



July 13, 2015

Mr. Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

**RE: Don Cohenour – Share Insurance
Part 745, RIN 3133–AE49**

Dear Mr. Poliquin:

On behalf of the 1.453 million credit union members we represent, the Missouri Credit Union Association (MCUA) appreciates the opportunity to comment regarding the National Credit Union Administration's (NCUA or Board) proposed share insurance rule.

The proposed rule would make necessary changes required by the Credit Union Share Insurance Fund Parity Act (CUSIFPA or H.R. 3468), which MCUA strongly supported. Nonetheless, we are concerned that NCUA remains reluctant to extend full insurance parity with the Federal Deposit Insurance Corporation (FDIC) to federally insured credit unions.

Background

H.R. 3468 specifically addresses interest on lawyer trust accounts (IOLTA) to provide pass-through insurance coverage when the attorney administering the IOLTA is a member of the federally insured credit union, regardless of the membership status of the individual beneficiary owners of the account funds. The law also provides pass-through insurance coverage to "other similar escrow accounts," further clarifying NCUA's authority to extend share insurance to the owners of funds in any account established by a member. We appreciate NCUA specifically addressing prepaid funeral accounts and realtor escrow accounts in the proposed rule; nevertheless, we believe the proposal falls short of what is possible under the law.

Our key concern is that the proposed rule would not extend share insurance coverage to prepaid and stored value cards. We believe, even in the absence of enactment of the CUSIFPA, NCUA has this authority and should exercise it; we urge the Board to do so in the final rule. NCUA's past legal reasoning for not providing insurance on IOLTAs is instructive as to the agency's current position on prepaid and payroll cards. The reasoning is simple but deficient because it confuses ownership of funds with member account status.

NCUA's reasoning surmises that a member agent of a credit union can establish accounts for nonmembers of the credit union. Unless specifically instructed, NCUA historically would not consider an IOLTA a member account of the person whose membership is required to open the account; thus, insurance could not be extended to clients that are not members. As you will see in the next section, the Federal Credit Union Act (Act) does not preclude—and actually supports—the NCUA Board defining a prepaid or payroll master account as a member account: A person or business must be a member to establish these accounts; therefore, it should logically follow that these are member accounts.

NCUA has precedence for extending deposit insurance to nonmembers and for using nonmembers as the basis for providing additional insurance coverage for certain types of accounts. NCUA's rules and Office of General Counsel (OGC) Opinions currently allow the NCUSIF to provide insurance coverage directly to nonmembers in the case of joint tenancy or to use nonmember beneficiaries as the basis of increased insurance coverage for payable on death accounts (POD).

NCUA Board Authority to Define Membership Account Insurance

The Act supports a position giving the NCUA Board authority to prescribe the insurance scheme for all member accounts. Furthermore, the Act's definition of "member account" gives the NCUA Board wide latitude in defining a member account. It is clear from the plain language of the Act that the NCUA Board has authority to prescribe insurance for member accounts where funds are held for nonmembers. Note, the section mentions member accounts and not member funds.

Insurance Parity with FDIC

In 2006, Congress added language to the Act requiring the NCUA Board to establish NCUSIF levels for accounts consistently with actions taken by the Federal Deposit Insurance Corporation. This language further encourages NCUA to extend share insurance coverage to prepaid and payroll cards. Section 1821(a) determines the maximum amount of deposit insurance payable on FDIC-insured accounts, including with respect to pass-through deposit insurance and aggregation of deposits. Section 1787(k)(1)(A) gives NCUA the ability to provide pass-through NCUSIF prepaid cards, payroll cards and other similar member accounts for a person or entity whose funds are on deposit in order for NCUSIF coverage to be consistent with that of FDIC.

MCUA believe that the legislative history states that Congress intended for the amendments to give federally insured credit unions deposit insurance parity with FDIC-insured institutions in all respects.

Prepaid and Payroll Cards and Future Products

Credit unions are prevented from offering these products because the funds must often be insured. The Electronic Payroll Coalition (EPC) core principles for payroll cards requires that employers must select a program that maintains payroll funds in an FDIC or NCUA insured



account on a pass-through basis to the individual cardholder. The U.S. Treasury also requires that federal benefits funds deposited on stored value cards are insured by the FDIC. As these cards gain more traction, we anticipate that consumer protection regulators will require additional consumer protection requirements, including fund insurance requirements. For these reasons, it is important for NCUA to ensure its insurance rule permits coverage of these accounts.

Unbanked consumers use prepaid, payroll and other stored value cards, and facilitating the ability of credit unions to offer these cards would be a significant step toward bringing the users of these cards into the mainstream financial services system. An insurance rule that locks credit unions out of the prepaid card business and from providing other products currently in development could prevent credit unions from offering products that their members need, leaving these consumers with fewer financial services options.

As always, we appreciate the opportunity to review this issue. We will be happy to respond to any questions regarding these comments.

Sincerely,

A handwritten signature in black ink that reads 'Don Cohenour'.

Don Cohenour
President