



OHIO CREDIT
UNION LEAGUE

May 20, 2013

VIA E-mail: regcomments@ncua.org

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

RE: Federal Credit Union Ownership of Fixed Assets
RIN 3133-AE05

Dear Ms. Rupp:

The Ohio Credit Union League (OCUL) appreciates the opportunity to comment on the National Credit Union Administration's (NCUA) Proposed Regulation on Federal Credit Union Ownership of Fixed Assets.

OCUL is the trade association for credit unions in Ohio and advocates on behalf of Ohio's 359 federal- and state-chartered credit unions, serving 2.7 million members. The comments reflected in this letter represent the recommendations and suggestions that OCUL believes would be in the best interest of Ohio credit unions.

Background

NCUA proposes to amend §701.36 of its Regulations concerning Federal Credit Union Ownership of Fixed Assets. NCUA's proposal would:

- Amend the regulatory text using plain language;
- Add an introductory section to define the scope of the regulation;
- Reorganize existing definitions;
- Add several new definitions; and
- Clarify the process for obtaining waivers from the agency.

In adding new definitions, the proposed rule would incorporate previous legal opinions issued by NCUA, while adding language to clarify some ambiguous terms.

Commentary

OCUL applauds NCUA's efforts to restate its regulation in plain language to better allow federal credit unions to understand the requirements for holding fixed assets and encourages NCUA to continue its efforts in such restatements of its regulations.



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Further, OCUL appreciates the clarifications regarding the definitions of “partially occupy” and “unimproved land or unimproved real property.” Although NCUA had previously provided guidance regarding unimproved land via legal opinions solicited from the agency by federal credit unions, incorporation in the regulation itself will delineate those standards clearly.

Finally, NCUA’s proposed rule reorganizes the portions dealing with seeking a waiver from a regional office and outlines NCUA’s own obligations to federal credit unions during the process. While no substantive changes were made to the various portions of the rule which are subject to the waiver process, the rewritten sections of the regulation are now consistent throughout and allow the federal credit union to better understand the process.

However, OCUL urges NCUA to add a process by which a federal credit union may appeal a decision by a regional director to deny a waiver request. An appeals process is a fundamental part of due process and should be afforded to federal credit unions. The appeals process could be incorporated specifically into this regulation or could be part of a broader appeals process that could be applied to many other aspects of the regulatory process by NCUA.

Conclusion

NCUA’s proposal to rewrite its regulations concerning ownership of fixed assets by federal credit unions provides clarity and promotes a better understanding of regulations by those federal credit unions affected by the rules. The addition of definitions for “partially occupy” and “unimproved land or unimproved real property” add to the clarity of these rules.

However, while the delineation of the waiver process and obligations of NCUA during the process are welcome revisions to the rule as previously written, the lack of a defined appeals process demonstrates a lack of due process that should be afforded to any federal credit union in its dealings with NCUA. Such appeals process should be added to any rule which limits the ability of a federal credit union to grow, including this rule regulating the ownership of fixed assets.

The Ohio Credit Union League appreciates the opportunity to provide comments on the NCUA’s proposed rule on the definition of a small credit union, and is available to provide additional comments or information on this proposal if so requested. If you have any questions, please do not hesitate to contact me at (800) 486-2917 or jkozlowski@ohiocul.org.

Respectfully submitted,


John F. Kozlowski
General Counsel


Carole McCallister
Manager, Regulation & Information

cc: Mary Dunn, Credit Union National Association General Counsel
Barry Shaner, OCUL Chair
OCUL Board of Directors
Ohio Governmental Affairs Committee
Paul Mercer, OCUL President