing is not of utmost importance since we also have a line of credit with the FHLB and assume corporates would continue facilitating CLF access or other means would be available for NPCU access. Payment systems are most important to us and the SimpliCD service is a convenience we enjoy.

- c. *Field of Membership Issues.* NCUA also seeks comment on whether and how to restructure the corporate credit union system. For example, despite its intention of fostering competition, NCUA's decision to allow corporates to have national fields of membership (FOMs) may have resulted in significant, and unforeseen, risk taking. For example, corporates have competed with each other to offer higher rates, and have done so through the accretion of credit and marketability risks. To address this development, should the agency return to defined FOMs, for example, state or regional FOMs?

**GenFed Comment:** Corporates will be smaller in asset size once NPCU's stop depositing uninsured funds with them. Our NPCU has recently decreased in asset size due to the increased competition from banks for CD's. Even under our prior confidence in the corporate system, deposits would have continued to decline. When corporates grow and compete, it tends to become counterproductive to the purpose of serving NPCU's. Corporates should just offer the basic services to NPCU's and not expect high uninsured deposits or excessive capitalization from NPCU's. Overall, NPCU's and any corporate system should change their strategy to focus less on asset growth, and more on liquidity, lending, and other core services to serve members. In short, without confidence in making uninsured deposits, this is a non-issue. Maybe the question should be, “How many NPCU's plan to make uninsured deposits at corporates in the future?” At most our CU might consider investing twice the insured limit (\$500K) at each of the remaining corporate CU's, assuming a simple way to make those investments is made possible through our primary corporate.

- d. *Expanded Investment Authority.* At present, Part 704 provides for an option by which corporates meeting certain criteria can qualify for expanded investment authority. For example, a corporate meeting the criteria set out under Part One of the expanded authority is allowed to purchase investments with relatively lower credit ratings than otherwise permissible under the rule. NCUA seeks comment, first, as to whether the need for expanded authorities continues to exist. If so, should NCUA modify the procedures and qualifications, such as higher capital standards, by which corporates currently qualify for expanded authorities? If so, what should the new standards be? Should NCUA reduce the expanded authorities available? If so, which ones? Alternatively, should any of the

limits in existing expanded authorities be reduced or increased? If so, which ones? Once granted, should NCUA require periodic requalification for expanded authorities? If so, what should be the timeframe?

**GenFed Comment:** NCUA should suspend expanded investment authorities, at least until the rating agencies are ‘fixed’ and the existing risky investments are no longer in corporate portfolios. Overall, expanded investment authority allows too much risk in the system. The alternative of making changes to safely allow expanded authority investments (more regulatory expertise/oversight and additional expertise internally or through independent sources) would eventually make corporates unable to compete on pricing for products and services offered to NPCU’s and would raise NCUA’s operational costs, which we again have to pay. We can’t afford to have corporates continue to make expanded authority investments without internal and regulatory expertise in that area and we predict the additional costs to the system would not support expanded investment authority. And how would we judge the adequacy of additional expertise and regulatory changes? Can corporates control their cost to NPCU’s for providing services without the investment income? If not, NPCU’s will migrate to other more affordable options over time.

- e. *Structure; two-tiered system.* Over time, the corporate system has evolved into two tiers: a retail network of corporates that provide products and services to natural person credit unions, and a single, wholesale corporate that exclusively services the retail corporates. NCUA solicits comment about whether the two-tier corporate system in its current form meets the needs of credit unions. Specifically, NCUA seeks input from commenters about whether there is a continuing need for a wholesale corporate credit union. If so, what should be its primary role? Should there be a differentiation in powers and authorities between retail and wholesale corporates? In considering these issues, commenters are specifically asked to consider whether the current configuration results in the inappropriate transfer of risk from the retail corporates to the wholesale corporate. Commenters should also address whether, assuming the two-tiered system is retained, capital requirements and risk measurement criteria (e.g., NEV volatility), as well as the range of permissible investments, for the wholesale corporate credit union should be different from those requirements that apply to a retail corporate credit union.

**GenFed Comment:** It’s obvious that the current configuration resulted in the inappropriate transfer of risk from the retail corporates to the wholesale corporate and with no transparency to NPCU’s. We were blind-sighted by the fact that our uninsured investments were at risk. The risk at the retail corporate CU would have been bad enough, but the systemic risk at the wholesale level is what ultimately led to NCUA’s intervention to save the entire system on the backs of NPCU’s, in addition to capital losses in the retail tier, posing additional risk to NPCU’s. We feel the wholesale tier is in the “too big to fail” category and needs to be eliminated, assuming the retail corporates are in agreement. We might want to keep them long enough to allow repayment of the \$1B capital infusion, but based on the current earnings (and potential for less without depositor confidence and investment authority changes) repayment of that debt looks bleak. Can the wholesale corporate simply ‘go away’? We recommend this if eliminating is favored by the retail tier. It seems CU’s are trying to make a profit on three different levels (NPCU’s, retail corporates, wholesale corporate) and there simply isn’t enough margin without the risky investments. We have also heard some complain that the wholesale corporate duplicates efforts already made by retail corporates.

2. **Corporate Capital.** NCUA is considering revising various definitions and standards for determining appropriate capital requirements for corporate credit unions. For example, the agency could establish a new required capital ratio consisting only of core capital excluding membership capital accounts as a component of regulatory capital; the agency could also determine to increase the required capital ratio to more than four percent. The agency could also establish a new ratio based on risk-weighted asset classifications, which could include some form of membership capital. These changes would bring the corporate capital requirements more into line with standards applied by other federal financial regulators, such as the Comptroller of the Currency and the Federal Deposit Insurance Corporation (recognizing, however, that there are other accounting differences that apply with respect to the calculation of regulatory capital for banks). Another issue under consideration is whether to require a certain level of contributed capital from any natural person credit union seeking either membership or services from a corporate.

**GenFed Comment:** We definitely recommend higher capital requirements, similar to other federal financial requirements, especially if the expanded investment authorities continue. Related to other “capital” related questions here, and in the below areas, we recommend again that you mirror other federal financial requirements but focus on retaining NPCU support of the system (avoiding excessive capital requirements and withdrawal restrictions/conditions).

- f. *Core capital.* The Board is considering several issues relating to the agency’s approach to core capital (i.e., the traditional “tier one capital” definition as used by the several federal financial institution regulators). Under the current rule, core capital is defined as retained earnings plus paid-in capital. 12 CFR 704.2. Comment is invited concerning whether NCUA should establish a new capital ratio that corporates must meet consisting only of core

capital, and if so, what would be the appropriate level to require. Commenters should offer their view concerning what actions are necessary to enable corporates to attain a sufficient core capital ratio as described above, as well as their thought about what would be an appropriate time frame for corporates to attain sufficient capital. The Board invites comment also on the question of what is the appropriate method to measure core capital given the significant fluctuation in corporate assets that occur. Commenters are invited to offer their view on the correct degree of emphasis that ought to be placed on generating core capital through undivided earnings. Finally, NCUA is considering whether to require that a corporate limit its services only to members maintaining contributed core capital with the corporate. Commenters are invited to react to that idea, and to offer any other suggestions or comments relative to the issue of core capital for corporates.

**GenFed Comment:** We feel that generating core capital through undivided earnings is important but do not know the “correct degree of emphasis” and again suggest whatever is in line with other federal financial regulators for institutions operating in the same tier as our retail corporates.

- g. *Membership capital.* The Board is also considering several issues involving membership capital. 12 CFR 704.3(b). Issues under consideration and for which comment is sought include whether NCUA should continue to allow membership capital in its current configuration, or should the agency eliminate or modify certain features, such as the adjustment feature, so that membership capital meets the traditionally accepted definition of tier two capital. Other questions include whether to tie adjusted balance requirements, as set out currently in §704.3(b)(8), only to assets, as well as whether to impose limits on the frequency of adjustments. The agency is considering whether to require that any attempted reduction in membership capital based on downward adjustment automatically result in the account being placed on notice, within the meaning of current §704.3(b)(3), so that only a delayed payout after the three-year notice expires is permissible. Comment is also sought on whether to require that any withdrawal of membership capital be conditioned on the corporate’s ability to meet all applicable capital requirements following withdrawal. Comment is invited on all these issues and on any revisions NCUA should consider for the definition and operation of membership capital.

**GenFed Comment:** Some NPCU's hold members accountable by providing the best rates to PFI members as well as using a Relationship Fee, and we feel that we should be open to the corporates doing the same for NPCU's. We think it is fair for NPCU's to be able to choose a “primary or preferred” corporate into which we would have a required capitalization account, but be allowed to use other CU's for select products and services subject to higher costs, or payment of a fee that would work similar to an NPCU's Relationship Fee, or maintain an additional capitalization account in those additional secondary corporates. However, the same kind of NPCU continued support in the form of uninsured deposits won't likely happen, at least for a long time, and maybe never again. Can the corporate system survive without it? NCUA should leave all NPCU uninsured deposit and excessive capitalization support out of the equation when determining the restructuring process. NCUA should discourage use of uninsured funds in corporates rather than encouraging as in the past. NCUA should NOT impose *large* capital requirements for use of any corporate services. NPCU's do want to be able to use any unique service or amount of services at one or multiple corporates without overly large capital requirements.

- h. *Risk-based capital and contributed capital requirements.* Comment is solicited with respect to the following issues pertaining to risk-based capital and contributed capital requirements. Should NCUA consider risk-based capital for corporates consistent with that currently required of other federally regulated financial institutions?

**GenFed Comment:** Yes, definitely! Corporates (we assume) pay insurance premiums based on insured funds- this is proportionately much less than NPCU's risk-wise, since NPCU have more members with all insured deposits if using excess share insurance in addition to the NCUA insured limits. The uninsured funds at corporates cause a great systemic risk to the entire system while they are not paying the cost of that risk. However, due to uninsured funds, corporates pose a much greater risk to the system without paying additional costs (example- current situation). Corporates (actually all CU's, NP or corporate) should be paying premiums based on risk to the system (i.e. lower capital ratios, uninsured funds, expanded investment authority), not insured funds alone. Perhaps CAMEL ratings or another system should be used to assess risk and allow risk-based premiums.

What regulatory and statutory changes, if any, would be required to effectuate such a change? Should a natural person credit union be required to maintain a contributed capital account with its corporate as a prerequisite to obtaining services from the corporate? Should contributed capital be calculated as a function of share balances maintained with the corporate? What about using asset size?

**GenFed Comment:** Pertaining to the calculation methodology, we don't like “share balances” or “asset size” alone. Could you consider basing the capital requirement at the primary corporate on a combination of share balances and volume of payment services used (fees charged, which should be an accurate measure for the benefit to each NPCU)? Perhaps

capital requirements should be very low or higher fees should be charged for the specific services used at the non-primary corporate.

3. Permissible Investments. NCUA is considering whether the corporate investment authorities should be constrained or restricted. Presently, corporates have the authority to purchase and hold investments that would not be permissible for natural person FCU members under Part 703 (or, in some cases, outside of what is authorized for a state chartered credit union). This increases a corporate member's exposure to these risks commensurate with their level of investment in the corporate. Questions on which comment is solicited in this context include whether NCUA should limit corporate credit union investment authorities to those allowed for natural person credit unions.

**GenFed Comment:** Yes, definitely in the near future, with perhaps some limited authority in 2-5 years after assessment of rating agency changes (if corporates continue to use them) and the ability of regulatory agencies to monitor investment risk without increasing operational premiums to NPCU's.

NCUA is also considering whether to prohibit certain categories of, or specific, investments, for example: collateralized debt obligations (CDOs), net interest margin securities (NIMs), and subprime and Alt-A asset-backed securities.

**GenFed Comment:** Yes, of course, since these investment types caused our current debacle.

Comment is solicited on that issue, as well as on whether NCUA should modify existing permissibility or prohibitions for investments.

**GenFed Comment:** Again, our recommendation is to suspend expanded investment authorities, at least until the rating agencies are 'fixed' and the existing risky investments are no longer in corporate portfolios. Overall, expanded investment authority allows too much risk in the system. Even if expanded authorities are allowed, we don't believe that NPCU's will have uninsured deposit confidence beyond 12/31/10, making the question about expanded investment authority mute and the competition among corporates for NPCU deposits less likely.

4. Credit Risk Management. The reliability of credit ratings for investments has become more questionable in light of events in the financial industry and the current absence of regulatory oversight for rating organizations. Consequently, NCUA is considering curbing the extent to which a corporate may rely on credit ratings provided by Nationally Recognized Statistical Rating Organizations (NRSROs). Comment is requested on whether NCUA should require more than one rating for an investment, or require that the lowest rating meet the minimum rating requirements of Part 704. NCUA also solicits comment on whether to require additional stress modeling tools in the regulation to enhance credit risk management.

Several specific aspects of this issue are under consideration, for which comment is solicited, including whether Part 704 should be revised to lessen the reliance on NRSRO ratings. Commenters are invited to identify any other changes they believe may be prudent to help assure adequate management of credit risk. In this respect, commenters should consider whether Part 704 should be revised to provide specific concentration limits, including sector and obligor limits. If so, what specific limits would be appropriate for corporate credit unions? Comments are also solicited on the question of whether corporates should be required to obtain independent evaluations of credit risk in their investment portfolios. If so, what would be appropriate standards for these contractors? Another issue under consideration is whether corporates should be required to test sensitivities to credit spread widening, and if so, what standards should apply to that effort.

**GenFed Comment:** This is beyond the scope of the CU movement and the ANPR, but the rating agencies definitely have to be 'fixed'. Assuming a form of corporates not only survive but that they are also allowed to make investments that are rated by existing rating agencies, we need a major reconstruction of ratings agencies, or we need to dissolve them and start over with a closely governed alternative that is secure and accountable. There have to be checks and balances on the ratings assigned, including but not limited to combinations of independent third party reviews, governmental assessments, and more. As mentioned above, NCUA should suspend expanded investment authorities, at least until the rating agencies are fixed and the existing risky investments are no longer in corporate portfolios.

5. Asset Liability Management. In a previous version of its corporate rule, NCUA required corporate credit unions to perform net interest income modeling and stress testing. Because one of the problems leading to the current market dislocation is a widening of credit spreads, the agency is considering re-instating this requirement. Alternatively, the agency may consider some form of mandatory modeling and testing of credit spread increases. Comment is solicited on whether NCUA should require corporates to use monitoring tools to identify these types of trends, including specifically comments about tangible benefits, if any, that would flow from these types of modeling requirements.

**GenFed Comment:** We favor required Net Interest Income Modeling and Stress Testing. Frankly, we find it surprising that this wasn't already in place in recent years.

6. **Corporate Governance.** The sophistication and far-reaching impact of corporate activities requires a governing board with appropriate knowledge and expertise. NCUA is considering minimum standards for directors that would require a director possess an appropriate level of experience and independence. The agency is also considering term limits, allowing compensation for corporate directors, and requiring greater transparency for executive compensation. Comment is sought on all these issues. In addition, commenters are invited to respond to the question of whether or not the current structure of retail and wholesale corporate credit union boards is appropriate given the corporate business model. Should NCUA establish more stringent minimum qualifications and training requirements for individuals serving as corporate credit union directors? If so, what should the minimum qualifications be? NCUA is also considering whether to establish a category of “outside director,” i.e., persons who are not officers of that corporate, officers of member natural person credit unions, and/or individuals from entirely outside the credit union industry.

**GenFed Comment:** We believe that the highest standards should be desirable for all levels of the CU system, including directorships. Experience is generally more valuable than education alone. Going to the “outside” for directors could be a mistake. We sometimes find that Board members with leadership experience in businesses unrelated to the credit union industry often cannot take off their “other” hat to relate or differentiate as needed.

Commenters should offer their view on whether that approach is wise, and, if so whether NCUA should require that corporates select some minimum number of outside directors for their boards. Should a wholesale corporate credit union be required to have some directors from natural person credit unions?

**GenFed Comment:** Directors from NPCU's in our opinion would not be a better fit than executives of NPCU's who work on a daily basis in all aspects of the credit union business and are well-equipped to spot threatening issues without over-involvement in operations that could result in poor Board/management relationships. We believe that governing expertise is needed in the area of investments, especially (or investments should be curtailed), and that experts should be consulted on the restructuring or removing of the corporate system. Since a lot of the problem stems from reliance on outside agencies, like the rating systems, outside directors are not a fool-proof fix. NCUA needs to obtain internal expertise, and examine the corporates with the same energy and depth extended during NPCU oversight and examinations.

Comment is sought on whether NCUA should impose term limits on corporate directors, and, if so, what the maximum term should be. Comment is also sought on whether corporate directors should be compensated, and, if so, whether such compensation should be limited to outside directors only.

**GenFed Comment:** Though occasionally term limits are helpful, we do not think they should be imposed wholesale. Compensation for directors is not consistent with the valued all-volunteer philosophy of the credit union movement. In addition, a mix of paid individuals vs. volunteers might invite in-fighting and an unhealthy imbalance of power. Our recommendation is to use independent outside experts in areas of risk who provide reports to both the Board and Management. The emphasis on Board weaknesses relating to the most recent threat to the credit union system seems inappropriate, since the Board would ordinarily rely on the executives, supervisory committee, outside experts, risk tools and- most of all- the regulatory agency for safety/soundness concerns. The primary role of the Board is generally strategic in nature, where the role of the regulator and supervisory committee (if corporates are required to have a supervisory committee like NPCU's) is safety/soundness.

Another issue under consideration, for which reaction from commenters is sought, is whether NCUA should allow members of corporate credit unions greater access to salary and benefit information for senior management.

**GenFed Comment:** We do not generally favor transparency for any executive or ‘highest paid employee’ compensation. We do not think that the current situation has resulted from overpaid corporate executives. Our one possible recommendation to allow additional transparency where necessary would be to establish a trigger that would require Board intervention and/or member transparency. Our suggestion would be a maximum ratio of total wages (all employees) to total operational costs. If a credit union exceeds that maximum, transparency of an aggregate of VP and higher wages might be appropriate, or an alert to the Board to deal with the apparent imbalance as a preliminary step ahead of required member transparency.

Request for Comments.

**GenFed Comment:** In general, we have taken a rather more conservative view of things in light of the notice that NCUA will not make the PIMCO analysis publically accessible, which we feel is a sign that things are expected to be worse than let on so far, and that we will likely see greater impairments and more impact from the toxic investments. Additional transparency from the level of the NCUA through the corporates is absolutely necessary. However, with that transparency comes an increased level of accountability by NCUA and the corporates because they will not be able to

deny facts, hide behind concerns, and be tempted to engage in questionable plans and arrangements. Also, simply making the information available to NPCU's should in no manner place responsibility on NPCU's to police the financial safety and soundness of the corporates.

The NCUA Board invites comment on any of the issues discussed above including specifically if NCUA's regulations should be amended to address the issues discussed in this ANPR. NCUA also welcomes comment on any other relevant issues pertaining to corporate credit unions that have not been addressed in this ANPR.

By the National Credit Union Administration Board on January 28, 2009.

Mary F. Rupp Secretary of the Board