



August 15, 2011

Mary Rupp, Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexander, VA 22314-3428  
Email: [regcomments@ncua.gov](mailto:regcomments@ncua.gov)

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Re: Comments to the Proposed Amendments to the NCUA Regulations re: CUSOs 12 CFR Parts 712 and 741

Dear Ms. Rupp:

Please be advised that CUSO Financial Services, LP opposes the above referenced Amendment to the NCUA Regulations regarding CUSOs for the following reasons.

NCUA's information disclosure and regulation of CUSOs will stifle the ability of CUSOs to innovate and provide collaborative solutions that will sustain credit unions as regulatory considerations will often replace value factors in the decision to invest in a CUSO and not provide any recognizable regulatory value beyond what already exists, especially for CUSOs that are regulated by other financial services regulators (e.g., SEC and insurance regulators).

Our CUSO provides investment services through our registered broker-dealer and investment advisor to over 120 credit unions and their members. Our CUSO has earned a considerable amount of non-interest income for our credit union owners and clients.

NCUA's legal authority to approve the proposed regulatory changes is suspect. NCUA does not have regulatory authority over CUSOs yet this proposal requires CUSOs to provide financial information directly to NCUA which NCUA will retain and evaluate. This looks and feels like vendor authority and direct regulation of CUSOs which has not been authorized by Congress.

By imposing regulatory burdens on them, CUSOs are put at a competitive disadvantage with non-CUSO competitors. NCUA wants CUSO to submit their business plans, balance sheets, income statements and customer lists. In gathering and holding this information, NCUA puts CUSOs in a competitive disadvantage by exposing private business secrets to public dissemination through FOIA requests. CUSOs are the collaborative arm of credit unions trying to solve operational and financial issues for credit unions and credit unions should not have unnecessary hurdles placed in their path as they seek solutions to their sustainability.

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The products and services (1) are offered through CUSO Financial Services, L.P. and not the Financial Institution; (2) Are not insured by the NCUA/NCUSIF or any other deposit insurance; (3) are not obligations or deposits of or guaranteed by the Financial Institution; (4) may involve investment risk; including the possible loss of principal; and (5) if applicable, are provided by an employee who serves both functions of accepting member's deposits and the selling of non-deposit investment products.



CUSOs help credit unions earn and save millions of dollars under the current regulatory model. There is no evidence that CUSOs pose a systematic risk to credit unions that requires regulatory change. The aggregate amount invested in and loaned to CUSOs is only 22 bps of industry assets. It's inconceivable that this truly can represent "systemic risk" to the industry, especially when the total aggregate investment in and loans to CUSOs is considerably less than the annual corporate stabilization assessments in any of the last three years. Each credit union's CUSO investment risk is less than 1% of its assets. NCUA already has the ability to examine the books and records of CUSOs and exercise full leverage over the credit union owners to resolve any safety and soundness issues. NCUA cannot make the case that CUSOs had anything to do with the financial difficulties in the credit union industry.

NCUA's two reasons for regulatory authority over all CUSOs are inadequate to justify new regulation. NCUA desires parity with banks' regulatory authority over bank operating subsidiaries yet there is no evidence that the banks' regulatory authority over bank operating subsidiaries mitigated bank losses in the economic crisis. NCUA cites substantial loan losses realized in a certain business lending CUSO. Even if CUSOs that make business loans pose a risk that need addressing, NCUA's attempt to apply a regulatory cure for a business lending CUSO to all CUSOs is misguided when business lending CUSOs constitute less than 1% of total CUSOs.

The additional costs of the proposed CUSO rule in staffing and operational budget of NCUA is an unjustified and unnecessary expense the industry will have to bear. If NCAU expects to hire experts in every type of business CUSOs engage in, the costs will be staggering.

There are terms in the proposal that are in need of significant clarification. What is meant by a subsidiary? Does a CUSO have to have controlling interest in a company or does a 1% ownership in a company make the company a subsidiary?

NCUA will curtail the power of credit unions with less than 6% capital to invest in CUSOs if the aggregate cash outlay to a CUSO exceeds the CUSO investment limitation on a cumulative basis. How far back does the cumulative calculation go? What if a credit union invested in a CUSO ten years ago, does that count? How do investments in other CUSOs figure in to the analysis?

What is the procedure to obtain NCUA approval to make additional investments? What are the standards of review that NCUA will use? Is there a time period in which NCUA must respond to a request or can the request go unanswered?

Many very successful CUSOs that drive significant savings and income to credit unions do not have a sizable capital structure or generate income. Operational CUSOs are designed to save the credit union's operating costs and not to make money. Financial service CUSOs are

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often formed solely for marketing or license purposes and income flows from a third party vendor directly to the credit unions. If NCUA is to review CUSOs based solely on balance sheets and income statements, there are questions that must be answered. How does NCUA expect to see the value of CUSOs to credit unions or analyze risk solely through a balance sheet or income statement? What will be the NCUA's standards of review for CUSO success? Does NCUA intend to shut down a CUSO that does not have a large balance sheet or income statement regardless of the positive financial or service impact the CUSO has for its credit union owners?

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We ask that NCUA withdraw the proposed Amendment.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Vonk", written in a cursive style.

Peter Vonk, EVP  
Chief Compliance Officer  
CUSO Financial Services, LP

cc. The Honorable Debbie Matz, Chairman  
The Honorable Michael Fryzel, Board Member  
The Honorable Gigi Hyland, Board Member

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