From: ewdaniels@comcast.net
To: _Regulatory Comments
Subject: Reg Comments
Date: Wednesday, March 10, 2010 10:36:43 AM

March 9, 2010

NCUA
1775 Duke Street
Alexandria, VA 22314-3428

RE: Regulation Changes Comments

Dear NCUA Regulator:

We at Newark Board of Education Employees Credit Union agree with the New Jersey Credit Union League that we credit unions have felt the impact of the disruption in the corporate credit union system in three core ways:

• NCUA's Corporate Credit Union Stabilization Plan has led to National Credit Union Share Insurance Fund Premium Assessments on all federally-insured CUs. The NCUA estimates that the total cost for its Corporate Credit Union Stabilization Plan will ultimately be between $4-$6 billion.

• Almost all credit unions have experienced a significant loss in their capital shares at corporate credit unions

• Credit unions are facing uncertainty as to the future of the corporate credit union system. The uncertainty has a major impact on credit unions as most credit unions rely on corporates for payments/settlement/liquidity and other services. Many of these services are difficult to change providers quickly and cost-effectively. Thus credit unions have a major stake in the future of the corporate network. Credit unions are also putting off certain business objectives due to concern over future assessments.

While the above three effects continue to be extremely difficult on credit unions, what may end up being the most serious fallout is the effects of NCUA's proposed rewrite of the corporate credit union regulation, Part 704.

The corporate credit union system unilaterally believes that the new regulation will make it very difficult for corporates to deliver value to credit unions, for the corporate system to even survive, and that the regulation fails to present a plausible business model for corporates going forward.

Corporates believe NCUA's capital requirements, which include timetables for achieving, are unrealistic. Corporates believe the concentration limits put on investing authorities will make it very difficult for them to deliver enough spread to bring value to credit unions.

There are other factors that corporates and credit unions are very concerned about. Currently there is no mechanism for corporates to return capital to members for investment losses. This is particularly concerning given that the actual losses corporates have sustained in their portfolios are much less than what they have been required to write down as Other Than Temporary Impaired assets. Shouldn't NCUA address how that capital can be returned to credit unions if actual losses come in lower?

• Another key issue is capitalization of the corporate network going forward. NCUA will not mandate forced recapitalization of corporates by credit unions. Clearly corporates will be seeking capital from credit unions in order to meet NCUA's capital requirements and to build their business. Credit unions are understandably concerned about recapitalizing corporates given the estimated $60 billion in "legacy" assets that will put a strain on the corporate system for many years to come. NCUA's proposed regulation does not address legacy assets. Doesn't the regulator have an obligation to address that issue for credit unions to make an intelligent decision on capitalizing corporates going forward? Given legacy assets could lead to more NCUSIF premium assessments, shouldn't the regulator look for a solution?

We at Newark Board of Education Employees Credit Union strongly believe that the proposed weighted average life of a corporate's assets will be limited to two years under the new regulation will limit the return that corporates can provide CUs.

The proposed regulation also prevents redemption of corporate certificates at a premium. The corporates contend this will result in corporate certificates being less liquid than other certificates and will make them less competitive with other providers. Newark Board of Education Employees Credit Union would find it difficult to invest in an institution that warns in advance a reduced return on its investment. This would indeed make investing a corporate credit union less attractive or even feasible. Credit Unions are presently limited to less risky investments and this restriction would impact the business decision to invest in the corporate.

The regulation proposes an investment concentration limit of 25% of capital or $5 million in any single obligor. Corporates believe this limit is too restrictive and will hinder their ability to be competitive. We at Newark Board of Education Employees Credit Union believe that this proposal is too restrictive. While the 25% could be a guideline for smaller credit unions, it would not allow for larger credit unions to proportionately support the corporate structure. We also believe that there should be no cap to the amount of a single obligor.

In the new credit spread test, NCUA does not consider core deposit assumptions on overnight accounts. Some corporates contend that NCUA should provide credit for core deposits in the credit shock test to accurately assess risk. Newark Board of Education Employees is not sure what impact this test would have on the safety of the corporate.

Corporates will now fall under Prompt Corrective Action. In order to be well-capitalized, a corporate will have to maintain the following capital ratios:

- Leverage Ratio: 4% “adjusted core capital” (i.e. core capital minus intangible assets, CUSO investments, and capital investments in other CCUs) relative to DANA
- 4% core capital ratio relative to risk- weighted DANA
- 8% total capital ratio relative to risk-weighted DANA

Newark Board of Employees Credit Union believes that these standards of capitalization are adequate if other restrictions to acquiring capital are reviewed. Every effort to assure credit unions it is in their interest to maintain the corporate structure (not necessarily the amount of corporates) should not only come from credit unions, but NCUA should review how some of the proposed changes will negatively affect the long term survival of the corporate.

To be considered adequately capitalized, the regulation requires the following retained earnings milestone:

- At least 100 basis points after 6 years, and at least 200 basis points after 10 years.

These timelines seem unrealistic and inappropriate. Safety and soundness can be maintained without a defined level of retained earnings. The previous requirements of minimal capital should deem this an unnecessary requirement.

We at Newark Board of Education Employees Credit Union have believed in the past and in going forward that a credit union should be required to put up capital to do business with the corporate. Those that don’t should pay a higher fee and in turn see the value of the corporate in its business model.

We believe that credit unions should capitalize corporates regardless of services used. The ability to use the corporate yet not invest will reduce the chances of the survival of the corporate system.

The proposed regulation is silent on the issue of legacy assets. This is a key issue because corporates will be feeling the impact of these assets for many years and these assets have resulted in NCUSIF assessments. While the legacy assets can't magically disappear, many believe that by NCUA not addressing this issue, credit unions will be facing NCUSIF assessments for years to come for projected losses that may not materialize. Newark Board of Education Employees Credit Union believes that NCUA must address legacy assets. While our position would be to find a way to “wall off” legacy assets utilizing a "bad bank" scenario, we would like the rights to future earnings on corporates’ legacy assets.

The proposed regulation also addresses governance issues. While we support the prohibiting of an individual corporate CU director from concurrently serving on multiple corporate boards, we can not endorse term limits. All board members should be from natural person CU members of the corporate. The board member should also be a CEO, CFO or COO to serve on a corporate board.

Prohibiting indemnity would greatly limit the pool of qualified directors to choose from and puts an unreasonable burden on volunteers. It is a necessary expense of business to protect these volunteers.

Newark Board of Education believes in limited compensation disclosure for merging corporates. We would suggest corporates disclose individual senior executive officer and director compensation upon member request or at least annually; must disclose material increases in compensation (greater than 15% or $10,000) related to mergers; merging federal corporates must disclose material increases to members prior to merger vote.

The Board of Directors would like to register our comments and hope that the concerns mentioned will help the decision making process for the final regulation change. The issues mentioned will aid the Board in developing its business model and defining its relationship with the corporates now and in the future.

Sincerely,

Mary Hogue, Board President
Newark Board of Education Employees Credit Union