



March 1, 2010

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

Re: Proposed Regulation 12 CFR Part 704

Dear Ms. Rupp:

We understand the NCUA Board has drafted a significant proposed regulation, which is directed at the nation's corporate credit unions. We believe that this proposed regulation will ultimately affect a large number of natural person credit unions like Firstmark Credit Union. Many of the impacted institutions are small credit unions that depend upon the services offered by the corporate system for their survival.

We believe that there are some major limitations in the proposed rule that cause us a number of concerns, mostly over legacy asset resolution, liquidity and investment returns. If not addressed or amended these parts of the proposed rule could force my credit union into the undesirable positions of seeking alternative, possibly much more expensive, and certainly more unreliable, providers instead of a corporate credit union we and other credit unions would own. Due to our concerns with the proposed rule and its' potential impact on the future viability of the corporates, we have begun the process of identifying services we receive from our corporate and alternatives sources for these services.

Here are our primary concerns:

Legacy Assets

There has been no plan shared on how to deal with the impaired legacy assets of the corporates. In our opinion this must be addressed with a plan to deal with these toxic assets. Otherwise we could not even consider contributing additional capital to our corporate. The write-offs we have gone through over the last year have significantly impacted our financial statements and our ability to grow and serve our members. Without a well detailed plan on how this will be addressed, we believe much of the rule changes are a moot point because the corporates will be unable to generate the required capital to meet regulatory expectations.

704.8 © Penalty for early withdrawals on corporate certificates

Our credit union has benefited from enhanced yields on our excess funds placed with our corporates (WesCorp and Southwest Corporate), but we do not see why we are not able to obtain a premium on a certificate redemption if we need liquidity. If this proposed change stays

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in, we will have to seriously consider putting our longer-term investable funds elsewhere in liquid instruments that do not penalize early redemptions. We believe that all credit unions will be forced into a similar choice, which will effectively mean the end of corporate certificates as a competitive investing option. That will not be beneficial for our credit union or the entire credit union movement. We believe this proposal should be removed.

704.8 (d), (e) & (f) NEV sensitivity analyses

We have seen analysis that show that the proposed limitations placed upon a corporate through various NEV tests do not allow the corporate to generate sufficient interest margin to build retained earnings to meet your proposed capital requirements. If enacted as drafted, this proposal will inevitably lead to some combination of increased fees being charged to us and forced expense reductions that will adversely impact the level of service and support that our credit union needs. We believe the rule should be revised to allow for the corporates to make sufficient income from the balance sheet to grow and invest in innovation for the benefit of all its' member credit unions, while exercising an acceptable level of credit and interest rate risk.

704.8 (h) Weighted average asset life

We view our corporates as a liquidity source for both short and long term needs. We understand that the limitations placed on asset maturities or average life limitations may severely impact our ability to obtain term liquidity if we need it. Again, that means we will have to look elsewhere.

704.6 (c) & (d) Concentration limits

Under the current proposals for concentration limits, the corporates will be severely challenged to invest short-term liquidity at reasonable rates. This will have the effect of reducing the overnight rates our credit union receives from our corporates and this is something we simply cannot afford. We respectfully urge a number of revisions here. Please change the definition of deposits in 704.6 (d) to include Federal Funds, or include Federal Funds transactions in the exemption from sector concentration limits. Also, please change 704.6 (c) to allow a larger single obligor limit of 200% of capital on money market transactions with a term of 90 days or less. An alternative solution might be to specifically allow a single obligor limit of 200% of capital for Federal Funds transactions sold to other depository institutions.

704.19 Disclosure of executive and director compensation

Given the size and complexity of corporates, we can understand why they need more vice presidents to operate efficiently than we need at our credit union. We understand that the salaries of "senior executives" should be available to members, but only "senior executives". We would define a "senior executive" as any officer reporting directly to the Chief Executive Officer and exclude vice presidents not reporting to the CEO. This would be in line with current practices within other financial institutions. We could see that this rule might make it very difficult to recruit externally from experienced and qualified individuals from non-credit union financial institutions where the title of "vice president" definitely does not denote a "senior executive" level individual. We believe the rule should address disclosure of executive and



director compensation for the President and CEO, the principal financial officer and the three most highly compensated executive officers. Please consider revising the rule to accommodate these concerns. If we are going to have corporates, we would like the competitive flexibility to attract and retain the caliber of staff necessary to manage the aggregated risk in the credit union system.

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

We do understand why a limit ought to be placed on the aggregate investment in a corporate that comes from our credit union. However, the current limit of 10% may force a corporate into short-term borrowings with less favorable terms regarding price, maturity and collateral. It may also be damaging to the corporate's earnings. It would force corporates to maintain larger cash balances, which would likely be detrimental to earnings. We are concerned that this proposal may limit the corporates ability to provide our credit union with reasonably priced short-term liquidity.

We respectfully request that you consider allowing borrowings with a maturity of 30 days or less, from either the Federal Reserve Bank, a Federal Home Loan Bank, a Repurchase Agreement counterpart or a Federal Funds counterpart, in excess of 10% of the corporate credit union's moving daily average net assets, by eliminating the "or other entity" part of the proposed regulation. Alternatively, consider allowing a higher borrowing limit of as much as 20% of the corporate's moving daily average net assets from these entities.

704.11 Corporate Credit Union Service Organizations

We urgently request some clearer definition as to what will be permissible in the final rule. We are concerned that, in its' current wording, the proposed rule will make it extremely difficult for corporates to find qualified CUSO partners with whom to offer credit unions the competitive products and services they need. We can certainly understand that if we were a third party provider of a necessary service in which a corporate wanted to be a minority partner, we would not allow the NCUA free access to our books, records software and operations. Rather, we would force the corporate to leave the partnership.

Furthermore, as the products our members demand continue to evolve, the expense of producing those products becomes prohibitive. Many natural person credit unions are creating CUSOs to help produce innovative products at a minimum cost. Often we rely on our corporates to join that CUSO, because they bring considerable expertise that is not available to most credit unions. Any changes, such as the full access to operations, which may prohibit corporates from joining such CUSOs, will obviously be a detriment to our future abilities. These changes should be limited to a more practical and realistic status where, for example, a corporate has the controlling interest in the CUSO.

The above areas compromise our major concerns with your proposed rule, and we hope that our comments on this are sufficient to prompt you to reconsider these proposals in the ways we have indicated.



It is very apparent that you have put an incalculable amount time, thought and consideration into a proposal that you intend to strengthen the corporate network and be of lasting value to all credit unions.

We want to see it work the right way and we hope that our comments, along with those of our fellow credit union leaders will assist you in making that happen.

Respectfully,

A handwritten signature in black ink, appearing to be "AW Apple", written over a horizontal line.

Andrew W. Apple, C.P.A.
Senior Vice President – Chief Financial Officer
Firstmark Credit Union
San Antonio, Texas