United
FEDERAL CREDIT UNION

NCUA
OFFICE OF THE CHAIRMAN
DEC 28 2010

December 20, 2010

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

Re: Proposed Amendments to NCUA Regulations Part 704 and 701

Dear Ms. Rupp:

On behalf of the Board of Directors and Management of United Federal Credit Union in Saint Joseph, Michigan, we would like to take this opportunity to provide for the record our official comments about the proposed NCUA rules amending Parts 704 and 701 – primarily the sections that seek to limit natural person credit unions from joining more than one corporate credit union and to assess a "fair share" and "voluntary" corporate stabilization contribution on non-federally insured entities.

We would like to address those two provisions in our official comments. While we take no position on other items in the proposed rule, we are very much in opposition to the two provisions referenced below. The reasons for our position are outlined herein.

ONE CORPORATE MEMBERSHIP PROVISION

We find this provision to be an unnecessary and unwarranted restraint upon the ability of natural person credit unions to make their own business decisions regarding product and service providers. In addition, we believe this provision will be totally ineffective in its stated purpose of preventing "unhealthy competition."

There is little, if any, empirical evidence that the ability of natural person credit unions to join more than one corporate was a significant contributing factors to the current corporate crisis. All such claims are based upon conjecture and cannot be proven.

The lack of concentration limits, the need for restricted investment authorities and the importance of requiring adequate capital are among the key factors which have been well documented as joining a real estate market crash and improper security evaluation in causing the losses in the corporate credit unions. NCUA has already taken action to address those legitimate issues in your comprehensive corporate rule changes approved in September 2010. We commend the agency for addressing those actual contributing factors; however, we believe that a regulatory attempt to remove competition from the corporate system is not well founded and will not be successful.

If the purpose of the revised corporate regulations is to bring about a stronger and more viable corporate network, attempts to remove competition could actually work at counter purpose in effect. Limiting corporate membership by natural person credit unions to only one corporate will remove potential capital contributors needed by corporate credit unions seeking to meet the new regulatory capital standards, while at the same time increasing concentration risk on the balance sheets of natural person credit unions.

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Allowing a natural person credit union only one corporate choice removes any ability to compare pricing on various products and services that individual corporate credit unions may offer in different ways and with different delivery models. A natural person credit union would therefore be faced with changing corporate credit unions on all services; or turning to non-corporate providers of services.

Changing corporate relationships is an unwieldy process for the credit union involved and certainly costly for the corporate credit union losing all of its business because it was beaten for price in one key service arena. Driving natural person credit unions to non-corporate service providers will not allow corporate credit unions to achieve the economy of scale, which has allowed the corporate credit unions to provide cost-effective solutions heretofore.

In fact, rather than lose capital contributing members, it is quite likely that corporate credit unions will become even more competitive in their pricing – on all products rather than just some – in hopes of landing all of the business of a natural person credit union. In our view, this provision will make competition for pricing even more a factor, rather than less.

While we see some value benefit to our credit union in that corporate credit unions will now seek to give us better prices on all products in order to get our business in its entirety, we fail to see that this potentially reduced pricing outweighs the benefit to our credit union of being able to have the consumer choice of more than one corporate relationship. Credit union choice has worked well for members of natural person credit unions. We see credit union choice working well for natural person credit unions themselves when they are the members of corporate credit unions.

It is our recommendation that the agency remove this provision from the final regulation when promulgated.

"VOLUNTARY" ASSESSMENT ON NON-FICUs

We likewise have very serious doubts about the validity of or the need for the provision in the corporate proposal requiring any non-federally insured entity that is a corporate member be assessed a "voluntarily" contribution toward the corporate stabilization fund at a "one size fits all" ratio of 0.815 times total assets. We use the term "voluntary" in quotes because the assessment is not, in reality, voluntary. As the proposed rule provides, if a non-federally insured entity does not choose to make the "voluntary" contribution, its corporate credit union would be required to call a special membership meeting within 90 days of receiving notice of the decision not to pay the "voluntary" assessment for the express purpose of having a vote that would determine whether the non-federally insured entity should be able to retain membership.

This is a very far reaching provision in that it includes in the definition of a "non-federally insured credit union" such entities as trade associations, CUSOs, non-credit union cooperatives, banks, insurance companies and privately insured credit unions.

Not only is the legal foundation of this provision very much in question as none of these entities are currently regulated under statutory authority by NCUA (nor are any of them insured by the NCUSIF), we also feel that the small amount of "voluntary" contributions likely to be made to the NCUSIF through the corporate stabilization fund will be eaten up with legal costs to defend the requirement. And, should the legal foundation of the regulation be upheld, it is our fear that it will solely result in non-federally insured entities dropping their corporate membership and moving their business outside the credit union system.

Such action would weaken the interrelated strength of credit union community and remove capital contributing members of corporate credit unions at the same time.

Having a significant number of corporate members in the targeted non-FICU category move their business away from a corporate in order to avoid a sizable "voluntary" contribution or face the reputation risk involved in a public retention vote by the corporate membership is going to work against corporate credit unions as they seek to demonstrate the stability necessary to make a due diligence case for credit unions like ours to join a corporate and make capital contributions. We will want to see stability in the capital position and membership of our corporate, and this provision will foster instability. This is not a beneficial outcome if the goal of the agency is truly corporate stabilization. Voting corporate members out or running corporate members off does not seem to be the direction regulation should be going at this crucial juncture in the future of corporate credit unions.

We also have reservations about whether "voluntary" contributions to a fund intertwined with the NCUSIF would potentially provide any inferred liability to the NCUSIF for those entities that make the contribution. Although admittedly it would be stretch to make such a claim, it is certainly possible that a court would entertain it. While it would probably be thrown out after considerable expenditure of agency dollars to defend the NCUSIF, as a federally insured credit union we believe that any potential liability of the NCUSIF which could conceivably be extended to non-federally insured entities is troublesome.

One final concern about this particular provision is its impact upon CUSOs owned, in whole or in part, by United Federal Credit Union. Frankly, we would consider it effectively a double assessment for us if we were to face reduced earnings at our CUSOs, stemming from either a "voluntary" assessment or the additional costs of taking their business outside the system. In addition to the corporate stabilization assessments we will be facing as a credit union through 2021, this would be a double whammy. We will be partially funding our corporate stabilization assessments over coming years through the earnings from our CUSOs, and we are deeply concerned about any regulatory requirement that would adversely impact those necessary earnings. This provision would certainly do so, one way or another.

Therefore, in closing, we see many more problems with these two provisions than we see benefits. We encourage the agency to remove both provisions before the rule is finalized.

Thank you for the opportunity to comment on this proposal. If I can provide any further information about our position on this proposed rule, please do not hesitate to let me know.

Sincerely,

Gary Easterling

Gary L. Easterling
President/CEO

cc: Chairman Matz
Board Member Fryzel
Board Member Hyland