

October 18, 2013

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

Re: Notice of Proposed Rulemaking for Parts 703 and 721, Charitable Donation Account

Dear Mr. Poliquin:

On behalf of the Board and management of Corporate One Federal Credit Union, I would like to take this opportunity to comment on Notice of Proposed Rulemaking Parts 703 and 721, Charitable Donation Accounts.

We firmly support the creation of Charitable Donation Accounts (CDA) for the credit union community. We see this as a new tool for credit unions to develop a funding approach for their donations to 501(c)(3) charities and thank the agency for their work in providing this solution.

We have made a few observations and recommendations below for your consideration.

**Observation:** The rule for CDA accounts should not be associated with other tools currently in use by the credit union movement to provide for charitable purposes that only use Part 703 qualifying investments. These solutions are differentiated as they strictly use Part 703 qualifying investments. As an example; a credit union may purchase a Part 703 qualifying investment such as an agency security, and may then establish formal instructions with the safekeeping custodial agent to direct that the interest payments be split based on the credit union's instructions, and settled by the safekeeping agent to both the credit union and to the charitable organization. This type of activity should not be included or brought in under the definition of a CDA, as it is an investment that is in compliance with regulation and the splitting of interest income is simply an administrative process. Another example of this type of activity in use today involves a credit union that invests in certificate of deposit at a corporate credit union, and then provides instructions to the corporate to do the administrative work of splitting the interest between the credit union and the charitable organization.

**Recommendation:** Clearly separate out those programs defined as administrative in nature and restricted to investments that comply with Part 703 from the requirements defined under the use of a CDA.

**Observation:** The proposed rule calls for a maximum aggregate funding of 3% of net worth at all times. As the regulation contemplates a total return concept and as it also provides for up to a five (5) year period for distribution, the CDA may grow above the 3% over time. Actually, that is the desired goal of all involved. As growth is anticipated, and a potential time frame of five (5) years is present between distributions, the 3% limitation is not an effective tool and actually will have unintended negative outcomes for a successful investor.

**Recommendation:** We would suggest specifying the 3% limitation be measured at the time of purchase or placement of the investment in the CDA and at the time of any subsequent additional investment.

**Observation:** We do not see where the rule has addressed the recoupment of certain costs by the credit union in creating or maintaining the CDA. As this CDA tool may be professionally managed and may require specialized documents of trust or other specialized agreements to be developed, the total return will be directly impacted by these charges and costs.

**Recommendation:** The Total Return definition should be modified to permit the credit union to recoup, as a reduction of the Total Return, if so desired, certain administrative costs associated with the creation, maintenance of, and any professional management fees incurred related to the CDA.

**Observation:** The rule as written does not address the ability for multiple small credit unions that seek to use a CDA solution, but cannot afford the administrative costs individually, to create a trust or specialized conduit to accomplish the requirements of the CDA as set forth.

**Recommendation:** Specifically allow for and support the creation of a multiple or common trust or other such tool to allow for multiple credit unions to create and form a common CDA pool to share the burden and overhead of the administrative costs and administrative fees associated with a CDA.

**Observation:** The proposed rule requires that if a credit union establishes a CDA using a trust vehicle, then the trustee must be an entity that is federally regulated.

**Recommendation:** We would also ask that the final rule recognize that the trustee could also be a state chartered trust company which is chartered by and regulated by their respective state.

**Observation:** The rule as written does not address Part 704 or contemplate a corporate seeking to create a CDA.

**Recommendation:** As several corporate credit unions have in the past contributed to organizations such as the National Credit Union Foundation and may desire to do so in the future in support of the charitable activities of its members, providing a similar

opportunity for corporates would be appropriate. We recommend the rule to include Part 704 exclusions as well to allow corporate participation in a CDA.

We again want to thank the agency for providing a methodology for credit unions to fulfill one of their missions of giving back to their communities or to a recognized national charity, and ask for your consideration of the recommendations included herein.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee C. Butke", with a long horizontal flourish extending to the right.

Lee C. Butke  
President and CEO

- c: The Honorable Debbie Matz, Chairman, NCUA
- The Honorable Rick Metsger, Board Member, NCUA
- The Honorable Michael E. Fryzel, Board Member, NCUA