



**KANSAS SUPER CHIEF CREDIT UNION**

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March 2, 2010

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

Re: Proposed Regulation 12 CFR Part 704

Dear Ms. Rupp:

I appreciate the opportunity to provide input to the NCUA Board regarding the Corporate Network. As NCUA has indicated, over 95% of all natural person credit unions have accounts at a corporate credit union and as you know, many of these credit unions depend heavily upon the services offered by their corporate. In Kansas, I believe all credit unions have a relationship with Kansas Corporate and it is viewed as a critical strategic partner. Even though the proposed regulation is directed at the nation's corporate credit unions, ultimately, this regulation will affect almost all natural person credit unions.

I believe there are some major limitations in the proposed rule that cause a number of concerns, and if not amended, may force my credit union into the undesirable position of seeking alternative providers for the products and services we desire. I also believe that an alternative provider will be far more costly and less reliable than the corporate credit union that Kansas credit unions have owned and supported for over fifty-nine years. Our credit union does not want to go through that process and we do not want to do business with entities (the bankers) that we compete with on a daily basis and don't have my credit union's best interest at the forefront of every decision made.

The following commentary expresses our concerns:

**704.8 Asset Liability Management**

In general, I would comment that I believe the current regulation requires sufficient ALM testing and that spread testing, mismatch limitations, and the two-year weighted average life maximum on top of the currently required NEV testing represent a layered regulatory framework that is excessive and only serves to create more workload. In my own opinion, the same objective of "never again" could be achieved with additional regulation that improves credit and asset concentration limits, combined with a reduction in investment authorities. Many financial experts agree that no one could have foreseen the breakdown that lead to the

economic crisis of the past couple of years, and despite all of this additional regulation, we can be fairly certain that no one will foresee the next crisis that will impact the entire U.S. economy and the credit union industry.

#### ***704.8 (e)(1)(i) Credit Spread Widening***

I know that Kansas Corporate uses floating-rate investments to limit interest rate risk by allowing them to move the rates they pay us quickly when interest rates change. This additional test eliminates the value of these safe investments and essentially converts them to fixed-rate investments for measurement purposes. As a result, almost all of the assets on my corporate credit union's balance sheet would be considered fixed-rate for measurement purposes and we all know that a large majority of their funding comes from overnight investments. Therefore it would be difficult for my corporate, and I'd assume all corporates, to be in compliance with the proposed regulation simply based upon this one additional test. It does not make good business sense to penalize my corporate for holding securities with this very risk averse floating rate component. I am also wondering why the new regulation would require a 300 basis point spread widening test when historical analysis would suggest that 100 basis points would be a highly unusual and rare event. I'd request that NCUA consider two changes to this new testing requirement: 1) limit the spread widening test to 100 basis points; and 2) either eliminate or take into consideration a scaled spread widening based upon the risk-weight of the asset (i.e. if the asset is an agency floater, then the spread widening test should be less severe than if the asset was a non-agency mortgage backed security).

#### ***704.8 (h) Weighted Average Life (WAL)***

The proposed WAL of two years is unnecessary given the current rigid Net Economic Value (NEV) requirements that already capture this risk. This will most likely limit the ability of my corporate to provide longer-term investment and liquidity options. Kansas Corporate has always been helpful in working to accommodate whatever investment or liquidity maturity I need or desire. If I want a three-year term investment and my corporate can match that liability with a three-year term investment, it doesn't make good business sense to penalize my corporate since they would not be taking on any additional interest rate risk. I don't understand why NCUA would want to restrict my credit union's ability and/or opportunity to purchase an investment or borrow money from my corporate just because it was for greater than a two year term. I would request that the WAL of two years be eliminated from the regulation based upon the fact that the risk is already captured in other ALM tests that the corporate is required to comply with.

#### ***704.8 (f) Cash Flow Mismatch Analysis***

This analysis subjects all amortizing investments to the same slowdown in prepayment speeds despite the fact that historically, non mortgage prepayment speeds don't change as much as mortgage-backed securities. I feel this test should be eliminated, or at a minimum, this test

should only be applied to the prepayment speed of mortgage-backed securities and not for non-mortgage holdings.

***Ability/timeframe to meet Leverage Ratio***

With today's current interest rate environment, the periodic benchmarks for the retained earnings portion of the leverage ratio may be unrealistic for Kansas Corporate to achieve. It will be especially difficult since the corporate will be starting from zero retained earnings due to the depletion of their capital investments at U.S. Central. I think it is important to consider that the majority of net interest income for corporate credit unions is generated from a balance sheet that consists primarily of investments and not loans. I recommend that NCUA consider allowing additional time to achieve the periodic benchmarks for the retained earnings portion of the leverage ratio to the following: four years for 0.45%; eight years for 1.00% and twelve years for 2.00%. This still represents a challenge for any corporate but at least it would be a more attainable objective.

***Replenishment of Member Contributed Capital***

The Kansas Super Chief Credit Union Board of Directors would request that NCUA provide for some mechanism in the new corporate regulation, where corporates can return capital back to existing capital holders if actual losses on investments in which OTTI has been taken are less than projected. Regardless of how many experts model the projected losses, nobody knows exactly what the losses are going to be when all is said and done. The ACCU and CUNA have proposed mechanisms that would facilitate the ability to recapture that lost capital. It is important that this be included in the final regulation, and that corporates should not be prevented from replenishing capital if actual losses are less than expected. Kansas Corporate, and as a member/owner Kansas Super Chief Credit Union, should be the beneficiaries if losses are less than what was paid for upfront based upon your loss estimates?

***704.3 (d)(3) Standards for determination of appropriate minimal capital requirements***

This section allows for a subjective judgment to be used in determining a corporate's capital status regardless of whether or not they meet the capital standards as defined in the regulation. I'm concerned that if I choose to invest in a perpetual capital account at my corporate, and they are consistently meeting the periodic benchmarks for building retained earnings, one individual at NCUA can still make a subjective determination that different and potentially higher capital standards are required for my corporate. Based upon that decision, NCUA could potentially then merge my corporate (and my capital) with another corporate that our credit union may not be willing or interested in supporting. As written, the regulation does not identify the methods by which NCUA will ensure consistency in its approach to this subjective measurement.

Under the proposed regulation, it would appear the OCCU Director can arbitrarily increase the capital required for a corporate; can unilaterally require that certain capital accounts be

discounted and not included in applicable capital ratios; unilaterally change the capital category of a corporate; and lower a corporate's capital designation if only one of many CRIS categories are rated a 3 or lower. This definitely gives too much power to one individual, and I believe at the very least, the NCUA board should have to approve any type of decision regarding the change of a corporate credit union's capital designation. I strongly urge NCUA to remove the subjective judgment of determining the appropriate capital requirement for a corporate credit union from the regulation and that the appropriate capital level designation should be based upon the calculated capital ratios only.

#### ***704.9(b) Borrowing Limits***

This section places a limitation of 30 days on liquidity borrowings. Some corporates may have leveraged their balance sheet through borrowings and taken on additional risk, and that practice should be restricted in the future. However, it would appear the issue has been addressed with the new capital requirements and it would be unlikely that any corporate would purposefully leverage their balance sheet anytime in the near future. This borrowing restriction seems unusual since natural person credit unions have always considered our corporate to be a liquidity provider. We want Kansas Corporate to be liquidity provider but we are going to limit their borrowing for liquidity purposes to 30-days (even the CLF lends for a minimum of 90 days). This restriction should be removed from the regulation as it could prevent corporates from fulfilling a key function that we rely heavily upon and due to the fact that this should be restricted under the NEV testing limitations anyway.

#### ***704.14 Board Representation***

There should not be term limits for directors since they are elected by the membership and consist of professionals from natural person credit unions. Our credit union is adamantly opposed to term limits.

#### ***704.8 c Penalty for Early Withdrawal***

I do not understand why anyone would want this regulation to eliminate the ability of a corporate credit union to redeem an outstanding certificate. If you eliminate my credit union's ability to turn the certificate into cash when needed it is no longer an attractive asset to consider. This rule would place Kansas Corporate at a competitive disadvantage and reduce longer term deposits, which in turn will cause them to rely more heavily on short-term and overnight deposits making their funding costs more volatile and perhaps impact their ability to meet our liquidity needs. My recommendation is to leave the current rule as is for certificate redemptions and if necessary, define a mechanism for how a gain should be paid.

I do hope that NCUA is sincere in their desire to listen to our concerns and will truly allow natural person credit unions to determine how we want Kansas Corporate to look, and also allow us to determine what products and services are wanted and needed. The NCUA Chair has stated at the recent NCUA Town Hall meeting in Dallas that "twenty-eight corporates are far too many for our system". Isn't this a decision that should be made by the member/owners of

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