March 9, 2010

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

Dear Ms. Rupp:

In recent weeks I have actively engaged in several opportunities to learn about the proposed new corporate credit union regulation so that I would be able to respond to the agency about this most important issue. As I'm sure you are aware, small and medium-sized credit unions often do not have the means to replace the value offered by our corporates, which function as a critical part of our back office. Without access to my corporate and the service it offers, I am sure that my credit union will have to search elsewhere for these services and will incur a much higher cost which will have to passed on to the membership. I am writing today because I fear that the proposed regulation, with its goal of eradicating all risks that contributed to corporates' recent losses, has the potential to tear down a valuable cooperative network, rather than just addressing and improving the regulation of risk-taking.

Specifically, I am concerned about the effects that certain provisions will have on my corporate's very survival, not to mention its ability to meet the timeline for accumulating sufficient retained earnings as described in the regulation. I have seen analyses that show irrefutably that there is no combination of credit-worthy assets meeting the requirements of the proposed regulation that would allow a corporate to generate enough earnings to offer value to their members. While I do not have the means of running this analysis on my own, I believe that the NCUA must reexamine its own evaluation using realistic assumptions to ensure that the new rules surrounding NEV, weight-average life and retained earnings accumulation are compatible.

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There are other specific aspects of the rule that would impact the corporate's ability to provide value to me and my fellow credit unions – such as the prohibition against redeeming certificates at a premium. This change would render corporate certificates uncompetitive. The ultimate effect on my credit union would be the loss of an option for accessing liquidity and foregone income that we can scarcely afford to lose. I do not believe that the change proposed in the new regulation should be implemented. Further, I do not believe that the changes proposed to concentration and sector limits provide sufficient risk mitigation to warrant inclusion in the regulation in light of the detrimental impact to the generation of income and ability to add value for my credit union.

For the past year a point of concern and discussion for all credit unions has been the question of why the NCUA required corporates to deplete member-contributed capital in order to off-set retained earnings deficits even though this is not spelled out in the current regulation. I see that the proposed regulation does seek to set this practice in stone, and I believe it is a mistake. When using models to estimate future losses and taking these impairments to net income today, it just makes sense (not to mention being GAAP-compliant) to allow a corporate to run a deficit in retained earnings in case losses are not as bad as the models predict. I understand that you cannot replenish capital once it is gone, but I believe that in light of the aggressive approach to depletion it is reasonable to establish a framework for returning some portion of the lost capital to the original investors if the losses turn out to be less than predicted. I am aware that corporate credit unions have worked together to develop one or more plans to that effect and strongly encourage you to consider such an approach.

Among the most troublesome provisions of the proposed regulation are those surrounding prompt corrective action. As a natural person credit union, I have lived under the auspices of PCA and appreciate the structure of provisions that clearly outline what is required to be considered adequately capitalized. While the proposed regulation seeks to set out several levels of capital adequacy for corporates, which is appropriate, it also makes it clear that the NCUA may act outside of this framework in making a determination of capital adequacy and has nearly unbridled power to impose remedial actions. The previously existing practice of requiring capital restoration planning and a responding capital directive from the agency continues to be the most appropriate way to ensure corporates are moving toward capital adequacy at a reasonable pace.

Several other provisions appear to give the agency broad authority over corporate governance and decisions that should be left to the discretion of a corporate's elected officials. At worst, such provisions create an environment where the corporate will be hard pressed to attract qualified executives and board members – which, contrary to the purpose of the revising the regulation, would increase risk by diminishing the quality of management. Provisions falling into this category include the limitations on indemnification payments, six-year term limits for directors, disclosure of executive compensation and related "golden parachute" constraints. I cannot recommend an alternative for the mitigation of the risk associated with these provisions because I am not able to discern how what has been proposed is intended to mitigate risk; therefore, I would recommend the elimination of the aforementioned provisions.

Before closing I will also mention briefly the proposed rule changes surrounding CUSOs – including the restrictions on the allowable purpose of CUSOs and the necessity of deducting

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CUSO investments from capital. My credit union and many others benefit from the extension of the cooperative framework into the realm of CUSOs – businesses that would oftentimes not exist if not for the investments and support of corporate credit unions. These new restrictions appear to threaten the effective use of CUSOs without an offsetting benefit to the system, and I recommend eliminating them.

In conclusion, I wish to convey that I appreciate the importance of mitigating the risks that led to the losses in the corporate system; however I do not believe that the agency should set new standards based on the historical confluence of events that led to unforeseen market disruption and losses on highly-rated assets – especially when the cost of doing so is so great to credit unions. I think it is important while drafting the final regulation to be mindful that, without the benefit of the corporate's expertise, combined with good returns and a commitment (unlike any other vendor in the market place) to the best interests of their members, my credit union undoubtedly would take on much more risk ourselves than what is posed by the corporate system. And we would be doing so without the benefit of the experience housed at corporates, as like most small and medium-sized credit unions, our resources do not allow us to acquire that type of expertise. Further, my credit union would be hobbled by the inefficiency (as well as higher prices) of obtaining settlement and payment support services from other sources. Despite its recent problems, the corporate network exemplifies the cooperative model that allows credit unions to thrive. I believe that with a few reasonable modifications, this model can continue to serve that purpose well into the future, and that any aspect of the new regulation that would make the model unviable should be taken off the table entirely.

Please reconsider the provisions outlined above to ensure the ongoing viability of the corporate credit union system and the credit unions it supports.

Sincerely,

Janet W. Davis

Janet W. Davis
President/CEO
TIC Federal Credit Union

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