



OHIO CREDIT
UNION LEAGUE

January 28, 2011

VIA E-MAIL TO: regcomments@ncua.gov

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

RE: Ohio Credit Union League Comments on “Notice of Proposed Rulemaking for Part 704 – Corporate Credit Unions”

Dear Ms. Rupp:

On behalf of the Ohio Credit Union League’s Small Credit Union Success Task Force (Ohio SCUSTF), the Ohio SCUSTF appreciates the opportunity to provide comments on the National Credit Union Administration’s (NCUA) proposed rule 12 CFR 701, 704, and 741.

The Ohio SCUSTF is made up of 15 credit union CEOs who represent Ohio’s smaller-asset market credit unions. These are credit unions with assets under \$20 million, which comprise 60% of the 386 credit unions in Ohio. The Ohio SCUSTF is reflective of the smaller-asset market credit unions that make up membership of Corporate One FCU. These include credit unions that are federally-chartered, state-chartered, federally insured; as well as state-chartered, privately insured credit unions. The SCUSTF’s charge is to provide guidance on opportunities and challenges that facilitate smaller-asset market credit union success in Ohio. While the Ohio SCUSTF does not normally offer comments on NCUA proposed rules, the proposed rules 12 CFR 701, 704, and 741 have the ability to significantly impact the operations of Ohio credit unions, and more importantly, the smaller-asset market credit unions. The Ohio SCUSTF would therefore like to offer comments on four of the proposed rules. The comments below reflect the position of the Ohio SCUSTF.

§701.5 Corporate Membership Limitations

This proposal would restrict smaller-asset market credit unions from membership in more than one corporate and would also bar smaller-asset market credit unions from making any investment, including a share or deposit account, a loan, or a capital investment, in a corporate of which the credit union is not a member. While many of the smaller-asset market credit unions in Ohio are members of Corporate One Federal Credit Union (Corporate One), and use Corporate One, it may become necessary for the smaller-asset market credit unions in Ohio to attain membership with other corporate credit unions from time to time to acquire services that Corporate One does not offer. The proposed rule would eliminate the ability of smaller-asset market credit unions to choose products and services from multiple corporate credit unions, which could result in unhealthy

competition, concentration risk, and have a negative economic impact on a substantial number of smaller-asset market credit unions.

The corporate system was established as a way to provide innovative and cost-effective products and services to credit unions. In particular, smaller-asset market credit unions depend on corporate credit unions to enable them to provide payment systems processing, settlement services, liquidity, and investment products to their members more efficiently and at a lower cost. Additionally, the level of services and support which smaller-asset market credit unions receive from corporate credit unions is not readily available or affordable outside the corporate marketplace. NCUA has stated in its Letter to Credit Unions No. 07-CU-13 that, “utilizing the skills of qualified third parties is an important avenue for some credit unions in expanding service offerings, increasing efficiencies and economies of scale, and managing processes and programs.” It is no less so when the third-party provider is a corporate. Eliminating a credit union’s ability to choose ignores NCUA’s own mandate requiring credit unions to evaluate and implement risk mitigation strategies associated with the vendor oversight. Product and service lines vary from one corporate to another and smaller-asset market credit unions may be best served by utilizing the services of multiple corporate credit unions.

Additionally, NCUA has stated in its Supervisory Letter regarding concentration risk that, “Credit union officials and management have a fiduciary responsibility to identify, measure, monitor, and control concentration risk,” and that “avoiding concentrating too much in any single product or service is a core tenet of effective risk management and when violated increases the risk of loss to the credit union and to the National Credit Union Share Insurance Fund.” Too much reliance on any single product or service increases the potential for adverse consequences from “event risk...” Therefore, in order for smaller-asset market credit unions to maintain effective vendor oversight and adhere to NCUA’s edict of avoiding too much concentration in any single product or service provider. Smaller-asset market credit unions should have the ability to choose those products and services that best fit their strategic plan without jeopardizing safety and soundness principles. Otherwise, smaller-asset market credit unions may be forced to look outside of corporate credit unions as an alternate means of securing cost effective products and services. Further, the smaller-asset market credit unions depend on the corporate credit union to continue to develop and offer new products and services to natural person credit unions. The SCUSTSF believes that corporate credit unions will have less incentive to develop new products and services, thereby having a negative impact on its members. Therefore, the Ohio SCUSTSF requests this proposal be withdrawn.

§704.21 Equitable Distribution of Corporate Credit Union Stabilization Expenses

In an effort to encourage all users of corporate credit unions to share in any future expenses related to stabilizing the corporate credit union system, the proposal provides for the equitable sharing of Temporary Corporate Credit Union Stabilization Fund (Stabilization Fund) expenses among all members of corporate credit unions, which includes all federally insured credit unions as well as all non-federally insured credit unions. Specifically, the proposal provides that NCUA will request existing non-federally insured credit union members to make voluntary payments to the Stabilization Fund when NCUA assesses a Stabilization Fund premium on federally insured credit unions.

NCUA’s proposed rule, Section 704.21, requires that all members and users of a corporate credit union make payments to the Stabilization Fund whenever NCUA assesses a premium on federally

insured credit unions. Under this proposal NCUA has mandated that this includes all non-federally insured credit unions. Non-federally insured credit unions include but are not limited to, non-federally insured credit unions, credit union organizations, credit union leagues and their affiliates and subsidiaries, and CUSOs. When NCUA assesses a premium on the federally insured credit unions, non-federally insured credit unions will receive a “request” to make a “voluntary” payment to the Temporary Corporate Credit Union Stabilization Fund.

If the non-federally insured credit union does not comply and make a “voluntary” payment within sixty days, the non-federally insured credit union will be subject to a membership vote in a special meeting of members called by the corporate credit union to expressly expel those members who have not voluntarily made their payments.

This “voluntary” assessment is neither voluntary nor authorized by law. In fact, it is beyond the scope of NCUA’s rulemaking authority under the Federal Credit Union Act.

NCUA does not have any legal jurisdiction to assess fees on non-federally insured credit unions. Assessments to fund the NCUSIF are limited to federally-insured credit unions pursuant to the congressional amendment to Title II of the Federal Credit Union Act, Section 217(d) under the Helping Families Save Their Homes Act of 2009, which states that “the (NCUA) Board shall assess each federally insured credit union a special premium...to ensure the Stabilization Fund is able to make the repayment.”

As a result, the Ohio SCUSTF suggests that this rule be withdrawn in its entirety and requests that NCUA continue to provide credit unions with the tools and resources needed to fulfill their mission to their members.

§704.23 Membership Fees

NCUA has proposed that a corporate credit union would be permitted to charge its members a one-time or periodic membership fee proportional to the member’s asset size. The Ohio SCUSTF does not contest the right of a corporate credit union’s right to assess a reasonable one-time membership fee. However the Ohio SCUSTF believes that NCUA’s proposal to permit corporate credit unions to assess periodic membership fees ‘at will’ will create an atmosphere of uncertainty and instability for smaller-asset market credit unions, particularly smaller-asset market credit unions that do not have the budgetary flexibilities of mid- and large-size credit unions.

In addition, the Ohio SCUSTF suggests that there should be adequate disclosure of the fees, the fees must be reasonable, and the fees should not be punitive. Further, the Ohio SCUSTF suggests that natural person credit unions be allowed to leave the corporate credit union if the fees are excessive. Therefore, the Ohio SCUSTF is cautiously supportive of this proposal provided that natural person credit unions have the option to leave the corporate credit union to avoid fees that are considered excessive without penalties.

§704.13 Board Responsibilities

This proposal would require that a corporate credit union maintain a detailed record of all votes which will be reflected in the Board minutes. Director votes are a routine part of the board minutes and in many instances unanimous decisions are handed down. In general, credit unions follow

“Roberts Rules of Order” in meetings of the Board and Members. Under these rules, a Director may have his/her vote recorded. A Director may also recuse himself/herself or abstain which will also be recorded. Recording each board member’s name individually for each vote is onerous and unnecessary.

Therefore, the Ohio SCUSTF believes that it is unnecessary to adopt these additional standards in that credit unions adhere to standard parliamentary procedures that address these issues. Therefore, the Ohio SCUSTF recommends that NCUA withdraw this proposal.

Conclusion

Thank you for your consideration of our concerns relating NCUA’s proposal and its potential adverse effects on smaller-asset market credit unions.

Sincerely,

Ohio Credit Union League Smaller-asset market credit union Success Task Force

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Cc: Mary Dunn, SVP and Deputy General Counsel, CUNA
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