La Capitol
FEDERAL CREDIT UNION

April 28, 2010

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

Re: NCUA's Proposed Rule 742, Regulatory Flexibility Program – Fixed Assets

Dear Ms. Rupp:

I appreciate the opportunity to comment on the Board's proposed changes to RegFlex and its potential impact on credit unions and their members.

The regulatory flexibility program has provided well run credit unions with the capability to overcome well intentioned limitations in NCUA regulations that inadvertently had a negative effect on credit union members. Our credit union is RegFlex qualified, has a Low Income Designation and is classified as a Community Development Financial Institution. We have a capital ratio of 13.8% and have received high ratings from NCUA.

Being a low income credit union, our average share balance is less than peers and our asset level is less than peers with a similar number of members. However, we require an extensive branch network to serve our lower income membership, which means our fixed asset ratio often runs between 5% and 7%. Many times during the history of our credit union, the 5% fixed asset limitation has restricted our ability to serve existing and potential members. RegFlex provided us with the ability to expand our branch network, grow our membership and increase assets. While credit unions can apply for a waiver from the fixed asset limitation from the Regional Director, this process is cumbersome and the application evaluation process can change when the administration of the Regional Office changes. This is not a complaint against the Regional Director's office, just recognition of the fact that different regional directors and their staff view waiver applications differently.

The establishment of RegFlex in 2002 gave well run credit unions the ability to develop long range strategies and plans based on a specific regulatory flexibility regarding fixed assets and not an application waiver approval process that can be influenced by changes in NCUA personnel or the political climate at the time the application is made. Loss of this flexibility adds uncertainty to the planning process, which increases costs to the membership. Well run credit unions need this flexibility to remain profitable and relevant to their membership in the competitive financial services market.

If NCUA does not believe the credit unions are practicing safe fixed asset investment practices by abusing the current RegFlex exemption, it can put in greater restrictions on its use rather than eliminate it entirely. The Board could limit well run credit unions to a higher fixed asset limitation of at least 10%.

Removing the ability to waive the personal guarantee of borrowers would also put our credit union at a competitive disadvantage and result in increased administration costs of member business lending. There are times when the borrower is so strong or the deal structure is so solid that other lenders would offer the loan without a personal guarantee. There are also times when one or more of the guarantors bring no real value to the loan and their personal guarantee only increases the administration expense related to the loan. As a best practice, we normally obtain a personal guarantee for member business loans. However, we need the flexibility to waive this requirement when warranted.

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As a best practice, we follow the requirements of the regulation regarding the stress testing of investments and discretionary control of investments, despite having flexibility in this area under RegFlex. We believe these requirements are necessary for our credit union to be well run. However, other well run credit unions may have different circumstances and need the flexibility to make business decisions that are in the best interest of their members.

Thanks again for this opportunity to comment on the proposed changes to RegFlex. We recommend that NCUA retain RegFlex for well run credit unions. It has enabled us to remain competitive and to better serve our members. If the Board still feels that greater restrictions are warranted, a version of RegFlex with greater restrictions would be better than eliminating it all together.

Michael Hooper
Executive Vice President/Chief Financial Officer
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