

From: divaprogy04@msn.com
To: [Regulatory Comments](#)
Subject: Comments on Notice of Proposed Rulemaking (CUSO)
Date: Tuesday, August 30, 2011 4:21:56 PM

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NCUA National Credit Union Administration

Dear NCUA National Credit Union Administration:

Access to Information from the CUSO by Regulators

Currently, credit unions investing in or lending to CUSOs must agree to allow NCUA to examine the books and records of the CUSO. The proposal would expand this requirement to impose obligations directly on all CUSOs that credit unions lend to or invest in to prepare quarterly financial statements, to obtain an annual audit, and to provide an annual report to NCUA and state regulators, as appropriate, all in conformance with generally accepted accounting principles (GAAP) or generally accepted auditing standards (GAAS).

Position: I oppose the requirement that CUSOs provide financial statements directly to NCUA and state regulators on the grounds that this exceeds NCUA's authority. However, I support enhanced transparency for credit unions, including more information from CUSOs to participating credit unions. This includes quarterly financial statements prepared under GAAP, an annual audit prepared under GAAS, and that CUSOs should agree with their credit unions to provide necessary information in order for the credit union to perform proper due diligence as it relates to the CUSO. I also support an exemption or waiver process from the requirements to follow GAAP and GAAS for small CUSOs for which such requirements would impose a significant burden.

Tying CUSO Rule Compliance to Conditions for NCUSIF Coverage

Currently, state chartered credit unions can lose their National Credit Union Share Insurance Fund (NCUSIF) coverage if they do not comply with requirements in the CUSO rule regarding providing access to their CUSO's books and records to regulators and requirements to maintain separate corporate identities from their CUSO. The proposal would expand this to make the requirements to provide financial statements and financial audits prepared under GAAP or GAAS also conditions that must be met for credit unions lending in or investing to CUSOs or they risk losing NCUSIF coverage. Other proposed requirements such as those regarding CUSO subsidiaries addressed below would also become conditions of NCUSIF coverage. The proposal would make these requirements conditions of NCUSIF coverage for federal as well as state chartered credit unions that lend to or invest in CUSOs.

Position: I oppose these proposed provisions as punitive and regulatory

overkill. Moreover, NCUA does not need to adopt these sanctions in order to enforce regulatory provisions.

Exemptions

The proposal would allow state credit union regulators to seek an exemption for their credit unions from the proposed provisions to require NCUA access to CUSO books and records and to require the preparation of financial reports and audits.

Position: I oppose most of the underlying provisions, as discussed above. However, if NCUA should go forward with these provisions, I support exemptions and waivers for state and federal credit unions.

"Subsidiary CUSOs"

The proposal would require entities termed "subsidiary CUSOs" that CUSOs invest in to comply with the CUSO rule. CUSOs subsidiaries funded by CUSOs that receive investments or loans from state chartered credit unions would have to also meet state requirements.

Position: NCUA's authority for these provisions is questionable at best. I oppose them.

Limits on Undercapitalized Credit Unions' Participation in CUSOs

Currently, federal credit unions that are less than adequately capitalized may not invest in a CUSO if the investment would require a total cash outlay of more than 1% of the credit union's paid-in and unimpaired capital and surplus, unless the credit union receives prior written approval from its NCUA regional director. The proposal would apply this general requirement to undercapitalized state chartered credit unions, which would have to obtain approval from their state regulator and notify NCUA of the request for approval. The limit on the amount of the investment would be determined by state law; if such limits do not exist under a state credit union's state laws, the 1% limit on undercapitalized federal credit unions would apply.

Position: Because this requirement is consistent with safety and soundness and because federal credit unions are already subject to it, I generally support this requirement.

Sincerely,

Kris Prather