January 28, 2010

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

Re: Comments on the Notice of Proposed Rulemaking for Part 704 – Corporate Credit Unions

VIA ELECTRONIC MAIL: regcomments@ncua.gov

Dear Ms. Rupp,

The Michigan Credit Union League (MCUL) appreciates the opportunity to comment on the NCUA Board's Notice of Proposed Rulemaking regarding corporate credit unions. MCUL is a statewide trade association representing 95% of the credit unions located in Michigan. MCUL respectfully requests that the NCUA Board takes the following letter into serious consideration when deliberating the passage of a final rule.

While MCUL believes that NCUA well-intentioned in its effort to strengthen individual corporates and the corporate system as a whole, MCUL does not believe the various elements of the proposed rules achieve this stated objective.

Discussion

Section 701.5 Membership Limited to One Corporate Credit Union

NCUA proposes to limit membership to one corporate credit union at a time in order to avoid the "rate shopping" that "resulted in increased competition and, in some cases, led to unsafe investment activities as corporates sought higher investment yields to subsidize share dividends and service costs."

First, providing the best return on a credit union's investment is in the best interest of a corporate credit union regardless of how many of its FICUs belong to other corporates. Limiting membership may actually *increase* competition as corporates will seek to attract investors from an ever-decreasing credit union market. With the new corporate credit union capital requirements enacted in September, 2010, corporates will be required to attract non-federally insured credit unions (FICUs) in order to become and remain well-capitalized. Therefore, NCUA's effort to limit competition will have the undesired effect of merely *redirecting* the competitive efforts outside the FICU market. Surely this is not the result NCUA had intended with this proposal.

Second, MCUL is at a complete loss as to why NCUA would propose such an anti-free market provision which flies in the fact of a recently-issued NCUA Letter to Credit Unions 10-CU-18, which states as follows:

> "NCUA has long emphasized the need for credit unions to have appropriate risk management processes in place that are commensurate with the nature, scope, and complexity of investment activities. Performing due diligence before investing is even more important today as credit unions struggle to enhance net interest margins and seek strategies to boost profitability. While investments can provide an opportunity to contribute to the bottom line, they must always be part of a well thought-out risk management plan."

Credit unions should remain able to invest in multiple corporates if the proper due diligence is performed; the corporate investments are commensurate with the nature, scope and complexity of the respective credit unions' investment activities; and the investments would be in the best interests of the respective credit unions' membership as a whole. This decision becomes more difficult when the investment is limited to just one corporate.

MCUL does <u>not</u> believe that investments in corporate credit unions pose an inherently undue risk on credit unions, especially in light of the recently enacted corporate investment limitations enacted in September 2010. The NCUA Office of Inspector General's Material Loss Report of Western Corporate Credit Union makes this point clear:

> "We determined WesCorp's management and Board of Directors (management) did not implement appropriate risk management practices to adequately limit or control significant risks in its investment strategy…
>
> In addition, we determined Office of Corporate Credit Unions' examiners (OCCU examiners) did not adequately and aggressively address WesCorp's increasing concentration of privately-issued RMBS and the increasing exposure of WesCorp's balance sheet to credit, market, and liquidity risks…
>
> We recommended that NCUA provide corporate credit unions with more definitive guidance on limiting investment portfolio concentrations by security type (i.e., agency-backed versus non-agency backed securities), sector type (e.g., residential real estate versus non-residential real estate), geography (e.g., less concentration in a single state), by supporting collateral (e.g., sub-prime; Alt-A; prime; adjustable rate mortgages that included payment option, interest only, or negative amortization features; etc.), and by issuer, originator, and servicer.
>
> Auditor's Note: On September 24, 2010, the NCUA Board took several actions to reform the corporate system under a stronger regulatory framework. One of those actions was to finalize major revisions to Part 704, NCUA's rule governing corporate credit unions. The final rule includes new limitations on corporate investments and credit risks, as well as asset-liability management controls, so that high concentrations of the types of investments that caused the corporate crisis will never be permitted again."

MCUL believes that with this proposal, NCUA has announced its "no confidence" vote in corporate credit unions. With all due respect, the Inspector General recommended limitations on corporate investments, not investments in corporates.

704.21 Equitable Distribution of Corporate Credit Union Stabilization Expenses

The proposed rule sought to encourage existing non-FICU members to pay their fair share of the expenses by requesting non-FICU members to make "voluntary" payments to the Temporary Corporate Credit Union Stabilization Fund (TCCUSF).

When the NCUA Board imposes a TCCUSF premium assessment, corporate credit unions would be required to furnish about all of its non-FICU members to NCUA, including the name and assets of each such member, with the address and contact information for each such member. NCUA would then request each of these non-FICU members to make a voluntary premium payment to the TCCUSF in an amount calculated as a percentage of the non FICU member's previous year-end assets. In the event one or more of these non-FICUs declines to make the requested payment, or makes a payment in an amount less than requested, the proposal would require the corporate to conduct a member vote on whether to expel that non-FICU.

The authority granted to NCUA to assess premiums to the Stabilization Fund is found under the Helping Families Save Their Homes Act of 2009 (Sec. 204 of Public Law 111-22), which amended the Federal Credit Union Act Sec 217(d). Amended Sec. 217(d) states as follows:

> "ASSESSMENT TO REPAY ADVANCES.—At least 90 days prior to each repayment described in subsection (c)(3), the [NCUA] Board shall set the amount of the upcoming repayment and determine if the Stabilization Fund will have sufficient funds to make the repayment. If the Stabilization Fund might not have sufficient funds to make the repayment, the Board shall assess each ***federally insured credit union*** [emphasis added] a special premium due and payable within 60 days in an aggregate amount calculated to ensure the Stabilization Fund is able to make the repayment. The premium charge for each ***credit union*** [emphasis added] shall be stated as a percentage of its ***insured shares*** [emphasis added] as represented on the ***credit union's*** [emphasis added] previous call report. The percentage shall be ***identical for each credit union*** [emphasis added]. Any ***credit union*** [emphasis added] that fails to make timely payment of the special premium is subject to the procedures and penalties described under subsections (d), (e), and (f) of section 202."

Nowhere in this section does it confer upon NCUA the statutory authority to request any non-FICU to make a voluntary contribution to the assessment. Additionally, non-FICU assessments would violate the provision that the assessment "percentage shall be identical for each credit union," as the Non-FICU contributions would reduce the amounts owed by some FICUs and not others.

Additionally, many corporate FICU members are also members of trade associations and CUSOs. Voluntary payments by non-FICUs would result in *multiple* assessments by corporate FICU members, and would have a deleterious effect on trade association and CUSO members that do not belong to a given corporate. MCUL does not believe the intent of the Helping Families Save Their Homes Act of 2009, nor of this proposal, was to penalize non-corporate members. However, this would most certainly be the outcome.

Conclusion

MCUL does not support the provisions outlined in this comment letter, as the various elements of the proposed rules achieve the stated objective of strengthening the corporate credit union system. On the contrary, MCUL believes that the result will be the exact opposite of what NCUA intends to rectify.

MCUL contents that NCUA has expressed a “no confidence” vote in corporate credit union investments, despite its recently enacted corporate rule to limit the risks taken that were the stated cause of the corporate credit union crisis in its Office of Inspector General’s Material Loss Reviews.

MCUL strongly urges NCUA to reconsider the provisions outlined herein, and appreciates the opportunity to provide comment.

Sincerely,

Dave Adams
Chief Executive Officer