



AMERICA'S  
CREDIT UNIONS®  
December 10, 2010

## DANVILLE BELL CREDIT UNION

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DANVILLE, ILLINOIS 61832

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

Dear NCUA Board,

I would like to take a moment to express my extreme opposition to your proposed assessment of non-FICUs for losses sustained by the TCCUSF. In reviewing the proposed rule, the NCUA has no such authority to even suggest such a ludicrous rule. The NCUA lacks authority for rulemaking of this nature and is attempting to broaden the powers afforded it under the enabling federal legislation.

*As evidence, Section 217(d) of the Helping Families Save Their Homes Act of 2009 (S.896), which is responsible for creating the TCCUSF, clearly instructs the NCUA to charge only federally insured credit unions for any assessment due the TCCUSF. Any action at variance with this mandate can be construed as an attempt to evade federal law through rulemaking. Generally, no agency is permitted to ignore the plain language of a statute when promulgating rules.*

*Additionally, losses sustained by the TCCUSF are no different than any other losses sustained by the National Credit Union Share Insurance Fund, which are statutorily not the responsibility of non-FICUs. By seeking voluntary contributions to the TCCUSF, the NCUA opens the door for privately insured credit unions, and others, to be assessed for any and all losses incurred by the NCUSIF. (see Section 217(b)(2)(A) of the Helping Families Save Their Homes Act of 2009) Accordingly, the losses sustained by the TCCUSF fund cannot be disguised as anything other than losses normally sustained by the NCUSIF. The NCUA cannot assert a legal obligation upon non-FICU users of a service provided by its insured (corporate or natural person) credit unions for losses sustained by the NCUSIF anymore than it can charge individual consumers for losses the NCUSIF sustains in natural person credit unions.*

*Thirdly, the obligations of non-FICUs are to equal those of FICUs, but their rights to future dividends are non-existent. Non-FICUs and FICUs alike lost billions of dollars in capital as a result of the corporate failures, and while in theory, all investors may receive a recovery of their capital losses as the toxic investments mature, under Title II of the Federal Credit Union Act, non-FICUs can never recover*

their “voluntary contributions” through future NCUSIF dividends that would clearly inure to the benefit of federally insured credit unions. So how can the NCUA assess non-FICUs when such entities have no rights to recover the premiums paid over 11 years?

***Furthermore, Federal law requires privately insured credit unions conspicuously disclose that they are “not backed by the full faith and credit of the US government.”*** Given this, why would non-FICUs be required to pay for losses sustained by an agency of the US government? Corporate credit unions are supposedly “backed by the full faith and credit of the United State Government,” and not its investors or customers (federally or privately insured). In discharging this commitment, the TCCUSF was created by Congress to mitigate the burden on federally insured credit unions, and only federally insured credit unions. Unfortunately, the NCUA’s Amendments and its Corporate Stabilization Program seem to refute these general purpose statements and affirm that these institutions are actually “backed by the full faith and capital of federally insured credit unions,”...and now apparently, privately insured credit unions, credit union leagues, CUSOs and others. Is this not false advertising? Privately insured credit unions are required under federal law to fully disclose their lack of federal insurance of member accounts (12 USC 1831t); accordingly, they receive no direct benefit from the NCUA, the TCCUSF or the federal government. As an investor in a corporate credit union, a non-FICU has the same rights to participation and membership as any other participating credit union, and should not be subject to expulsion simply for failure to make a “voluntary contribution” to a fund it receives no direct protection, service or benefit from.

***Moreover, non-FICUs have no contractual or statutory obligation to pay such assessments to the NCUA.*** Since the TCCUSF was created by federal law and is a government entity, the NCUA is effectively taxing non-FICUs by requiring a “voluntary contribution” be paid to the TCCUSF...truly “taxation without representation.” Non-FICUs are not bound by contract with the NCUA, or required under the respective state statutes, to pay for federal share insurance losses while being privately insured; accordingly, the NCUA has no regulatory or contractual authority over non-FICUs. Making non-FICUs pay the TCCUSF premiums over the next 11 years would be like forcing a FICU to pay FDIC premiums if they plan to use the services of an FDIC-insured bank that is facing higher premiums due to losses in other FDIC-insured banks.

***Besides, how can a non-FICU be expelled when it has made its required capital contributions to a corporate credit union and has otherwise honored its obligations under its membership agreement with such corporate credit union?*** As a full investor in a corporate credit union, a non-FICU should have the same rights to participation and membership as any other participating federally insured credit union, and should not be subject to expulsion simply for failure to make a “voluntary contribution” to an entity that it has no legal affiliation with or the responsibility to pay. In addition, any action to expel a non-FICU member must be based on good faith and the exercise of fiduciary duties.

***Lastly, the NCUA has no official authority to force a corporate credit union to call a special meeting for the purpose of expelling a member.*** Corporate credit union bylaws currently state that a special meeting of the membership must be called upon the request of 5% of the membership, not the NCUA. With this proposed change, is the NCUA now telling the entire corporate membership how to act? If the

expulsion imparts financial harm to the otherwise compliant non-FICU member, and such action is later found to violate state or federal law, is it not possible that the NCUA has exposed individual volunteer board members of a corporate credit union to personal finance risk in having them do what the NCUA cannot do under law?

The board of Danville Bell Credit Union appreciates your thoughtful consideration to the points hi-lighted in this letter.

Respectfully,

A handwritten signature in cursive script that reads "Leah Jett".

Leah Jett  
Manager