



September 26, 2011

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

**RE: Maryland & DC Credit Union Association's Comments on NCUA's Notice of Proposed Rulemaking (CUSO), 12 C.F.R. Parts 712 and 741; 76 Federal Register 44866, July 27, 2011**

I write on behalf of the Maryland and District of Columbia Credit Union Association (MDDCCUA) to share my comments about the NCUA's Proposed Rules regarding CUSOs.

I am interim President and CEO of MDDCCUA, headquartered in Columbia, Maryland, which represents 102 Maryland Federally-chartered credit unions, 9 State-chartered credit unions, and 60 D.C. Federal credit unions, with a combined membership that serves 2.5 million consumers.

MDDCCUA does not support the proposed regulations. MDDCCUA believes that these proposed regulations will hinder the ability of credit unions to develop new products and services to meet the ever-changing needs of their members. Furthermore, MDDCCUA believes that these proposed regulations fall outside of the scope of NCUA's regulatory oversight powers.

While a small number of CUSOs have had recent struggles regarding lending operations, on the whole, CUSOs pose no systemic risk to the National Credit Union Share Insurance Fund (NCUSIF) and the credit union system. MDDCCUA would have embraced a directive aimed at addressing the problem areas that have arisen in these specific CUSO lending practices (such as implementing the existing due diligence requirements that federally-insured credit unions have to meet before becoming involved with a CUSO). Instead, NCUA is proposing an over-broad set of regulations that MDDCCUA and its affiliates believe will hurt the ability of the credit union industry to meet member demands. MDDCCUA and its affiliates have serious concerns that in their quest to minimize, or even eliminate, risk, NCUA examiners will limit the ability of credit unions to work with CUSOs to develop innovative products and strategies to help meet the needs of credit union members.

MDDCCUA has further concerns relating to NCUA's proposal to make these regulations a condition of NCUSIF coverage. If these proposed regulations are implemented as currently written, state-chartered credit unions could lose their NCUSIF coverage if they do not provide access to their CUSO's books and records to regulators or if they violate requirements to maintain separate corporate identities from their CUSOs. Furthermore, all federally-insured

credit unions that lend to or invest in a CUSO would risk losing NCUSIF coverage if they do not provide financial statements and financial audits prepared under GAAP or GAAS. MDDCCUA believes that not only is this action unnecessary to insure compliance, but this proposal is overly-punitive and would present an unnecessary burden being placed on the general credit union members that NCUA seeks to protect.

Apart from opposition to the proposed regulations, MDDCCUA believes that the NCUA is overstepping its legal standing in issuing these proposed regulations. Unlike their federal bank regulating counterparts,<sup>1</sup> Congress, in the Federal Credit Union Act, did not give the NCUA the permanent power to examine CUSOs. Congress did provide NCUA a temporary examination authority over CUSOs for the limited purposes of ensuring Y2K compliance, but that authority expired at the close of 2001.<sup>2</sup> MDDCCUA believes that because Congress did not explicitly grant NCUA the same permanent powers of examination that it did to its banking regulator counterparts, Congress did not intend for NCUA to have direct regulatory authority over CUSOs. Therefore, MDDCCUA believes that, absent any further Congressional action, any proposed regulations that directly place CUSOs under NCUA's regulatory umbrella clearly exceed NCUA's statutory authority. Furthermore, MDDCCUA believes that the proposed language requiring direct reporting by CUSOs to NCUA and state regulators, as applicable, is not supported by the Federal Credit Union Act.

For the above stated reasons, MDDCCUA is extremely concerned with NCUA's proposed regulations regarding CUSOs. Therefore, MDDCCUA and the credit unions it represents respectfully request that NCUA not proceed with the proposed CUSO regulations and, instead, seek better enforcement alternatives to ensure that the specific concerns regarding the activities of a small number of CUSOs be addressed in the proper manner.

Sincerely,



Jennifer M. Simmons  
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<sup>1</sup> See 12 USC § 1867 (granting federal bank regulators permanent statutory authority to examine bank and thrift service companies).

<sup>2</sup> See *Examination Parity and Year 2000 Readiness for Financial Institutions Act*, P.L. 105-164.