July 13, 2015

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

RE: Comments on Proposed Rule - Part 745

Dear Gerald Poliquin,

I am writing on behalf of the California and Nevada Credit Union Leagues (Leagues), one of the largest state trade associations for credit unions in the United States, representing the interests of approximately 400 credit unions and their 10 million members. The Leagues welcome the opportunity to provide comments to the National Credit Union Administration (NCUA) on its proposal to amend its share insurance regulations as a result of the Credit Union Share Insurance Fund Parity Act (Insurance Parity Act). The Insurance Parity Act requires NCUA to provide enhanced pass-through share insurance for interest on lawyers trust accounts (IOLTA) and other similar escrow accounts.

The Leagues applaud the NCUA for seeking to provide clarity and we agree with certain aspects of the proposal. However, we offer the following comments and recommendations to improve the proposal and to urge the NCUA to provide complete parity with the Federal Deposit Insurance Corporation (FDIC).

Definition of Pass-Through Share Insurance

The NCUA proposes to adopt the statutory definition of pass-through share insurance as the regulatory definition: ‘‘Insurance coverage based on the interest of each person on whose behalf funds are held in such accounts by the attorney administering the IOLTA or the escrow agent administering a similar escrow account, in accordance with regulations issued by [NCUA].’’ The Leagues believe this definition is clear and support its use.

Definition of Other Similar Escrow Accounts

The Insurance Parity Act does not define or describe what constitutes “other similar escrow accounts.” In proposing the regulations, NCUA seeks to provide clarity to insured credit unions, remove uncertainty, and avoid case-by-case analysis of escrow accounts.

The NCUA proposes to extend pass-through share insurance coverage to escrow accounts that have a licensed professional or other individual *serving in a fiduciary*

capacity and holding funds for the benefit of a client as part of a transaction or business relationship. The proposed rule offers the examples of typical realtor escrow accounts and prepaid funeral accounts. The Leagues agree that accounts with these characteristics warrant pass-through share insurance as “similar escrow accounts.”

However, the Leagues suggest the definition be less restrictive and include any account structure that evidences the holding of funds for the benefit of another as part of a transaction or business relationship, whether or not the individual holding the funds is acting in a true fiduciary capacity (e.g., Landlord/Tenant accounts where the landlord holds tenants’ security deposits.)

Prepaid Accounts

In the proposed rule the NCUA states that it generally does not believe that a prepaid card program is always sufficiently similar to an IOLTA to qualify for pass-through share insurance coverage as an escrow account similar to an IOLTA. The Leagues do not agree.

As the Insurance Parity Act title suggests, the legislative intent is to ensure the NCUA and the FDIC treat IOLTAs and other similar escrow accounts in an equivalent manner. Doing so eliminates the competitive disadvantage between banks and credit unions. FDIC insurance coverage has existed for stored value cards and other nontraditional access mechanisms since 2008 (see FIL-129-2008.)

The Leagues strongly encourage the NCUA to include prepaid accounts that provide access to money at a credit union as escrow account similar to an IOLTA. Funds are placed at the credit union by the card distributor (e.g., employers in the case of payroll cards) and are then transferred or withdrawn by the cardholders. These cardholders should have full insurance coverage.

As the NCUA noted in the proposed rule, the market for prepaid cards is one of the fastest growing markets segments of the retail financial services industry. Without equivalent coverage to FDIC for stored valued cards, credit unions will continue to be barred from providing this service and unable to serve their business members or sponsors seeking to establish payroll services.

Conclusion

In conclusion, the Leagues recommend the definition of “other similar escrow accounts” be less restrictive and include any account structure that evidences the holding of funds for the benefit of another as part of a transaction or business relationship, whether or not the individual holding the funds is acting in a true fiduciary capacity. The Leagues also strongly urge the NCUA to include stored value cards and other nontraditional access mechanisms in the definition and provide pass-through share insurance coverage equivalent to the FDIC.

We thank you for the opportunity to comment on the proposal and for considering our views.

Sincerely,

Diana R. Dykstra
President and CEO
California and Nevada Credit Union Leagues

cc: CUNA, CCUL