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Corporate Central Credit Union

January 29, 2010

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

Dear Ms. Rupp:

Thank you for the opportunity to provide comment on the NCUA Proposed Rule 12 CFR Part 704. Corporate Central Credit Union understands that in the wake of the most severe market and credit crisis seen in many decades, the associated demise of some corporate credit unions and the resulting cost to natural person credit unions - changes must be made.

However, just as excessive risk taking will bring down an industry, so too will excessive regulation. While many of the changes in the proposed Part 704 seem appropriate, we believe that certain aspects of the proposed regulation are overly restrictive and are not in the best interests of our members.

Specifically, the proposed regulation as written will reduce corporate credit union liquidity, stifle the ability to build retained earnings, curtail offering value-added products and services to members, hinder our ability to raise capital, diminish our capacity to manage risk; and limit the power of our board and members to determine the structure, direction and fate of the institution they own.

Corporate credit unions must be allowed the flexibility to take the shape required of them by their members – a shape that changes over time. The proposed Part 704 will inhibit the ability of corporates to meet the needs of their members, and the ultimate impact will be borne by natural person credit unions and their members.

Please consider the following comments. We believe that our proposed recommendations will allow Corporate Central Credit Union as well as other corporate credit unions to continue to offer value-added products and services to their members while also limiting risk.

704.3 Corporate credit union capital

704.3 (b) Requirements for nonperpetual contributed capital accounts (NCA)

(1) Form. NCA funds may be in the form of a term certificate or a no-maturity notice account.

Comment: Adjustable balance accounts have been eliminated to prevent a manipulation of share balances at a corporate or of a member's asset size in order to reduce the member's required capital contribution to the corporate in a short period of time.

Recommendation: Using a measure such as a percentage of the credit unions' three-year average year-end total assets figure would allow for a steady increase in contributed capital over time if members grow, or a slower and less easily manipulated decrease over time. This would substantially reduce the possibility of manipulation while also allowing a corporate's capital to grow with its membership over time. Additionally, limiting adjustment periods to no more frequently than annually will further reduce the potential for a rapid decrease in NCA funds.

(6) Sale. A member may transfer its interest in a non-perpetual contributed capital account to a third party member or nonmember.

Comment: It does not appear that the corporate credit union would have any ability to control the transfer of or the ultimate ownership of its capital shares. This lack of control could lead to the required registration of capital shares as public securities. Such a registration could be required despite the wishes of the corporate and the majority of its members. Registration would dramatically increase the cost and complexity of operating a corporate. In addition, the free transfer of capital shares could allow manipulation including enabling natural person credit unions to cut their capital exposure to a corporate by selling shares rather than by putting them on notice. Alternatively, a prospective member credit union could buy shares rather than contributing capital directly to a corporate. This regulation would hamper the objective of building committed corporate capital.

In the discussion section of the proposed regulation entitled "Elements of capital" it's suggested that a corporate could issue long-term subordinated debt to nonmembers and, if the terms and conditions were identical to NCAs, count it as capital. This subordinated debt would obviously be public and freely transferable so a corporate would clearly understand the actual and implied cost of such an issue. However, the discussion refers to "nonmember subordinated debt". In practice, it would be impossible to limit the ultimate ownership to nonmembers. In addition, since virtually all securities are held in nominee name a corporate would not know if such debt is owned by a member and could not apply proposed rule 704.8(k) limit deposits et. al. per member to this issuance.

Recommendation: Non-perpetual contributed capital should only be transferable without corporate approval in the case of mergers or liquidations of members, or if the capital is in the form of subordinated debt securities registered for public trading at the time of issuance. All other transfers should require the approval of the corporate credit unions board of directors.

704.3 (c) Requirements for perpetual contributed capital (PCC)

(3) Callability. A corporate credit union may call perpetual contributed capital instruments only with the prior approval of the NCUA and, for state chartered corporate credit unions, the applicable state regulator. Perpetual contributed capital accounts are callable on a pro-rata basis across an issuance class.

Comment: This section precludes a corporate from exercising the call feature for PCC without prior written approval from the NCUA. The inherent trust and support from members willing to

commit PCC to a corporate credit union could potentially be compromised with a restriction of regulatory approval to call PCC even when circumstances would warrant a call.

<u>Recommendation</u>: The decision regarding the exercise of the call should remain with the issuing corporate if the action will not cause the corporate to become under-capitalized or otherwise out of compliance with the requirements of the regulation.

(5) The holder of a PCC instrument may freely transfer its interests in the instrument to a third party member or nonmember.

<u>Comment</u>: It does not appear that the corporate credit union would have any ability to control the transfer of or the ultimate ownership of its capital. This lack of control could lead to the required registration of capital shares as public securities. Such a registration could be required despite the wishes of the corporate and the majority of its members. Registration would dramatically increase the cost and complexity of operating a corporate. In addition, the free transfer of capital shares could allow manipulation including enabling natural person credit unions to cut their capital exposure to a corporate by selling shares rather than by putting them on notice. Alternatively, a prospective member credit union could buy shares rather than contributing capital directly to a corporate. This regulation would hamper the objective of building committed corporate capital.

<u>Recommendation</u>: Capital shares should only be transferable without corporate approval in the case of mergers or liquidations of member organizations. All other transfers should require the approval of the corporate credit unions board of directors.

704.3 (d) <u>Individual minimum capital requirements</u>

(2) <u>Appropriate considerations for establishing individual minimum capital requirements</u>. Minimum capital levels higher than the risk-based capital requirements or the leverage ratio requirement under this part may be appropriate for individual corporate credit unions. The NCUA may establish increased individual minimum capital requirements, including modification of the minimum capital requirements related to being either significantly and critically undercapitalized for purposes of §704.4 of this part, upon a determination that the corporate credit union's capital is or may become inadequate in view of the credit union's circumstances. For example, higher capital levels may be appropriate when NCUA determines that:

(i) A corporate credit union is receiving special supervisory attention;
(ii) A corporate credit union has or is expected to have losses resulting in capital inadequacy;
(iii) A corporate credit union has a high degree of exposure to interest rate risk, prepayment risk, credit risk, concentration risk, certain risks arising from nontraditional activities or similar risks, or a high proportion of off-balance sheet risk including standby letters of credit;
(iv) A corporate credit union has poor liquidity or cash flow;
(v) A corporate credit union is growing, either internally or through acquisitions, at such a rate that supervisory problems are presented that are not dealt with adequately by other NCUA regulations or other guidance;

<u>Comment</u>: 704.3 (d) (2) allows for arbitrary determinations for a corporate based on the opinions or views of an individual. The regulation details specific requirements to address most of these issues in other sections. The ability of any corporate credit union to raise additional capital hinges on many factors including a bond of trust that the corporate credit union is forthright with members in clearly and accurately reporting capital positions and capital measurements. The addition of arbitrary and subjective judgment pertaining to capital requirements in the proposed regulations places that trust in jeopardy. How could any corporate credit union state with sincerity or with certainty its position as it relates to capital requirements that are left to subjective interpretation?

<u>Recommendation</u>: If a corporate is acting within the parameters detailed in the specific requirements of the regulation then the capital requirements of 704.3 should apply. The explicit ability for subjectivity should be removed from the language of the regulation.

(3) <u>Standards for determination of appropriate individual minimum capital requirements</u>. The appropriate minimum capital levels for an individual corporate credit union cannot be determined solely through the application of a rigid mathematical formula or wholly objective criteria. The decision is necessarily based, in part, on subjective judgment grounded in agency expertise. The factors to be considered in NCUA's determination will vary in each case and may include, for example:

<u>Comment</u>: 704.3 (d) (3) allows for arbitrary determinations for a corporate based on the opinions or views of an individual. The regulation details specific requirements to address most of these issues in other sections. The ability of any corporate credit union to raise additional capital hinges on many factors including a bond of trust that the corporate credit union is forthright with members in clearly and accurately reporting capital positions and capital measurements. The addition of arbitrary and subjective judgment pertaining to capital requirements in the proposed regulation places that trust in jeopardy. How could any corporate credit union state with sincerity or with certainty its position as it relates to capital requirements that are left to subjective interpretation?

<u>Recommendation</u>: If a corporate is acting within the parameters detailed in the specific requirements of the regulation then the capital requirements of 704.3 should apply. The explicit ability for subjectivity should be removed from the language of the regulation.

(4) <u>Procedures.</u>

(iii) The corporate credit union's response must include any information that the credit union wants the NCUA to consider in deciding whether to establish or to amend an individual minimum capital requirement for the corporate credit union, what the individual capital requirement should be, and, if applicable, what compliance schedule is appropriate for achieving the required capital level. The responses of the corporate credit union and appropriate state supervisor must be in writing and must be delivered to the NCUA within 30 days after the date on which the notification was received. The NCUA may extend the time period for good cause. The time period for response by the insured corporate credit union may be shortened for good cause:

<u>Comment</u>: The time period for response may be arbitrarily shortened by the NCUA. A shortened period could place significant burdens on a responding corporate.

<u>Recommendation</u>: The regulation should explicitly state the minimum amount of time allowed for a corporate to respond if the NCUA chooses to shorten the time period; and since the failure to provide an adequate response will constitute a legal basis for prompt corrective action under §704.4 the shortened timeframe should be sufficient, such as 15 days, to allow a corporate the time necessary to form an adequate response.

704.3 (e) <u>Reservation of authority</u>

(2) <u>Period-end versus average figures</u>. The NCUA reserves the right to require a corporate credit union to compute its capital ratios on the basis of period-end, rather than average, assets when the NCUA determines appropriate to carry out the purposes of this part.

<u>Comment</u>: This section gives the NCUA the power to substantially increase a corporate's capital requirements thereby lowering a corporate's capital ratios and possibly capital category; thereby, potentially placing the corporate under the PCA requirements. Month-end assets can be more than 10% higher than the daily average assets for the month.

Recommendation: **The regulation should adopt a measurable standard (eg. Month-end assets must be 125% of DANA for three consecutive months). Such a standard would meet the objective of limiting expansion of the corporate's balance sheet while allowing both the NCUA and the corporate to identify when and how the issue is to be addressed.**

(3) Reservation of authority. (i) Notwithstanding the definitions of core and supplementary capital in paragraph (d) of this section, the NCUA may find that a particular asset or core or supplementary capital component has characteristics or terms that diminish its contribution to a corporate credit union's ability to absorb losses, and the NCUA may require the discounting or deduction of such asset or component from the computation of core, supplementary, or total capital.

Comment: **To discount a component of capital that meets the definition of this regulation offers the power to arbitrarily determine what can be counted as capital, which allows for the power at any time to reduce a corporate's capital levels and possibly capital category.**

Recommendation: **If a particular component of capital meets the definition of core or supplemental capital it should be treated as such.**

704.4 Prompt Corrective Action

(d) Capital measures and capital category definitions.

(3) Reclassification based on supervisory criteria other than capital. Notwithstanding the elements of paragraph (d)(2) of this section, the NCUA may reclassify a well capitalized corporate credit union as adequately capitalized, and may require an adequately capitalized or undercapitalized corporate credit union to comply with certain mandatory or discretionary supervisory actions as if the corporate credit union were in the next lower capital category, in the following circumstances:
(i) Unsafe or unsound condition. The NCUA has determined, after notice and opportunity for hearing pursuant to paragraph (h)(1) of this section, that the corporate credit union is in an unsafe or unsound condition; or
(ii) Unsafe or unsound practice. The NCUA has determined, after notice and an opportunity for hearing pursuant to paragraph (h)(1) of this section, that the corporate credit union received a less-than-satisfactory rating (i.e., three or lower) for any rating category (other than in a rating category specifically addressing capital adequacy) under the Corporate Risk Information System (CRIS) rating system and has not corrected the conditions that served as the basis for the less than satisfactory rating. Ratings under this paragraph (d)(3)(ii) refer to the most recent ratings (as determined either on-site or off-site by the most recent examination) of which the corporate credit union has been notified in writing.

Comment: **This section gives the NCUA an inordinate amount of power and potential to force PCA requirements on a sound institution that has a strong composite score with one deficient category. Additionally, there is no stated time period allowed to correct the conditions that served as the basis for the less than satisfactory rating.**

Recommendation: **This section should at least state "and has not corrected the conditions that served as the basis for the less than satisfactory rating in the required timeframe."**

(4) The NCUA may, for good cause, modify any of the percentages in paragraph (d)(2) of this section as described in §704.3(d).

Comment: **704.3 (d) (4) allows for arbitrary modification of the individual capital requirements for a corporate based on the opinion or views of an individual, giving the NCUA an inordinate amount of power including the potential to force PCA requirements on a corporate; thereby mitigating the power and right of the corporate's board of directors and members to control the organization.**

<u>Recommendation</u>: The ability to modify percentages should require NCUA board action.

704.6. Credit risk management

(a) <u>Policies</u>. A corporate credit union must operate according to a credit risk management policy that is commensurate with the investment risks and activities it undertakes. The policy must address at a minimum:

(3) Maximum credit limits with each obligor and transaction counterparty, set as a percentage of capital. In addition to addressing deposits and securities, limits with transaction counterparties must address aggregate exposures of all transactions including, but not limited to, repurchase agreements, securities lending, and forward settlement of purchases or sales of investments; and

<u>Comment</u>: While repurchase agreements and securities lending do constitute credit relationships, delivery versus payment settlements of investment purchases and sales do not constitute a credit relationship.

<u>Recommendation</u>: While there is a minimal amount of market risk, which makes it appropriate to analyze and monitor counterparties, there is no credit risk and a credit limit is not necessary.

(c) <u>Issuer Concentration limits</u> (1) General rule. The aggregate of all investments in any single obligor is limited to 25 percent of capital or $5 million, whichever is greater.

<u>Comment</u>: It does not appear that Fed Funds transactions are exempt from this limit. Corporates need to have the ability to place larger amounts of overnight funds with a counterparty in order to manage liquidity and get a reasonable return.

<u>Recommendation</u>: Increase the obligor concentration limit for Fed Funds transactions to 500% of capital to allow corporates to effectively manage overnight liquidity.

(f) <u>Credit ratings</u>

(4) Investments are subject to the requirements of §704.10 if:

(ii) The investment is part of an asset class or group of investments that exceeds the sector or obligor concentration limits of this section.

<u>Comment</u>: It appears that this section would require a corporate credit union to write an individual investment action plan for each and every security within an asset class or group of investments if the sector or obligor concentration limits are exceeded. This seems onerous and unnecessary since the corporate would likely have many securities making up that group.

<u>Recommendation</u>: Since it is a concentration limit concern versus a specific credit concern it would be more appropriate to require one investment action plan that covers the group of securities and contains all pertinent information related to the group, the violation and the plan to get back in compliance with the regulation.

704.8 Asset and Liability Management

704.8(c) <u>Penalty for early withdrawals</u>
A corporate credit union that permits early share certificate withdrawals must redeem at the lesser of book value plus accrued dividends or the value based on a market-based penalty sufficient to cover the estimated replacement cost of

the certificate redeemed. This means the minimum penalty must be reasonably related to the rate that the corporate CU would be required to offer to attract funds for a similar term with similar characteristics.

<u>Comment</u>: Certificates of deposit sold by Corporate Central Credit Union and some other corporates are always offered as "non-negotiable" and non-redeemable deposits with no put option resting with the member. Therefore, there is no right to redeem a certificate prior to maturity. However, if a corporate, at its option, chooses to allow a member's request for redemption (i.e. early termination of the contract on mutually agreed terms) the corporate should be allowed to pay a premium if it can do so without incurring a financial loss or significantly diminishing its liquidity position.

By not allowing corporates to pay members a premium when possible, the corporates are allowed to take all of the upside (premiums) while all of the downside (penalties) continues to be necessarily passed on to members. This would decrease the attractiveness of corporate certificates to members. Also, the decreased liquidity offered to members would likely increase the cost of funds that corporates would have to pay to raise funds, which would decrease spreads and reduce the ability of corporates to grow retained earnings.

This issue would put corporates at a competitive disadvantage versus agency securities and other investment alternatives. This would likely significantly decrease corporates' abilities to fund their balance sheets using term deposits.

The reduction in term deposits would reduce liquidity in the system both. The ability of corporates to mitigate balance sheet risk created by term loans to members will be substantially reduced since term funding is necessary to mitigate the cash flow mismatches associated with term lending. Also, if term loans cannot be funded by term deposits the result would be increased interest rate risk, spread risk, and liquidity risk.

<u>Recommendation</u>: Allow the payment of a premium on an early redemption if the corporate can do so without incurring a financial loss or significantly diminishing its liquidity position.

704.8(e) <u>Cash flow mismatch sensitivity analysis</u>

(1)(i) Evaluate the risk in its balance sheet by measuring, at least quarterly, the impact of an instantaneous spread widening of both assets and liabilities by 300 basis points, assuming that issuer options will not be exercised, on its NEV and NEV ratio. If the base case NEV ratio falls below 3 percent at the last testing date, these tests must be calculated at least monthly until the base case NEV ratio again exceeds 3 percent.
(1)(ii) NEV ratio minimum 2 percent
(1)(iii) NEV decline cannot exceed 15 percent (20 percent for Base-Plus)

(2) All investments must be tested, excluding derivatives and equity investments. All borrowings and shares must be tested, but not contributed capital.

(3) A corporate credit union must also test for the effects of failed triggers on its NEV and NEV ratios while testing the cash flow sensitivity analysis.

<u>Comment</u>: The testing and limits in Part 704.8(e) are unnecessary with the inclusion of Part 704.8(f), which is a more conservative approach. Please see comments related to that section.

<u>Recommendation</u>: Remove the requirements of Part 704.8 (e).

704.8(f) *<u>Cash flow mismatch sensitivity analysis with 50 percent slowdown in prepayment speeds.</u>*

(1) A corporate credit union must:

(i) Evaluate the risk in its balance sheet by measuring, at least quarterly, the impact of an instantaneous spread widening of both asset and liabilities by 300 basis points, assuming that issuer options will not be exercised and prepayment speeds will slow by 50 percent, on its NEV and NEV ratio. If the base case NEV ratio falls below 2 percent at the last testing date, these tests must be calculated at least monthly until the base case NEV ratio again exceeds 2 percent;
(ii) Limit its risk exposure to levels that do not result in a base case NEV ratio or any NEV ratio resulting from the tests set forth in paragraph (f)(1)(i) of this section below 1 percent; and
(iii) Limit its risk exposures to levels that do not result in a decline in NEV of more than 25 percent (30 percent for Base-Plus).

(2) All investments must be tested, excluding derivatives and equity investments. All borrowings and shares must be tested, but not contributed capital.

(3) A corporate credit union must also test for the effects of failed triggers on its NEV and NEV while testing the cash flow sensitivity analysis.

<u>Comment</u>: Part 704.8(f) requires instantaneous 300 basis points of spread widening on all assets and liabilities. Additionally, contributed capital is not included in the testing.

While spreads on some marketable securities did widen by 300 basis points or more in the unprecedented events that occurred in 2008 and 2009 many did not. Spreads on government, agency, and government sponsored enterprise securities in particular (including MBS) widened to a much lesser extent as a flight to quality ensued, which is typical in times of crises.

If spread widening is going to be assumed to occur at one given level, then a more appropriate modeling assumption may be 150 basis points for both assets and liabilities.

However, another approach would be to get more granular and use spread widening levels tied to risk weightings or some other method to capture the significant differences in spread widening that can occur over asset classes, sectors, etc. This approach would give more cash flow flexibility to balance sheets that have lower credit risk profiles.

Additionally, the intent of the regulation appears to be to limit cash flow mismatches. However, by not including PCC and NCA in the testing a corporate's ability to invest those long-term funding sources is severely restricted. Corporate Central Credit Union attempts to deploy contributed capital in a way that will add the most value to members over the long term. Also, there is no consideration for the longer term nature of core deposits.

Core deposits that are regularly measured using an acceptable approach should be allowed to be invested in longer term investments or member loans. Core deposits have shown stability even through the recent highly stressed environment. Not allowing those deposits to be invested appropriately will decrease a corporate's ability to pay members an acceptable return and also build retained earnings.

Lastly, use of the assumptions that issuer options will not be exercised and prepayment speeds will slow by 50 percent is unrealistic and will severely limit the ability of corporates to purchase high quality assets that are appropriate for the balance sheet.

Corporates will not be able to purchase cushion callables or step-up investments issued by government agencies and GSEs that offer value even if they are significantly "in-the-money" due to the arbitrary assumption that they will not be called.

Prepayment speeds on mortgage-backed securities do slow for various reasons. However, there is a point where the likelihood of an additional 50% decrease in speeds is completely unrealistic. Prepayments on MBS will always occur due to things such as change in marital status, job relocation, upsizing, downsizing, default, health reasons, financial reasons, etc. Also, prepayment speeds on auto, student loan, and other non-mortgage ABS tend to be relatively stable. Imposing an arbitrary 50% decrease in prepayments on these types of assets is inappropriate.

Recommendation: An appropriate approach to this modeling would be to use a more granular methodology, which would give more cash flow flexibility to balance sheets with lower credit risk profiles. Also, the modeling should include PCC as 20-year liabilities, NCA as 5-year liabilities, and core deposits as 3-year liabilities in the cash flow mismatch testing. NCA on-notice and fixed-term NCA should be modeled based on expected cash flows. Including these long-term funding sources will provide a more realistic picture of cash flow mismatches and allow corporates the flexibility to manage balance sheets in a way that will offer value to members and also allow the building of retained earnings while still limiting risk.

Additionally, for MBS securities a better approach would be to use +300 basis-point cash flows for this modeling, which would capture extension but not produce the potentially unrealistic cash flows that an arbitrary 50% slowdown in speeds would produce. Prepayment speeds on auto, student loan, and other non-mortgage ABS should be slowed using a factor based on the historical experience of the asset class rather than an arbitrary 50%.

704.8(h) Weighted average asset life.

The weighted average life (WAL) of a corporate credit union's investment portfolio, excluding derivative contracts and equity investments, may not exceed 2 years. A corporate credit union must test its investments at least quarterly for compliance with this WAL limitation. When calculating its WAL, a corporate credit union must assume that no issuer options will be exercised.

Comment: A 2-year WAL limit on corporate credit union assets will severely limit a corporate credit union's ability to add value to its members. A corporate's ability to continue offering term loans and term certificates to members will be gone. This will force credit unions into term borrowing sources outside of the credit union system and also into marketable securities.

Members of natural person credit unions will be impacted if corporates are no longer able to meet members' term funding needs. Natural person credit unions, in turn, will be limited in their ability to do term lending to their members, because they will not have the ability to mitigate risk using term funding.

If the ability for natural person credit unions to invest in term products at corporates goes away, they will be forced into the public markets. While many credit unions are well equipped to analyze securities and determine fair prices many are not, and the cost associated with the personnel and systems necessary to invest in the markets would be prohibitive or unattainable for many credit unions.

Additionally, some form of risk must be taken in order to earn a return on assets. If there is no ability to extend assets to a reasonable weighted average life corporates will be forced to take on more credit risk to achieve the returns necessary to build capital. This will be exacerbated by the fact that corporates will no longer have the ability to purchase many high-quality assets such as agency MBS, government guaranteed FFELP student-loan ABS, and other securities that have longer average lives.

There are many high quality, moderate average life assets available that can be purchased without adding undue risk to a balance sheet. There are existing and proposed modeling requirements and

limits that will capture the interest rate risk and cash flow mismatch risk that is being added by the assets, which are sufficient to limit risk.

Recommendation: The limitation should either be removed from the regulation because interest rate and cash flow risk are well covered in other sections, or it should be extended to a more reasonable limitation that will allow the flexibility needed for corporates to serve members and also build capital.

704.8 (k) Overall limit on business generated from individual credit unions.

On or after [DATE 30 MONTHS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER], a corporate credit union is prohibited from accepting from a member or other entity any investment, including shares, loans, PCC, or NCAs if, following that investment, the aggregate of all investments from that member or entity in the corporate would exceed 10 percent of the corporate credit union's moving daily average net assets.

Comment: Corporate balance sheets can fluctuate significantly due to seasonal, cyclical, or economic stress events. Limiting a corporate's ability to accept funds from a member or borrow from "other entities" to 10 percent of moving daily average net assets could unnecessarily increase a corporate's, and its members', cost of funds and create the risk of a liquidity shortfall in a stressed environment. While it is appropriate to have diversified sources of funds this limit is overly restrictive and could cause unintended consequences if funds, especially contingent sources of funds, become unavailable at a time of need due to the limit.

Recommendation: Increase the limit for accepting funds from a member or "other entities" to allow a corporate the flexibility in determining the most appropriate and cost-effective source of funds and also to prevent the possibility of a liquidity shortfall due to overly-restrictive limits removing the ability for a corporate to access necessary contingent funding.

704.9(b) Borrowing limits.

A corporate credit union may borrow up to the lower of 10 times capital or 50 percent of capital and shares (excluding shares created by the use of member reverse repurchase agreements).

Comment: This limit reduces a corporate's ability to borrow at the very time when borrowing may be most necessary – when shares are low. Typically, corporates borrow when liquidity is tight due to seasonal or cyclical shifts in liquidity, which are the same points in time when member shares at corporates are lower. By limiting corporates' borrowings to the *lower* of 10 times capital or 50% of capital and shares, this section is increasing the risk of liquidity issues at corporates and member credit unions. This will also reduce the ability to offer term loans to members since term borrowing is often used to fund term loans to members. With the proposed borrowing limits, corporates will not be able to tie up borrowing capacity for term lending. Therefore, an important need of Corporate Central Credit Union's, and other corporate credit unions', members will not be met.

Recommendation: A more appropriate limit would be the lower of 10-times capital or 100 percent of capital and shares (excluding shares created by the use of member reverse repurchase agreements).

704.9(b)(1) Secured borrowings.

A corporate credit union may borrow on a secured basis for liquidity purposes, but the maturity of the borrowing may not exceed 30 days. Only a credit union with core capital in excess of five percent of its moving DANA may borrow on *a secured basis for non-liquidity purposes, and the outstanding amount of secured borrowing for non-liquidity purposes may not exceed an amount equal to the difference between core capital and five percent of moving DANA.*

Comment: Not allowing secured borrowings for more than 30 days or for purposes other than liquidity needs will severely limit Corporate Central Credit Union's ability to offer term loans to its members. Members borrow from Corporate Central Credit Union regularly to mitigate the interest rate and liquidity risk in their loan portfolios. Additionally, term borrowing offers Corporate Central Credit Union a way to manage the cash flow mismatches, liquidity risk and interest rate risk on its balance sheet. Removing the ability to borrow beyond 30 days will increase the risk at corporate credit unions, especially liquidity risk.

It appears that the concern related to secured term borrowing is market risk. The proposed rule should be amended to allow secured term borrowing using government, government agency, and government sponsored enterprise (GSE) securities (including MBS), and possibly other low risk securities as collateral. These types of securities did not lose value in the way that other types of securities did during the worst market crisis seen in decades.

Additionally, while counterparties stopped accepting many types of securities as collateral during that period, government, agency, and GSE securities were still being accepted as collateral even during the tightest credit period of the crisis.

Recommendation: Allow secured term borrowing for any term beyond 30 days for any purpose using government, agency, GSE, and possibly other low risk securities as collateral. This change would allow Corporate Central Credit Union and other corporates to continue meeting a very important need of members. This would allow Corporate Central Credit Union to continue lending to the membership without taking on undue cash flow mismatches, liquidity risk or interest rate risk. The increased capital requirements in this proposed regulation are sufficient to prevent corporates from leveraging their balance sheets. Additionally, the ability to use high-quality assets as collateral for term borrowing will also give corporates another incentive to purchase and maintain higher levels of those assets.

704.14(a) Board representation

The board will be determined as stipulated in its bylaws governing election procedures, provided that:

(1) At least a majority of directors, including the chair of the board, must serve on the board as representatives of member credit unions;

(2) On or after [INSERT DATE 4 MONTHS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE FEDERAL REGISTER], only individuals who currently hold the position of chief executive officer, chief financial officer, or chief operating officer at a member may seek election or re-election to the board;

(3) No individual may be elected to the board if, at the expiration of the term to which the individual is seeking election, the individual will have served as a director for more than six consecutive years. For purposes of calculating the six- year period, any consecutive prior service on the board by representatives of the same corporate member must be counted as though the individual seeking election had fulfilled that service. Accordingly, a corporate member may not circumvent the term limit provisions by putting forward a new candidate for directorship after one or more of its prior representatives has served on the board for six consecutive years;

Comment: Effective board governance of corporate credit unions is critical to the success of individual institutions and the credit union system overall. The proposed regulation removes the ability of individual corporate credit unions and their members from determining what the appropriate tenure should be. A six-year maximum tenure implies an average tenure of three or fewer years on the board. Since corporates are complex financial institutions, a longer tenure would

allow the board members to acquire greater industry and institutional expertise. In "Credit Union Boards and Credit Union Performance", 1993, Filene Research Institute, little correlation is found between the length of board tenure and credit union performance suggesting little need for an arbitrary limit. Corporate Central Credit Union has a provision in its Bylaws requiring that board members be President or Chief Executive Officer of a member credit union – similar to the proposed regulation's requirement that board members be CEOs, CFOs or COOs at a corporate credit union member. In the 29-year history of Corporate Central Credit Union, there have been 37 directors with an average tenure of eight years, and nine that have had tenures of longer than twelve years.

Recommendation: It is recommended that the regulation allow the member/owners of a corporate credit union to determine how long an individual remains on the board. Member participation in elections combined with the requirement that the board member hold an active senior management position in a member credit union will result – as demonstrated by Corporate Central Credit Union's experience – in a board with deep knowledge of the industry and institution while ensuring sufficient turnover to introduce new perspectives and to avoid cronyism.

Please contact me if you have any questions regarding our comments or recommendations. We look forward to working together to strengthen not only Corporate Central Credit Union but also certainly the member / owners that we so humbly serve. I can be contacted directly at 414.427.3615 or by email at rwfouch@corpcu.com.

Sincerely,

Robert W. Fouch
Robert W. Fouch
President and CEO

Cc: Corporate Central Credit Union – Board of Directors
Member / Owners – Corporate Central Credit Union
Mr. Scott A. Hunt – Director, Office of Corporate Credit Unions, NCUA
Ms. Suzanne T. Cowan – Director, Office of Credit Union, WI DFI