Federation

Credit Unions United to Serve the Underserved

September 5, 2013

Ms. Tawana Y. James
Director, Office of Minority and Women Inclusion
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Re: Comments regarding Proposed Interpretive Ruling and Policy Statement

Dear Ms. James:

The National Federation of Community Development Credit Unions (the Federation) is pleased that the National Credit Union Administration has taken this important step to establish the Minority Depository Institution program and appreciates the opportunity to comment on the Proposed Interpretive Ruling and Policy Statement 13-1.

The Interpretive Ruling and Policy Statement (IRPS) recognizes the important role that minority depository institutions (MDIs) play in their communities and in the credit union system. It clearly establishes ambitious goals for the agency to preserve the present number and character of MDIs, as mandated by Congress through the Dodd-Frank Act, through the provision of training, technical assistance, and educational programs to both strengthen and prevent insolvency at existing MDIs and to foster the creation of new MDIs.

Unfortunately, the IRPS does not currently articulate a comprehensive plan for achieving the important goals laid out, and raises concerns that the proposal may set the agency up for failure. The Federation proposes that the NCUA adopt a clearly articulated game-plan that combines additional targeted resources with supervisory authority to provide the necessary time to turn around challenged institutions.

I. The Proposed Interpretive Ruling and Policy Statement demonstrates the Agency's commitment to prioritizing the <u>preservation</u> of minority credit unions but does not detail new resources or processes that will be essential to achieving this commitment.

The Federation strongly supports the articulated goals and pledges our commitment to work along with the NCUA and other leaders in the credit union industry to ensure we collectively achieve them.

But we fear the current proposal falls short in enabling the agency to achieve these goals and its statutory mandate to preserve minority depository institutions. With 40 years' experience helping low-income and minority community groups to organize credit unions, the Federation knows first-hand the extraordinary effort and resources involved with chartering new institutions; and yet the need for safe and affordable services to underserved minority and low-income communities has never been greater. In order to achieve the goal of preserving minority depository institutions in number and character, aggressive and strategic charter preservation must be the cornerstone around which this program is built.

II. Resources devoted to this Initiative are largely drawn from existing agency initiatives, which already have considerable demonstrated demand.

The IRPS notes the significant overlap between minority credit unions and small credit unions and catalogues the resources and assistance available through the Office of Small Credit Union Initiatives (OSCUI). It does not identify new resources or forms of assistance that will be made available to minority credit unions. This would suggest that the minority depository institution program is actually not separate and distinct from OSCUI. The Office of Minority and Women Inclusion (OMWI) does not appear to have a clear role in targeting these resources, technical assistance or consulting services.

NCUA should expand financial support specifically designated to minority credit unions. We urge NCUA to provide direct financial assistance to minority credit unions, in cases where such assistance could stabilize a struggling institution. This would be especially appropriate in cases where a long-standing and historically stable credit union suffered a loss of capital resulting from NCUA assessments, for example, or an unusual loss related to economic conditions outside the credit union's control. We recognize that the agency has been reluctant to provide such assistance to date, and would argue that the urgency of the Congressional mandate to ***preserve*** minority credit unions requires new thinking and the expanded use of such powers. Specifically, NCUA should develop criteria and goals related to:

- **Provision of Sec. 208 assistance**, to strengthen the net worth of minority credit unions; and
- **Conversion of the Community Development Revolving Loan Fund to secondary capital**, to be made available to low-income designated credit unions, especially minority credit unions.

The Federation believes that OSCUI has been doing an admirable job in assessing the investment of its resources. However, OSCUI goals are distinct from both the stated goals here under this IRPS and from that of the Congressional mandate to preserve minority institutions. We recommend the Agency identify and target resources that explicitly seek to further the goals stated above.

We recommend the agency consider developing a system of triaging of minority credit unions based on financial condition and health, to best support those that are financially sound with the tools to build and expand their work and to intervene sooner with those on less financially sound footing to preserve service to their communities.

The Federation recognizes the challenge in working with many small credit unions. We do *not* propose that every struggling credit union be saved and maintained as it operates today, nor would we suggest the Agency neglect its responsibilities to maintain the safety and soundness of the credit union system. But that does not change the fact the Agency's stated goal and obligation to preserve these institutions presents opportunities to develop new approaches.

III. The Agency must establish a clear supervisory framework and strategy that establishes a period of time prior to merger/liquidation to allow for a more aggressive workout strategy.

The Federation urges the Agency to consider the supervisory tools it has to establish an important "preservation" step between the identification of a troubled credit union and dissolution. The IRPS does not address steps that may be taken through the Agency's supervisory functions and authorities. We recommend an aggressive strategy for intervention using supervisory authorities combined with targeted workout teams and resources.

The Federation recommends the NCUA develop a plan to provide the resources and support to struggling minority institutions, once identified, that are in danger of failing either through agency action or an inability to address identified issues in Documents of Resolution and/or Letters of Understanding and Agreement. The period during the Agency's Informal Enforcement Action following the Document of Resolution and prior to or as part of an LUA may present a critical moment where additional help and support can be sought.

The Agency's Vendor Registration process may be used to identify appropriate resource people to participate in work-out situations. The Federation, for example, is actively developing a team of consultants and industry experts drawn from CU Breakthrough who could be deployed to participate in these workouts. We have also engaged with industry leaders from the AACUC and CUNA to help continue identifying additional resources and expertise.

The Agency's IRPS should lay out the specific steps the Agency is likely take to work-out a distressed minority credit union, consist with its Congressional mandate. This work-out process should typically include the following steps:

a. As minority depository institutions are identified on a watch-list, the region will coordinate with OMWI and OSCUI to find appropriate management workout specialists to be deployed.
b. The level of commitment and authorities of the workout teams will be based on the case-by-case assessment of the challenges at the credit union and their ability to address those issues on their own or with intervention of a workout team.
c. These teams will be charged with either supporting the management or in some cases assuming the management temporarily of an institution for a period of time, to determine whether the situation may be turned around; new leadership and management identified; and other local community partners brought in prior to a final determination on whether the institution will remain viable.
d. Workout teams will have access to an additional pool of resources both financial and technical assistance to be brought to their disposal as they work to turn the struggling credit union situation around.
e. Additional community resources and leadership will be assessed, identified and recruited.

We anticipate that for many small credit unions, while their challenges may seem great, their operations are straightforward enough that a significant turnaround could be effectuated within a 6-12 month period with the intention of preserving and building the institution. If the institution is not viable, the team will be able to assist in identifying appropriate merger partners with the interests of serving the minority community. We recognize and acknowledge that the Agency cannot and should not share specific supervisory information regarding a specific credit union. However, that does not mean that the Agency should not have an affirmative process in place for stabilizing minority credit unions, as mandated by Congress, that draws upon industry expertise and local mobilization of talent and skills.

There are notable examples of how the intervention of new management, strong leadership and/or a clear consultant can dramatically reshape an organization's prospects. In North Carolina, minority credit unions that have been placed in conservatorship with supportive mission-oriented local credit unions appear to be making considerable progress toward recovery. Another faith-based small credit union that contracted with a strong management consultant/mentor through the African American Credit Union Coalition soon increased lending and services to its members and achieved positive earnings.

We believe that through the examination process and subsequent stepped up actions, the agency could establish this necessary step between a credit union's struggling and a merger/liquidation, by ensuring that a challenged minority depository institution is placed into this type of benevolent "conservatorship", where the goals – preservation of the credit union and ongoing service to that community – are clear to the conservator at the outset.

IV. The establishment of an Advisory Committee will assist the Agency in developing, designing and testing strategies and approaches.

With the ongoing shrinking of the credit union industry, we need clear and established forums to share best practices, test new ideas and develop strategies moving forward. For the agency and the movement, there is a critical need to discuss, share, debate and reflect together on where this vital movement is heading. For this reason, we strongly urge the NCUA to develop an Advisory Committee to help you develop these types of strategies going forward and build consensus and engagement. The Advisory Committee would not be charged with addressing specific credit unions and their supervisory status. Rather, it would draw upon the considerable experience of practitioners in the field to develop strategies for preserving the character and number of minority credit unions.

The Federation acknowledges and appreciates the Agency's accessibility and willingness to meet with us, our colleagues and allies on an ongoing basis to share ideas and strategies. The NCUA Board under the leadership of Chairman Matz has been open and engaged with us in important and meaningful dialogue on these and other issues related to bringing financial services to low-income and underserved communities.

However, the formalization of an Advisory Committee to regularly explore opportunities, learn new directions and provide strategic guidance and advice to the agency around the issues of serving underserved populations both in minority and low-income communities. Other agencies have formulated just such advisory committees, some with great success. The FDIC's Advisory Committee on Economic Inclusion provides such an example. This Committee provides the FDIC with advice and recommendations on important initiatives focused on expanding access to banking services by underserved population. This Committee has also provided an active forum for the exchange of new ideas, approaches and strategies.

V. Conclusion

To reiterate, the Federation does not propose that every struggling credit union must be saved and maintained as it operates today, nor would we suggest the NCUA neglect its responsibilities to maintain the safety and soundness of the credit union system. The Federation recognizes that some institutions are simply not operating at the capacity required to keep up with an increasingly complex financial service environment and corresponding compliance challenges. Often, the board and management have the best of intentions in trying to keep the doors open but lack the ability to truly manage the institution.

But that should not automatically result in the loss of a charter and service to a community who needs credit union services. With a combination of strong regulatory intervention and resources, new leadership may turn around otherwise failing institutions. Organizing and chartering new credit unions takes an extraordinary effort and resources to achieve successfully. And while we continue to work with the agency to facilitate new charters, an emphasis must be placed on trying to maximize the opportunity inherent in existing charters and institutions.

We appreciate the opportunity to provide comment on this vital initiative.

Sincerely,

Deyanira Del Rio
Board Chair

Cathleen A. Mahon
President\CEO