

From: [Gail Koehler](#)
To: [Regulatory Comments](#)
Subject: Gail J Koehler Comments on Notice of Proposed Rulemaking (CUSO)
Date: Friday, September 23, 2011 3:01:33 PM



a CUSO of Purdue Federal Credit Union

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September 16, 2011

Mary Rupp, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428
Email: regcomments@ncua.gov

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

Dear Ms. Rupp:

As President/COO of CU Channels LLC, a wholly owned CUSO of Purdue Federal Credit Union in West Lafayette, Indiana, I am writing to express our CUSO's opposition to the Proposed Amendments to the NCUA Regulations Parts 712 and 741. Our company has several reasons for opposing these proposed amendments as we do not feel they are in the best interests of either our CUSO, or our credit union owner.

Currently, CU Channels provides mortgage origination services to over 40 credit unions and their members. We also provide mortgage loan servicing for several of these same credit unions. We have been working with credit unions to provide these mortgage services for over fifteen years, creating the ability for these credit unions to offer competitive mortgage products to their members and to diversify their loan portfolios.

By imposing regulatory burdens on them, CUSOs are put at a competitive disadvantage with non-CUSO competitors. In addition, NCUA wants CUSOs to submit their **confidential** business plans, balance sheets, income statements and **confidential** 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.

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.

Based on information shared with us by our trade association, NACUSO, NCUA's legal authority to approve the proposed regulatory changes is suspect. In fact, over the past 18 months, as mortgage CUSOs worked diligently to comply with SAFE Act requirements, NCUA stated that it does not have regulatory approval over CUSOs and that they were therefore not exempted from many of the Act's requirements as their credit union owners were. So, 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.

CUSOs help credit unions earn and save millions of dollars under the current regulatory model. There is no evidence that CUSOs pose a systemic 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. In our opinion, 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 imposing 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 are estimated to 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 NCUA expects to hire experts in every type of business CUSOs engage in, the costs will be staggering.

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 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?

We ask the NCUA to withdraw the proposed Amendment.

Very truly yours,

Gail J. Koehler
President/COO

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

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