



OHIO CREDIT
UNION LEAGUE

February 28, 2011

VIA E-MAIL TO: regs.comments@ncua.gov

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

RE: Ohio Credit Union League Comments on Proposed Rule 740
Accuracy of Advertising and Notice of Insured Status

Dear Ms Rupp:

The Ohio Credit Union League (OCUL), the trade association for credit unions in Ohio, advocating on behalf of its 390 credit unions and 2.7 million members, appreciates the opportunity to comment on the National Credit Union Administration's Proposed Rule 740, Accuracy of Advertising and Notice of Insured Status.

Summary of Proposal

Section 740 of NCUA's regulations requires that federally-insured credit unions include notice of their insurance status in all advertisements, including the main Internet page. The current rule describes the form of such notice and the circumstances of its use, including those situations where the notice is not required. The proposed rule adds a definition of "advertisement" (previously not part of the rule) and adds some types of communication previously excluded from the requirement to post the notice. These additional disclosure requirements primarily include radio and television advertisements under 30 seconds in length. It also expands these posting and disclosure requirements to the credit union's certain statements of condition, as well as reports required to be published by state or federal law or regulation.

Definition of "advertisement"

NCUA adopts the definition of "advertising" as stated in a similar rule implemented by the Federal Deposit Insurance Corporation: "A commercial message, in any medium, that is designed to attract public attention or patronage to a product or business." OCUL believes that this definition is too broad, thereby extending coverage under this rule to types of communication that are not advertisements, such as annual reports. OCUL further notes that other regulations in place governing advertising under Regulation Z, Truth in Lending, and NCUA Regulations Part 707.2, Truth in Savings, focus more on the aspect of products and services provided by the credit union, rather than the attention attracted to the credit union.

Annual reports and statements of condition required under state or federal law or regulation

The proposed rule specifically requires that the notice of federally-insured status be included on the annual report and statements of condition required to be published by law, which were previously exempt. OCUL notes that such reports do not appear to meet the definition of advertisement, in that they are not “designed to attract public attention or patronage to a product or business.” The purpose of such documents is to report on the financial soundness of the federal credit union, not to attract attention or patronage. Accordingly, OCUL requests that NCUA refrain from adding annual reports and statements of condition required to be published by law from the requirement of a notice of federally-insured status.

Radio and television advertisements under 30 seconds in length

OCUL agrees that notifying prospective members of federal insurance through NCUA for accounts at federal credit unions is important. However, OCUL notes that many credit unions utilize radio or television advertising spots that are only 7-10 seconds in length as a less expensive, yet effective, method of communicating with the general public. To require even a minimal statement regarding the federally-insured status of the credit union impairs the amount of other important information which can be disclosed during a short advertising spot. OCUL recommends that the current exemption for radio and television advertising spots under 30 seconds in length remain unchanged.

However, should the agency implement the proposed extension of the NCUA insurance notice to radio and television spots under 30 seconds in length, OCUL notes that radio and television advertising spots are purchased and produced many months in advance. Accordingly, OCUL requests that any changes to rules affecting radio and television advertising notice requirements be implemented no sooner than 180 days following publication of the final rule.

Conclusion

The proposed rule contains provisions that are not necessary to properly inform the members of a federal credit union and the public-at-large of the federally-insured status of a credit union. Further, these provisions introduce an overly expansive definition of “advertisement.” Additionally, the requirement that the notice be included in all radio and television advertisements adds a financial burden for federally-insured credit unions through the purchase of additional air time to express the notice of federally-insured status while still communicating the other information stated in short advertisements of 7-10 seconds in length, or by shortening the message. In light of the lead times for purchase and production of radio and television advertisement, if such a notice is required in all radio and television advertisements, OCUL requests that NCUA allow sufficient time for federally-insured credit unions to come into compliance. Therefore, OCUL recommends that implantation of such a rule should be no less than 180 days following publication of the final rule.

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OCUL appreciates the opportunity to present comments on behalf of Ohio's credit unions to the NCUA on its proposed rule regarding Accuracy of Advertising and Notice of Insured Status, and respectfully requests consideration of the comments presented. Thank you for your consideration. If you have any questions, please contact me at (614) 923-9766 or jkozlowski@ohiocul.org.

Respectfully submitted,



John F. Kozlowski
General Counsel



Carole D. McCallister
Manager, Member Compliance Services

cc: Mary Dunn, SVP and Deputy General Counsel, CUNA
Paul L. Mercer, President, Ohio Credit Union League
Tim Boellner, Chair, Ohio Credit Union League
Jennifer Ferguson, Chair, OCUL Government Affairs Committee