Marvin C. Umholtz, President & CEO
Umholtz Strategic Planning & Consulting Services
1613 Easthill Ct NW Olympia, WA 98502
(360) 951-9111 marvin.umholtz@comcast.net

Sent via email only: regcomments@ncua.gov

June 9, 2010

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

Re: Marvin Umholtz Comments on Notice of Proposed Rulemaking (Short-Term, Small Amount Loans)

Dear Ms. Rupp:

I appreciate having the opportunity to present these comments to the members of the National Credit Union Administration (NCUA) Board about the proposed rulemaking regarding "short-term, small amount loans as a viable alternative to predatory payday loans." The opinions in this comment letter represent my point of view and are not necessarily the views held by any of my clients or by any organization with which I may be affiliated.

Umholtz Comment Letter Contents:

- **Key Points About Short-Term, Small Dollar Amount Loan Proposed Rule**
- **Umholtz Recommendations to the NCUA Board**
- **NCUA Board's Proposed Payday Loan-Like Alternative Misguided**
- **NCUA Board's Proposal Unlikely to Appeal to Payday Loan Borrowers**
- **NCUA Board's Payday Loan Rule Invites Criticism from Partisan Left and Partisan Right**
- **NCUA Board's Proposed Rule Based Upon Flawed Partisan Ideological Viewpoints**
- **NCUA Board's Loan Rate Ceiling and Product Restrictions Untenable**
- **NCUA Board's Micro-Management and Rulemaking Focus Misplaced**

Key Points About Short-Term, Small Dollar Amount Loan Proposed Rule

- **Withdraw Proposed Rule.** The NCUA Board should withdraw the proposed payday loan-like alternative rule and substitute a simple increase in allowable APR to support the effective delivery of this type of short-term, small dollar amount loan.
- **Ideological Malarkey.** The proposed rule also assumes that the legal, job-producing, and consumer-supported payday lending industry is evil and that credit unions have a social responsibility to run payday lenders out of town by offering so-called alternatives. That assumption is ideological malarkey.
- **Rule Fatally Flawed.** Is the NCUA Board promising something that it cannot possibly guarantee to deliver in order to justify its ill-advised intervention into the marketplace, as well as the imposition of price controls and product design limitations? Regardless of the NCUA Board's stated intentions, the entire approach to this proposed rule is fatally flawed and constitutes poor public policy.
- **Lack Fundamental Understanding.** It would appear that both the NCUA Board and the credit union lobby lack a fundamental understanding about payday loans and the practical impediments from government interference with the applicable business and economic factors. No amount of good intentions, government mandates, or wishful thinking will make the NCUA Board's proposed rule work successfully.

- **Partisan Assault.** Credit union alternative payday lending is under assault from the partisan ideologically left of center and from the partisan ideologically right of center.
- **FCU's Success Unlikely.** It is unlikely that a federal credit union could successfully engage in any of these REAL Solutions® suggested alternative payday loan initiatives if constrained by the NCUA Board's unrealistic proposed rule, especially the interest rate cap and allowable application fee cap.
- **Cheerleading for Special Interests.** Despite the impediments embedded in the NCUA Board's proposed rule, some good government advocates might criticize the NCUA Board for appearing to cheerlead for a private sector association's special interests and efforts to garner market share.
- **CRA-Like Regime.** Perhaps the NCUA Board's proposed alternative payday loan rule is the first step in imposing a CRA-like regime on credit unions. Should that be the motive, then there is even more reason for the NCUA Board to withdraw this proposal.
- **CUs Not Suited for Payday Lending.** Because of the high costs to originate such micro loans, credit unions are not particularly suited to fill the payday lending alternative niche.
- **Credit Killing Rule.** All interest rate caps, including the federal credit union usury cap, artificially disrupt the marketplace and in effect decide who doesn't get credit. The NCUA Board's proposed rule restrictions can be added to the already much too long list of so-called consumer friendly – but in reality credit-killing ideologically-skewed legislative and regulatory initiatives.
- **Ideologically Questionable Distraction.** The NCUA Board should be investing its resources in and attention on credit union safety and soundness, credit union profitability, credit union capital preservation, mitigating the corporate credit union legacy assets, problem credit union resolution, deposit insurance reform, and removing the embedded risks from the dangerous systemic interconnectivity within the industry – not on this kind of ideologically questionable distraction as represented by this proposed "alternative payday loan" rule.

Umholtz Recommendations to the NCUA Board

It should be the job of all regulators, including the NCUA Board, to minimize regulatory obstacles, reduce compliance burdens, and facilitate legitimate business decisions. In contrast, the government agency should not be in the business of product design and endorsement as exemplified by this proposed rule. The NCUA Board's proposed rule addressing short-term, small dollar amount loans (that the agency refers to as STS loans) might be considered by some to be well intentioned, but the need for this rule remains unproven. The mere fact that this proposed rule is now in the public domain opens up the agency and the credit union industry to unwelcomed criticism.

Should the NCUA Board truly desire to promote safe and sound payday loan-like lending by credit unions it should instead establish an Annual Percentage Rate (APR) ceiling under its statutory authority that actually enables federal credit unions (FCU) to participate successfully. Rather than the proposed 1,000 basis points above the current regulator-authorized 18% cap for FCU loans, the NCUA Board should set a rate ceiling equivalent to traditional payday lenders in the range of 400%. Then the private sector could determine what terms and conditions meet the test of fulfilling the perceived need and concurrently meet the practical economic and business factors required to operate a safe and sound payday loan-like program that at least breaks even.

The proposed "alternative payday loan" rule does not establish a sustainable model that addresses the needs of traditional payday loan customers. Additionally, the proposed rule represents a paternalistic intervention in the marketplace that at best is misguided and will be ignored, and at worst will encourage credit unions to engage in high risk lending with both hands tied behind their backs. The NCUA Board should withdraw the proposed payday loan-like alternative rule and substitute a simple increase in allowable APR to support the effective delivery of this type of short-term, small dollar amount loan.

NCUA Board Proposed Payday Loan-Like Alternative Misguided

At its April 29, 2010 meeting, the NCUA Board proposed the rule concerning short-term, small dollar amount loans by federal credit unions designed to be an alternative to traditional payday loans. The proposal authorizes federal credit unions to charge an amount above the statutory 15% APR and the regulation-permitted 18% APR. The NCUA Board's proposal was published May 5, 2010 in the *Federal*

Register www.federalregister.gov with a comment deadline of July 6, 2010. Among other rationale, the NCUA Board said the proposed rule would, "…assist FCUs in meeting their mission to promote thrift and meet their members' credit needs, particularly the provident needs of members of modest means."

The words "modest means" are highly charged politically and potentially misleading. Every time those words are used by the NCUA Board it validates credit union industry critics that question credit unions' commitment to all of their members and potential members, including those with lower incomes. It is this correspondent's understanding that although the words were used during discussions concerning the *Credit Union Membership Access Act of 1998*, the words do not appear in the statute and should not have appeared in conjunction with this proposed payday loan rule. The NCUA Board should expunge this phrase from its vocabulary.

In its summary of the proposed rule as printed in the *Federal Register*, the NCUA Board also made repeated references to "predatory" payday loans. Apparently the NCUA Board is unaware that the term "predatory" is jargon used by partisan consumer activist and social justice organizations advocating a public policy agenda that often undermines the safety and soundness of federally insured financial institutions. Who defines predatory?

Organizations like the Center for Responsible Lending www.responsiblelending.org (that the NCUA Board inappropriately quotes in its rationale for the proposed regulations) use that same misleading label to describe mainstream overdraft courtesy pay programs that are widely used by credit unions and community banks. In some cultures, anyone who charges loan interest is considered "predatory." The NCUA Board mistakenly incorporated this misleading ideologically partisan and politically explosive adjective in its own summary and background explanation for its rulemaking.

The proposed rule also assumes that the legal, job-producing, and consumer-supported payday lending industry is evil and that credit unions have a social responsibility to run payday lenders out of town by offering so-called alternatives. That assumption is ideological malarkey. The entire premise is questionable as illustrated by the sentence, "The Board encourages FCUs to use STS loans as a means of serving more members and, through financial counseling and other methods, attempt to help members move away from STS loans in favor of an FCU's more mainstream products and services." Traditional payday lenders exist because those mainstream products and services referenced by the NCUA Board don't meet the payday loan customer's needs.

The NCUA Board's published proposal also made specious statements like, "The Board believes small FCUs in particular, which often have members in need of this type of loan, would not be able to operate an STS loan program under NCUA's current interest rate ceiling in a cost-effective manner." In reality, no federal credit union of any size could be successful under the current rate cap – and there is no tangible evidence that a small credit union's members are any different in their needs than members from a larger credit union.

The NCUA Board also made the unsupportable statement, "As noted above, the intent of this rule is to permit FCUs to provide a viable, responsible alternative to high-cost payday loans, which will help members break the cycle, improve their credit scores and gain or re-gain access to mainstream financial products." Is the NCUA Board promising something that it cannot possibly guarantee to deliver in order to justify its ill-advised intervention into the marketplace, as well as the imposition of price controls and product design limitations? Regardless of the NCUA Board's stated intentions, the entire approach to this proposed rule is fatally flawed and constitutes poor public policy.

NCUA Board's Proposal Unlikely to Appeal to Payday Loan Borrowers

Shortly after the NCUA Board made its alternative payday loan proposal, a February 2010 research report by Professor Victor Stango with the Graduate School of Management at the University of California, Davis www.ucdavis.edu surfaced in the credit union trade press. Entitled, "*Are Credit Unions Viable Providers of Short-term Credit?*" the monograph suggested that the answer was "No."

According to the research findings, "The characteristics of typical credit union payday loans make those loans quite unattractive to most payday borrowers…Some of the unattractive features are restrictions on approval or repayment. One interpretation of this result is that borrowers place high value on the option to default, should they be unable to repay the loan. The high value that borrowers place on softer features such as hours of operation and privacy are in some sense more damaging to the credit union business model, as they are inherent in the ways that the two types of institutions do business. Even if credit unions decided to mimic the standard payday product as closely as possible, they would be unable to match those features."

The report concluded, "It seems unlikely that credit unions can viably serve as providers of short-term credit to the customers currently served by payday lenders. Several pieces of data provide the basis for this conclusion. First, very few credit unions choose to offer payday loans right now, even though there are few legal or regulatory obstacles to doing so. That evidence is a market test suggesting that the standard payday loan out-competes the credit union version of a payday loan, even given the lower rates on some credit union payday loans."

Stango continued, "Second, there is little evidence that credit unions can offer a payday loan with competitive terms at lower prices. Credit union payday loans often have total borrowing costs that are quite close to those on standard payday loans. And, credit union payday loans have lower default risk. There is no compelling evidence to suggest that risk-adjusted prices on standard payday loans are any higher than those on credit union payday loans. Third and finally, current payday borrowers overwhelmingly prefer a higher-priced but less restrictive loan to a lower-priced but more restrictive loan. Given that standard payday loans are less restrictive than those offered by credit unions, it seems unlikely that even at substantially lower prices a majority of customers would prefer credit union payday loans."

Also, despite the questionable ability of credit unions to adequately provide a successful and widely accepted substitute for traditional payday loans, the credit union lobby (apparently with the NCUA Board cheering them on) continued to attack the legal payday lending business and irresponsibly overpromise the credit union industry's ability to fill that market niche. The NCUA Board is contributing to this trade association-promoted public disservice to consumers with the promulgation of this proposed rule under the misleading pretense that federal credit unions can actually make a significant difference in this market niche.

For example, in a May 7, 2010 letter to all U.S. Senators, the Credit Union National Association (CUNA) expressed support for the highly partisan and ideologically misguided Title XII of U.S. Senator Christopher Dodd's (D-CT) regulatory reform legislation. CUNA wrote, "We welcome the inclusion of Title XII which seeks to help increase low- and moderate-income Americans' access to mainstream financial institutions as an alternative to payday lenders, and appreciate the efforts of Senators Akaka [D-HI] and Kohl [D-WI] with respect to these provisions. Promoting thrift is one of the core missions of credit unions. Credit unions throughout the nation are dedicated to developing and offering products that provide consumers affordable payday lending alternatives. If this provision is enacted, we believe it could increase the number of small-dollar loans made by qualifying credit unions and decrease consumer dependence on less scrupulous providers of short-term, small dollar loans, while at the same time having the added benefit of increasing consumer access to mainstream financial institutions."

It would appear that both the NCUA Board and the credit union lobby lack a fundamental understanding about payday loans and the practical impediments from government interference with the applicable business and economic factors. No amount of good intentions, government mandates, or wishful thinking will make the NCUA Board's proposed rule work successfully.

NCUA Board's Payday Loan Rule Invites Criticism from Partisan Left and Partisan Right
In proposing this rule, the NCUA Board should remember that the topic of credit union payday loan-like alternatives got very controversial last summer with the distribution of *NCUA Letter to Federal Credit Unions No: 09-FCU-05* on the subject of payday lending. As stated in the letter, "NCUA reminds FCUs of the need to comply with statutory and regulatory provisions in operating a lending program and offers suggestions on how FCUs can best serve their members' interests in this context."

The *Credit Union Times* www.credituniontimes,.com broke the story behind the NCUA payday lending letter. In several July 31, 2009 website postings, the *Credit Union Times* revealed that the NCUA letter was in part a reaction to a lengthy January 2009 complaint letter received from the ideologically left of center consumer activist and social justice advocate – the National Consumer Law Center (NCLC) www.nclc.org. Describing itself on its website as, "America's Consumer Law Experts Protecting Vulnerable Consumers and Promoting Marketplace Justice," the NCLC would also outlaw courtesy pay overdraft protection programs, impose bankruptcy cramdowns, and establish many other anti-financial institution regulatory reforms.

A July 30, 2009 press release on the NCLC website read, "The National Credit Union Administration yesterday gave guidance to credit unions on payday loans. The letter demonstrates that, while many credit unions offer responsible small loans, others offer payday loans or sham 'alternatives' that differ little or not at all from predatory, destructive traditional payday products. The National Consumer Law Center sent a letter to NCUA in January describing abuses by some credit unions."

The NCLC press release closed with the statement, "Hopefully, NCUA will back its letter up with enforcement to ensure that the credit union industry associates itself only with truly affordable small loans, not sham payday loan alternatives. It would be a tragedy if the mantle of payday lending that has been relinquished by banks and thrifts were to be taken up by the credit union industry."

As recently as June 8, 2010 the NCLC bad-mouthed specific credit unions in a press release and report entitled, "*Stopping the Payday Loan Trap: Alternatives That Work, Ones That Don't*." The press release read, "Some loans offered by banks and credit unions as 'alternatives' to high-cost, short-term payday loans may instead plunge consumers into a costly and nearly inescapable debt cycle—just like payday loans!...'Too many providers of so-called payday loan alternatives hit consumers with some of the same onerous provisions that predatory lenders use to saddle unwary and vulnerable borrowers with loans they can't afford to repay,' said Lauren Saunders, managing attorney of NCLC's Washington office and principal author of the report."

Credit union alternative payday lending is also under assault from the partisan ideologically right of center. Although a state-endorsed alternative payday loan program engaged in by $1.8 billion asset Virginia Credit Union www.vacu.org largely drew praise, including from an op-ed in *The Wall Street Journal*, not everyone liked it. Among those severely criticizing the program was leading conservative website Big Government http://biggovernment.com/2010/01/06/the-payday-loan-public-option-as-bad-as-it-sounds/ that mercilessly took the credit union program to task in a January 6, 2010 article.

"The Virginia State Credit Union is mining gold and it's finding it. Thanks to former Virginia Governor Tim Kaine, state employees are being duped into a credit product designed to take more money from their paychecks than the payday loans it was designed to replace. Not only that, this spider catches its flies via unfair competition…If the flesh-eating consumer activists and grandstanding politicians are so hot to get rid of payday loans, why not just create an alternative product to compete fairly in the marketplace?…It's nothing more than a state-sponsored marketing ploy, and yet the media calls payday lenders the bad guys in the credit world."

Not coincidentally, one of the CUNA-affiliated National Credit Union Foundation's (NCUF) www.ncuf.coop biggest initiatives, REAL Solutions®, encourages credit unions to find alternative ways to reach out to current payday loan customers, including a comprehensive payday loan toolkit entitled, "*Payday Lending – A REAL Solutions Implementation Guide*" www.realsolutions.coop. The American Association of Credit Union Leagues http://aacul.org and many of the state associations www.cuna.org/league_roster.html have endorsed and actively promoted the NCUF payday loan alternative program.

It is unlikely that a federal credit union could successfully engage in any of these REAL Solutions® suggested alternative payday loan initiatives if constrained by the NCUA Board's unrealistic proposed rule, especially the interest rate cap and the allowable application fee cap.

NCUA Board's Proposed Rule Based Upon Flawed Partisan Ideological Viewpoints

In its proposal, the NCUA Board footnotes a CUNA-sponsored study written by former CUNA Board Chairman Nancy Pierce entitled, "*Payday Lending: The Credit Union Way*." Although Ms. Pierce carried impressive academic credentials, this study clearly advocated credit union involvement in payday lending and was by no stretch of the imagination impartial third party academic research on the topic.

As the report itself revealed, "Nancy Pierce gathered knowledge of credit unions' innovative payday loan alternatives while serving as a Field Coach for REAL Solutions®, the signature program of the National Credit Union Foundation. 'REAL' stands for 'Relevant, Effective, Asset-building, Loyalty-producing' Solutions. The program works to help credit unions offer a wide range of products and services that have proven successful in serving working families with low wealth and modest means." Despite the impediments embedded in the NCUA Board's proposed rule, some good government advocates might criticize the NCUA Board for appearing to cheerlead for a private sector association's special interests and efforts to garner market share.

The NCUA Board is equally risking its arms-length regulator reputation by citing a study presented by the Center for Responsible Lending entitled, "*Quantifying the Economic Cost of Predatory Lending*." The Center for Responsible Lending is a lobbying front group for Self-Help Credit Union and Self-Help Federal Credit Union www.self-help.org – both of which are federally insured credit unions that the NCUA supervises and/or regulates and constitute a potential conflict of interest for the agency. One need only visit the left-leaning conglomerate's website to ascertain that its research is designed to advocate a point of view against "predatory payday lending" in all forms. This activist organization's research is hardly academically supportable or beneficial for the mainstream credit union industry.

One can also question the NCUA Board's judgment for including a reference to this rogue advocacy group's research report in its proposal. The NCUA Board is already being questioned by some industry pundits for its apparent collusion with Self-Help Federal Credit Union's rapid expansion through regulator-driven mergers with troubled California credit unions. The concern is exacerbated by the agency's forbearance in counting subordinated debt as capital to leverage the Self-Help Federal Credit Union's marketplace expansion and by the growing perception that the NCUA Board thereby supports the CRL's anti-mainstream financial institution lobbying agenda.

For additional expressions of concern about CRL, the NCUA Board should visit the conservative Americans for Prosperity website at http://americansforprosperity.org/newsroom and the Consumer Rights League website at http://consumersrightsleague.org. In October of 2009, the latter organization filed formal complaints against CRL with the Secretary of the Senate, the Clerk of the House, and with the Internal Revenue Service www.irs.gov urging an investigation of CRL's reporting irregularities and lobbying practices. On the Self-Help website, the CRL is described as "a national nonprofit, nonpartisan research and policy affiliate. CRL is dedicated to protecting home ownership and family wealth by working to eliminate abusive financial practices." The claim to be nonpartisan is difficult to swallow considering the highly partisan nature of their legislative and regulatory policy stances.

If the NCUA Board's proposed rule was designed to reflect a balanced view of the payday lending topic, it would have been appropriate for the NCUA Board to counter the Center for Responsible Lending's strident prohibitory price control viewpoint with information available from the Community Financial Services Association of America (CFSA) website at www.csfa.net/get_the_facts.html. Should the NCUA Board choose to move forward with this ill-advised proposed rule, it is recommended that the Board members first review the research on the CFSA website and use this hands-on marketplace knowledge about the true economics and consumer impact of traditional payday loans to correct the NCUA Board's proposed rule and enhance the likelihood of credit unions success with this niche product.

In its proposal, the NCUA Board also cited the Federal Deposit Insurance Corporation's (FDIC) voluntary pilot program to assess the viability of banks offering short-term loans. Based upon the NCUA Board's comments, the FDIC experiment was used as a model for the NCUA Board's own alternative payday loan proposal. Although it is certainly appropriate for a government agency like NCUA to rely on the research engaged in by a sister regulator like the FDIC, a more thorough review of the FDIC program would have discouraged most rational people from copying the program. The FDIC sample only involved 26 banks (out of 7,932 FDIC insured institutions) and a meager $5.2 million in small-dollar loans (in a $13+ trillion industry.) The FDIC pilot suffered from the same unrealistic expectations that plague the NCUA Board's proposal – neither is likely to achieve the desired impact.

Additionally, unlike credit union participation, the FDIC program provided banks with Community Reinvestment Act (CRA) credits. Perhaps the NCUA Board's proposed alternative payday loan rule is the first step in imposing a CRA-like regime on credit unions. Should that be the motive, then there is even more reason for the NCUA Board to withdraw this proposal. This first step on the road toward CRA application to credit unions is not a path that the credit union industry should be encouraged to traverse.

NCUA Board's Loan Rate Ceilings and Product Restrictions Untenable
These days few credit unions, especially those in the economically hard hit sand states, are lending $200 for two weeks at less than 36% to consumers with under 580 credit scores. Because of the high costs to originate such micro loans, credit unions are not particularly suited to fill the payday lending alternative niche. The NCUA Board should check out the Filene Research Institute www.filene.org study entitled, "*The Economics of Payday Lending*," for a better understanding of the relevant business issues.

Unless a credit union plans to subsidize its alternative payday loan program, it has to deal with the same business issues that a traditional payday lender does. The laws of economics, like gravity, cannot be repealed. The very nature of a payday loan – small dollar, short-term, no underwriting, more risky – makes it only do-able with fees that end up generating high APRs. Courtesy pay programs widely deployed by credit unions face the same APR distortions – that doesn't make them "predatory." If one puts an APR on courtesy pay, one gets an interest rate in the thousands of percent.

For example, the November 2008 *FDIC Study of Bank Overdraft Programs* concluded that, "Assuming a $27 overdraft fee (the survey median), a customer repaying a $20 POS/debit overdraft in two weeks would incur an APR of 3,520 percent; a customer repaying a $60 ATM overdraft in two weeks would incur an APR of 1,173 percent; and a customer repaying a $66 check overdraft in two weeks would incur an APR of 1,067 percent. More rapid repayment of the overdraft amount results in higher APRs, and slower repayment results in lower APRs."

While this correspondent is among the first to applaud credit unions that offer small loans that might be considered by the uninformed to be an alternative to payday loans, inappropriate meddling with the payday loan business model will lead to unintended consequences. Also, publicly deriding traditional payday loans as the NCUA Board does in its proposal is a distasteful form of pandering to Congress and the media, especially while knowing full well that credit unions cannot fill the gap if payday lenders are forced out of business.

Payday lenders provide a legitimate niche service. They do not make loans hoping that they will go bad and get their customers in trouble. No lender can make a $200 two week payday loan profitably under 36% APR unless it is a loss leader or heavily subsidized. Since the U.S. Department of Defense capped loans to the military at 36% APR most payday lenders simply stopped lending to anyone in the military. States like Oregon that placed artificially low caps on payday loans saw payday lenders leave the state *en masse*. Even heavily subsidized programs for military personnel like $14 billion in assets, 961,000 member Pentagon Federal Credit Union's www.penfed.org ARK payday loan program with its one-time $6 fee with no interest and mandatory financial counseling have met with very limited success and have not met the enormous pent up demand for such loans by the rank and file military personnel.

Most credit union alternatives to payday loans are not really comparable in terms or conditions. When they are similar, the costs to the consumer exceed 36% APR and are usually not that different than what traditional payday lenders charge. Some repetitive customers do get into trouble with payday loans because they don't generate enough income to pay off the loan or don't manage money well. To shut down the industry to protect the few who run afoul doesn't make business sense. Credit unions and banks don't get shut down simply because a previously good loan goes delinquent on them.

This correspondent is philosophically opposed to artificial caps on interest rates, but it is unfortunately standard practice in legislative and regulatory bodies to impose these limits. All interest rate caps, including the federal credit union usury cap, artificially disrupt the marketplace and in effect decide who doesn't get credit. The NCUA Board's proposed rule restrictions can be added to the already much too long list of so-called consumer friendly – but in reality credit-killing ideologically-skewed legislative and regulatory initiatives.

NCUA Board's Micro-Management and Rulemaking Focus Misplaced
It appears that a counterproductively disproportionate amount of the NCUA Board's attention and the agency's resources are focused on micromanaging short-term, small dollar amount loans and similar ideological peripherals rather than on its priority mission to ensure safety and soundness. The NCUA Board appears to place significant and statutorily unsupportable emphasis on the social engineering of the NCUA's regulated institutions. Rather than promulgate this misguided rule and associated micro-management, federal credit union members of all income levels would be better served by eliminating all interest rate caps in order to allow cost and risk to drive the pricing for credit products. The NCUA Board should then allow each credit union's officials to decide if and how it delivers short-term, small dollar amount loans.

Additionally, it is this correspondent's opinion that the NCUA Board's proposed payday lending rule does not reach the same level of priority as do rules associated with safety and soundness or the efficient and effective operation of the agency. Why is this questionable proposed rule allowed to see the light of day? The NCUA Board should be investing its resources in and attention on credit union safety and soundness, credit union profitability, credit union capital preservation, mitigating the corporate credit union legacy assets, problem credit union resolution, deposit insurance reform, and removing the embedded risks from the dangerous systemic interconnectivity within the industry – not on this kind of ideologically questionable distraction as represented by this proposed "alternative payday loan" rule.

It appears the NCUA Board is advocating a social engineering project having a low chance of success based upon the misguided premise that consumers should be steered toward financial products for their own protection rather than to those that they themselves determine meet their expectations. In an era of huge federal deficits, one can certainly also question the wisdom of regulator-driven involvement by income tax exempt credit unions in an ideologically partisan initiative for payday loan-like alternatives and price controls – neither of which has a demonstrated track record of tangibly improving any borrower's credit risk profile.

The NCUA Board should withdraw the proposed short-term, small dollar amount loan rule and substitute a simple increase in allowable APR to support the voluntary delivery of this type of loan product by credit unions in a manner based upon economic and business realities rather than upon wishful ideology.

If you have any questions concerning these comments, please feel free to contact me for clarification or elaboration.

Sincerely,

Marvin C. Umholtz, President & CEO
Umholtz Strategic Planning & Consulting Services
(360) 951-9111 cell
marvin.umholtz@comcast.net

Marvin Umholtz is President & CEO of Umholtz Strategic Planning & Consulting Services based in Olympia, Washington south of Seattle. He is a 34-year credit union industry veteran who has held many leadership positions with credit union organizations and financial services industry vendors during those years. An accomplished speaker and former association executive, he candidly shares his credit union industry knowledge and insight with public policy makers, financial industry executives, and vendor companies. Umholtz also helps credit union boards and CEOs with strategic issues like growth, board governance, charter conversions, proactive mergers, voluntary liquidations, regulatory advocacy, and the growing conflict about the future role of credit unions in the financial services industry.