



*League of Southeastern
Credit Unions & Affiliates*

October 21, 2013

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

Re: League of Southeastern Credit Unions & Affiliates, Comments on Notice of Proposed Rulemaking for Parts 703 and 721"

Dear Mr. Poliquin,

The League of Southeastern Credit Unions (LSCU) appreciates the opportunity to comment on the National Credit Union Administration (NCUA) proposal that would authorize the creation of Charitable Donation Accounts (CDAs) for federal credit unions. By way of background, the League of Southeastern Credit Unions & Affiliates (LSCU) is the largest credit union advocacy organization in the southeast. LSCU currently represents approximately 285 state and federal credit unions which serve more than 6 million members.

Summary of LSCU's Comments

This proposal seeks to create a unique charitable donation program while at the same time raises a number of issues as well as practical credit union considerations. We have summarized our views below and then subsequently discussed them in greater detail later in our letter.

LSCU supports the primary purpose of CDA accounts which is to generate funds for tax-exempt (501 (C)(3)) charities chosen by the institution. LSCU supports the agency's efforts to create a hybrid charitable and investment program as a vehicle for federal credit unions to contribute to the communities they serve. The fact that the agency has issued a proposal such as this for comment indicates that NCUA recognizes the importance of providing tools to credit unions that benefit not only the institution but also charitable organizations and local communities. We agree with this approach because it opens an avenue of funding previously closed to charities and it allows federal credit unions to make investments that are otherwise prohibited and could have a higher return as long as the majority of the returns are distributed to eligible charities.

LSCU is concerned that the total investment in all such charity donation accounts (CDAs), if adopted, will be limited to 3 percent of the federal credit union's net worth for the duration of the accounts. We would like to see this aspect revised prior to final adoption.

LSCU supports the 51 percent total as the minimum distribution of the total return from CDAs that must be provided to one or more designated charities. We would also like to see the proposal revised to allow credit unions to recoup administrative costs related to the creation and management of CDAs. LSCU would also strongly suggest that the agency add the opportunity for flexibility to the distribution cycle. Distribution intervals of 2 years rather than the 5 year requirement currently in the proposal would appear reasonable.

LSCU supports the maintenance of these accounts in segregated custodial accounts or special purpose entities regulated by the Office of the Comptroller of the Currency, the U.S. Securities and Exchange Commission, or other federal regulatory agency. Credit unions could make their own investment decisions, but if another entity is managing the account, that entity would have to be a Registered Investment Advisor. Based on the requirements of the proposal, this aspect of the proposal has a negative impact on the managing entity and ultimately credit unions.

LSCU fully supports the creation of hybrid charitable and investment vehicles (CDAs), and commends NCUA's willingness to develop a regulatory framework to support this program. LSCU however, recommends the Board continue to seek revisions and improvement in the proposal in the following key areas:

Limitations on an FCU's Aggregate Contributions to CDAs - The proposed 3 percent net worth limitation would apply against the total value of the account(s) for the duration of the account. LSCU views this limitation as restrictive and expects that it will ultimately reduce the benefit to both the charity and to participating credit unions. While the agency is likely trying to reduce the risk to credit unions through the early stages of this program, we believe 3 percent could prove to be too restrictive.

Another concern we have with the 3 percent limitation involves those periods when investments generate sizeable gains, exceeding the 3 percent net worth cap. In those situations a credit union would be required to reduce its CDA holdings prematurely. We urge the agency to revisit this aspect of the proposal and consider alternatives in order to avoid this event. One option would involve specifying that the net worth limitation be measured at the time of the placement of the investment in the CDA and also at the time of any subsequent additional investment.

Also rather than a limit of 3 percent of net worth, federal credit unions should be allowed to invest a greater amount, perhaps up to 5 percent of their net worth, in CDA investments. This higher level will allow more flexibility for federal credit unions but will not raise material safety and soundness concerns for the credit union involved or the credit union system. Absent an initial adoption of the 5 percent net worth limitation, we would like to see a caveat added to

the proposal that establishes a specific future date for the review and consideration of an increase of this 3 percent limit.

LSCU also recommends that the agency eliminate the 5 year disbursement limitation. Flexibility in this area would better serve the participants in the CDA programs than adhering to 5 year intervals.

Distribution of Account Returns and Recovery of Credit Union Expenses - Creating and managing a CDA program will likely be expensive for credit unions. The trust managing the CDA could be professionally trust managers and surely will require the creation and review of legal documents or agreements. These are expenses that will impact the total return for the credit union. We consider it reasonable and prudent on the part of the credit union that the proposal be revised to authorize credit unions to recover the administrative expenses associated with the creation and management of CDAs.

SEC Registration for OCC-Supervised Entities Managing CDAs for FCUs – LSCU considers it appropriate and reasonable for the assets of these accounts to be held in segregated custodial accounts or special purpose entities regulated by a federal regulatory agency. The resources available to these entities in many cases exceed those of participating credit unions. However, while the proposed rule permits credit unions to make individual investment decisions, the rule provides that if another entity is managing the account, that entity must be a Registered Investment Advisor with the Securities and Exchange Commission (SEC). On the surface this would seem appropriate, however; because managing entities such as the Office of Comptroller of Currency (“OCC”) supervise national banks, federal savings banks or federal thrifts engaging in trust and investment activities, these institutions are exempt from registration as a registered investment advisor with the SEC, with certain limited exceptions.

LSCU is concerned that for trust companies that are also banks, federal savings banks or federal thrifts, the proposed SEC oversight is unnecessary. Moreover, meeting SEC application and registration requirements as well as examination responsibilities will be costly, particularly for such institutions that are not already registered. Based on these and other cost related considerations, it’s unlikely that an institution already regulated by the OCC will initiate the steps and absorb the costs necessary to obtain the SEC designation required to manage CDAs for credit unions.

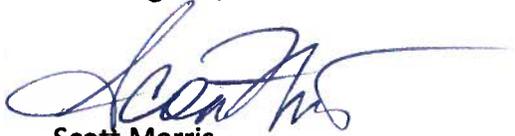
We join our colleagues in the belief that this registration requirement will serve to limit credit union opportunities and reduce the enthusiasm for CDA activity. LSCU strongly urges NCUA to eliminate the current requirement that banks and thrifts managing CDAs for federal credit unions be registered with the SEC.

In closing, LSCU is aware that in this challenging economic environment there is increased interest in finding solutions to a variety of credit union needs. This proposal appears to address the desire of many institutions to find ways to contribute to the communities they serve in ways that move beyond providing the financial products and services credit unions are known

for. Allowing federal credit unions to invest in Charitable Donation Accounts (CDAs) benefit the charitable organization, the community, and ultimately the credit union and its membership. The League of Southeastern Credit Unions & Affiliates supports this concept.

On behalf of our affiliate credit unions, thank you again for considering our views regarding this issue. If you have questions regarding our comments, please contact me at (205) 437-2165.

Best regards,

A handwritten signature in blue ink, appearing to read "Scott Morris", with a long horizontal flourish extending to the right.

Scott Morris
Director, Regulatory Advocacy