



Corporate America
Credit Union

January 11, 2011

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

Dear Ms. Rupp:

We would like to express our appreciation to the NCUA Board for allowing us to comment on the proposed additions to the new corporate credit union regulation. We've detailed our comments to correspond to the different sections of the proposal.

701.5 Membership Limited to One Corporate Credit Union

In its proposal, NCUA makes the assertion that it was "rate shopping" that "in some cases" led to unsafe investment activities. Clearly this is a reference to the failed U.S. Central since it was pressure from its members to receive rates similar to those paid by the failed Western, Southwest, and Members United Corporates that resulted in excessive risk taking. NCUA has resolved this problem by eliminating the "3 Tier system" thereby preventing this type of issue from recurring.

For NCUA to now use this as a basis for limiting the choice of natural person credit unions (NPCUs) to use the best products, services, and deposit offerings is incongruous with the reports published by its own Inspector General (IG). These reports reference mismanagement, the corporate board's failure to manage and understand its risk exposure, lack of timely and adequate oversight by examination staff, and a lack of regulatory leverage (weak regulations) as major factors contributing to the failures. The IG did not document the ability of NPCUs to belong to more than one corporate as a major factor contributing to the crisis and failures.

In fact, it appears this is applicable only to U.S. Central since the pass through corporates did in fact place pressure on U.S. Central management to pay rates consistent with those paid by the largest retail corporate credit unions. This resulted in U.S. Central assuming the same types of risk to facilitate its quest to pay higher rates.

NCUA did not produce any evidence to support its assertion that it was the ability of NPCUs to use the products, services, and offerings of various corporates that led to the unsafe investment activities. If the intent of this anti-competitive proposed regulation is to limit choice, drive up costs, and make credit unions lose their ability to compete in an otherwise open financial marketplace, then NCUA's proposal is on target. If it is an attempt to forestall conditions that led to the failures, then the proposal hopelessly misses the target.

The NCUA Board should consider the potential Anti-Trust implications of this proposal in addition to the risk this proposal would introduce to the system. NPCUs throughout the country would be restricted to doing business with one institution that may meet their current needs, but fail to do so in the future. In addition, in many cases NPCUs will be forced to place their own capital at risk to support a corporate's operations, locking them into doing business with a partner without the ability to seek alternatives to maximize efficiency within their own organizations.

Corporate America opposes this proposed regulation as it will clearly harm NPCU's and introduces additional operational and financial risk into the system.

704.11 Corporate Credit Union Service Organizations: 701.19 Disclosure of Executive and Director Compensation

Corporate America supports this proposed regulation.

704.13 Board Responsibilities

The actions of a board represent the "will of the body" and any one director's decision, if contrary to the majority, is representative of his or her beliefs at the time based on the available information. The proposal seems to be a back door way to enable litigants (principally NCUA) to single out individual board members for actions they took in their official capacity.

Corporate America is not strongly opposed to this proposal; however, it seems contrary to parliamentary rules and introduces a requirement that on its surface has only one use; allowing litigators (specifically NCUA) to single out individual directors for the purpose of litigation.

701.15 Audit and Reporting Requirements

Corporate America feels strongly that the accountability created by this proposal is a good addition to the Rules. However, the Rule if adopted, should apply to all corporates; it should not be limited by asset size.

704.15(a)(1) Audited Financial Statements

This proposal mirrors requirements already present in GAAP and does not need to be incorporated into the Rule. If the intent is to require work only by certified professionals, it should make that assertion.

704.15(a)(2) Management Report

This proposal seems to be a veiled attempt to again (as in proposed 704.13) establish a framework for litigators seeking damages. Executive management whether in a corporate or at NCUA has an obligation to ensure requisite controls and oversight are in place. This proposal does nothing to expand the duties or responsibilities of corporate management, it just creates a reporting mechanism to provide NCUA and other litigators another tool through which they can seek some form of recovery or retribution in the event of a failure.

This proposal seems to be an attempt to utilize "belts and suspenders" at the institutional level, as existing regulatory oversight may be lacking or ineffective. The costs associated with this type of reporting structure can't be estimated as it will certainly result in the utilization of external experts and certified professionals as a method to reduce overall liability. Shouldn't the objective be to ensure the safe and sound operation of a corporate? If so, this proposal does little to achieve that objective.

NCUA performs annual examinations and corporates have both internal and external audits. It would seem more prudent to work with corporate management through its supervisory role to address issues related to any lack of oversight than to create an additional regulation.

If imposed there should be no differentiation due to asset size.

704.15 (a)(3) Management Report Signatures

This proposal is not about ensuring management's understanding, it is just creating an opportunity for NCUA and others to potentially seek criminal charges (false statements) and monetary damages.

704.15(b)(1) Annual Audit of Financial Statements

Corporate America agrees with this proposal; however, the proposal should be expanded to require the IPA to be capable of demonstrating its experience and ability in auditing a corporate credit union.

704.15(b)(2) Internal Control Over Financial Reporting

This requirement seems redundant as an IPA must attest to its reliance or lack thereof on the clients internal controls.

704.15(b)(3) Notice by Accountant of Termination of Services

This proposal adds no additional security to corporate operations or NCUA's ability to ensure safe and sound operations. Through its supervisory role, NCUA is able to review all written communications by and between the corporate and its IPA. If NCUA has questions about the reasons for a change, they should deal with this as a supervisory matter. There is no need to impose this requirement adding additional reporting as the documentation should already exist within the corporate's records. If this was an issue at one of the failed corporates, it would seem more effective supervision would be the prudent way to monitor these rare changes.

704.15(b)(5) Retention of Working Papers.

IPAs have professional standards and it appears overreaching for the NCUA to mandate reporting requirements beyond those already in place. If the requirement relates to NCUA's ability to litigate, the proposal should clearly state that as the purpose of the change.

701.15(b)(6) Independence

NCUA should mandate the use of Certified Public Accountants instead of Public Accountants if they want to impose GAAP and AICPA standards. It would simplify the rule and eliminate confusion by corporates.

704.15(b)(7) Peer Reviews

If a Certification is mandated, this section would not be needed.

704.15(c)(1) Annual Reporting

This proposal mandates submission of the annual report within 180 days of the calendar year end. This should be achievable and proposal 704.15 (c)(5) provides for the potential of late filing; however, it fails to indicated if an extension is automatic or requires some type of approval of waiver.

704.15(c)(2) Public Availability

The report is already available to the member owners. It is unclear what public benefit is gained by making the Audit Reports available for public inspections. This proposal seems more consistent with a publicly traded company, not a mutually owned cooperative.

704.15(c)(3) IPA's Reports

Corporate America has no objection to this proposal.

704.15(c)(5) Notice of Engagement of Change of Accountants

Corporate America raises the same objection as 704.15(b)(3).

704.15(c)(5) Notice of Late Filing

The proposal should be modified to document the approval process if any for the extension.

704.15(c)(6) Report to Members

Corporate America has no objection to this proposal.

704.15(d)(1) Composition (Supervisory Committee)

Corporate America raises no objection to this proposal.

704.15(d)(2) Duties

Corporate America agrees with this proposal.

704.15(d)(3) IPA Engagement Letters

This proposal does little more than provide an avenue for NCUA and other litigants to have unfettered ability to sue an IPA. It also is an attempt by NCUA to impose restrictions on audit firms that exceed existing audit profession standards. Is this the appropriate venue to force additional regulation on the Audit industry, or is this better handled by other regulatory bodies? The proposal appears overreaching by NCUA.

704.15(d)(4) Outside Counsel

Corporate America raises no objection to this proposal.

704.15(e) Internal Audit

There should not be any asset size limitation. Internal audit work may be even more necessary in smaller organizations due to limited staff and resources, so any asset size limitation should be removed.

704.21 Equitable Distribution of Corporate Credit Union Stabilization Expenses

However well intentioned and thought out, this proposal is too far reaching and does little to resolve the issue of the NCUSIF insuring the shares of non-credit unions. Credit union affiliated organizations can choose where they establish and maintain their banking relationships and it would appear more appropriate that they do business with

NPCUs instead of corporate credit unions.

The NCUA should review a different NCUSIF and Operating fee structure for Corporates.

704.22 Enterprise Risk Management

NCUA is now proposing to mandate specific educational requirements for individuals contracted by the corporate to assist in its management of Enterprise Wide Risk Management. The proposal mandates a post-graduate education, but fails to stipulate any specific discipline. We fully support the need and requirement for ERM, but if NCUA is going to stipulate the specific educational and experience requirements, how can it then require management to certify the actions of its expert?

This proposal on its surface would preclude national CPA firms already engaged by the corporate to provide this service, further limiting the pool of available experts.

704.23 Membership Fees

This proposal is a way for undercapitalized corporates to build additional retained earnings. The proposal provides notice periods and publication of terms and conditions, but it really doesn't matter as a result of NCUA's proposal in 701.5. If a NPCU joins a corporate and is required to buy capital then is charged a membership fee, they have no option other than terminate membership if they elect not to pay the fee.

This proposal is only reasonable if the 701.5 proposed rule is withdrawn.

Again, thank you for providing us with the opportunity to respond to the proposed regulation.

Sincerely,



Thomas D. Bonds, CPA
Attorney at Law
President & CEO