

BOARD ACTION MEMORANDUM

TO: NCUA Board

DATE: October 22, 2009

FROM: C. Keith Morton,
Region IV Director

SUBJ: Proposed Kansas Credit
Union Service Organization Rule
Exemption Request

ACTION REQUESTED: Board approval of Kansas State Supervisory Authority's (Kansas SSA) request to exempt state chartered, federally insured credit unions from NCUA's rules regarding access to Credit Union Service Organization (CUSO) books and records.

DATE ACTION REQUESTED: October 22, 2009

OTHER OFFICES CONSULTED: Office of General Counsel, Office of Examination and Insurance, All Regional Offices

VIEWS OF OTHER OFFICES CONSULTED: Concur.

BUDGET IMPACT, IF ANY: None.

RESPONSIBLE STAFF MEMBERS: C. Keith Morton, Region IV Director

SUMMARY: Region IV received a request from the Kansas SSA to exempt state chartered, federally insured credit unions from NCUA's rules regarding access to CUSO books and records. Recent amendments to NCUA's CUSO rule allow an SSA to obtain an exemption for federally insured state chartered credit unions from compliance with §712.3(d)(3) if certain conditions are met. 12 C.F.R. §712.10(a). Staff believes the Kansas SSA's request meets the regulatory criteria and recommends that the Board approve the exemption request.

Additional Information: Under the CUSO rule, an SSA seeking an exemption must submit to the appropriate NCUA regional office: (1) a copy of the legal authority providing the SSA with access rights to CUSO books and records; (2) all procedural and operational documentation supporting and describing the actual practices implementing and exercising such authority; and (3) an assurance NCUA examiners will be provided with co-extensive authority and direct access to CUSO books and records whenever NCUA, at its sole discretion, determines it necessary or appropriate. 12 C.F.R. §712.10(b), (c). After a review of the authority, procedure and assurances, the regional director will forward the

exemption request and its recommendation to the NCUA Board for a final determination. 12 C.F.R. §712.10(d).

Staff believes the Kansas SSA has met the exemption criteria in 12 C.F.R. §712.10. Current Kansas state law provides the SSA with rights of access to CUSO books and records. KAN. ADMIN. REGS. §121-3-1; KAN. STAT. ANN. §17-2204a. State regulation states: "The board of directors of a credit union shall not invest in or make loans to a CUSO whose chief executive officer has not agreed, in writing, with that credit union's board of directors to provide representatives of the Kansas department of credit unions with complete access to any of the books and records of the CUSO as the administrator may request." KAN. ADMIN. REGS. §121-3-1(i).

The Kansas SSA also provided a description of the procedures and practices by which it exercises its authority to access CUSO books and records. The SSA's supplemental correspondence indicates its examiners use and complete NCUA's Automated Integrated Regulatory Examination System (AIRES) CUSO controls checklist, with some modifications, when examining state chartered credit unions with investments or loans to a CUSO. The credit union must provide the Kansas SSA examiner with access to all CUSO books and records, including an annual opinion audit, financial statements, and any changes in the CUSO's organizational structure since the last examination. The CUSO checklist is shared with NCUA when the completed examination is transmitted to NCUA.

Finally, the Kansas SSA provided assurance it will provide NCUA with co-extensive authority and direct access to CUSO books and records whenever NCUA, at its sole discretion, determines it necessary or appropriate.

Based on this information, staff recommends that the NCUA Board approve the Kansas SSA's exemption request.

RECOMMENDED ACTION: Recommend the NCUA Board approve the exemption request.

ATTACHMENT: Kansas SSA exemption request.