From: Marquetta Cantrell
To: _Regulatory Comments
Subject: Marquetta Cantrell -Rocket City Federal Credit Union-comments on Part 704 Corporate Credit Unions
Date: Friday, February 19, 2010 2:53:13 PM

February 19, 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 comment on the proposed corporate credit union regulation. In reviewing the proposed regulation as written, we feel that the long term survival of all sizes of natural person credit unions and the needed corporate credit union network will not be benefited. We appreciate your consideration of our comments and the potentially detrimental impact that some aspects of the regulation would have not only on corporate credit unions, but natural person credit unions as well.

704.3- Corporate Credit Union Capital

704.3(c) **Perpetual Contributed Capital -** This regulation will allow a corporate credit union to condition membership and services on a credit union's purchase of permanent capital. This can result in a natural person credit union being forced to purchase permanent capital and invest in risk capital deposits at a corporate credit union that may not be displaying the best stewardship of its members' funds. The NCUA Board granted U.S. Central a waiver in December 2008 that immediately conditioned membership, and therefore access to payment systems, on the purchase of permanent capital. The write-down of this capital has hurt many corporate and natural person credit unions. The prohibition against conditioning membership and services on the purchase of permanent capital should remain in the regulation, and a member credit union should be provided a twelve months window of opportunity to terminate its services with the requiring corporate.

704.3(c)(3) **Perpetual Contributed Capital Call Feature** - The decision for a corporate to exercise the call feature for perpetual capital should remain with the issuing corporate and not require preapproval from the NCUA. The NCUSIF would remain protected by the capital requirements outlined in the proposed regulation, therefore in requiring preapproval the NCUA is overreaching.

704.3(d)(4)(v) **Increased Individual Capital Requirement**- To allow the Director of the Office of Corporate Credit Unions to arbitrarily select any corporate credit union and increase their capital requirements is dangerous and invites an abuse of power, especially when no appeals process exists.

704.3(e)(3) **Disallowing Capital from Inclusion in Ratios**- No NCUA employee should have the power to decide that a capital account will be eliminated from governing capital ratio if it meets the requirements outlined in the regulation.

<u>704.4- Prompt Corrective Action Corporate Structure</u>

704.4(d)(3) **Lowering the Capital Category** - This proposed regulation would give too much power to one NCUA employee, the director of the OCCU, who would have the authority to force restrictions upon an adequately capitalized corporate by changing the capital category of a corporate credit union.

704.4(d)(3)(ii) **Lowering the Capital Category Based on Ratings** - Once again the director of the OCCU would be given too much power with the authority to lower the capital category of any corporate at any time if any CRIS category is rated three of worse. There is a great likelihood that this will occur, given the fact there are twelve separate categories.

704.4(d)(4) **Lowering the Capital Category for Good Cause** - With one individual holding this much power, the boards of all corporates would effectively be employees of the Director of the OCCU. This is too much power to concentrate in one individual.

704.4(k)(1) **Payment of Dividends** - Only corporate credit unions that are significantly or critically undercapitalized should be prohibited from paying dividends on capital accounts.

704.4(k)(2)(v) **Powers over Undercapitalized Corporates** - If a corporate is labeled as undercapitalized the NCUA will have the power to eliminate or reduce dividends on any or all accounts, force a merger, restrict growth, dissolve CUSOs, remove the board, fire management, conserve the corporate, or take any other action. This section allows the Director of the OCCU to use these powers with corporates that are merely undercapitalized, but these powers are authorized by reference to 704.4(k)(3)(ii). That section alone is only applicable to corporates that are significantly or critically undercapitalized. Therefore, the Director of the OCCU has been given a power that is too broad with his ability to lower individual capital categories, fire employees, and remove any board at any existing corporate for years to come.

704.4(k)(6)(ii)(C) **Charter or Bylaws for State Chartered Corporates** - By allowing the NCUA to inhibit a bylaw change for state chartered corporate credit unions, the power of state regulators would be relinquished.

<u>704.8- Asset Liability Management</u>

704.8(e) **Average Life Mismatch Modeling** - If the proposed regulation goes into effect, it will undoubtedly force corporate credit unions to invest in short-term securities that contain credit risk and reduce their respective positions in government-backed bonds with moderate WALS. A better solution would require the average life mismatch modeling only on the book of business that contains securities with credit risk. For instance, securities that have a risk weighting of twenty percent or less should be excluded from the average life mismatch tests, otherwise it would create a situation where credit risk will increase and the effects of credit spread widening will be worsened.

704.8(h) **Two-Year Average Life** - Instead of reducing credit risk and liquidity risk, the proposed regulation would increase these risks by placing an arbitrary limit of two years on the maximum WAL. Many securities that are appropriate for a corporate credit union to own have a weighted average life that is greater than two years.

704.8(k) **Deposit Concentration** - Unfortunately, this proposed regulation would force funds out of the credit union system, punish corporates that acted responsibly with their members money, and restrict natural person credit unions from investing in institutions they deem appropriate.

While there were many corporates that acted irresponsibly with their members' money, our corporate credit union caused us no losses. If a natural person credit union was forced to choose another source to invest their funds, this could have either caused losses that would otherwise have not occurred, or forced them to take money out of the credit union network and invest elsewhere.

If this restriction is enacted, most likely natural person credit unions will withdraw funds from the system, which decreases liquidity in the network and could result in restrictions natural person credit unions place on their members. For the solvent corporates, this regulation would force a large refund of deposits back to their members, and therefore penalize both the corporate and their members. A credit union should have the right to choose which financial institution it places its money and trust.

I recommend that deposits from one source be limited to greater than ten percent of a corporate's assets, or one hundred percent of a corporate's assets that carry a risk weighted average of twenty percent or less. This would ensure that deposit concentrations are invested only in high quality, very liquid assets.

<u>707.4 - Prompt Corrective Action</u>

707.4 **Prompt Corrective Action** - Corporate credit unions should be required to reveal their capital category as an example of transparency. This information should not be hidden from the owning members of a corporate credit union.

<u>Conclusion</u>

The proposed regulation as written could cause a great deal of harm to the credit union system. The Director of the OCCU would be given an abundance of power in many areas that could easily be abused. Restrictions on investments will result in funds flowing out of the credit union system. Credit risk will also be increased at corporate credit unions. Please do not let this happen.

Thank you for the opportunity to express our concerns.

Sincerely,

Marquetta Cantrell
President/Manager
Rocket City Federal Credit Union
256-533-0541 ext. 14
www.rocketcityfcu.org