



*League of Southeastern
Credit Unions & Affiliates*

January 23, 2013

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

Re: Comments on Notice Proposed Rulemaking for Part 701 / RIN 3133—AE34
Requirements for Contact with Home-Based Federal Credit Unions

Dear Mr. Poliquin,

The League of Southeastern Credit Unions & Affiliates (LSCU) appreciates the opportunity to comment on the Notice of Proposed Rulemaking for Part 701. The proposed rule would, if adopted, prohibit FCU examinations and other contact with NCUA staff from occurring at a private residence and require FCUs to establish a dedicated phone line and/or email address for contact with NCUA and members. The proposal would also require home-based FCUs, within 2 years of the final rule, to obtain and maintain a business office not located in a private residence and prohibit the storage of FCU records at residential locations. By way of background, the League of Southeastern Credit Unions & Affiliates (LSCU) is one of the largest credit union advocacy organizations in the country. LSCU currently represents approximately 285 state and federal credit unions which serve the financial needs of more than 6 million members.

LSCU supports the procedures and principles that safeguard the safety and soundness of credit unions and employees working to provide the products and services sought by members. Likewise, we are cognizant of the challenges faced by NCUA and other agencies charged with ensuring compliance with current regulatory guidelines. We understand the stated purpose of the proposal that would require that meetings between an FCU and NCUA staff occur at a federal credit union office that is not a private residence or other residential location. This is reasonable given the myriad of issues that go into operating a financial institution out of a private residence. We are concerned however; that the agency is seeking to regulate these institutions in a way that could result in their voluntary closure based on the requirements of the proposal. We do not support the adoption of a regulation that contributes to this result.

It has been reported that approximately 79 home based credit unions are in operation today. By far, we would rather see the NCUA address this issue directly with the credit unions in question and attempt to reach a conclusion that is acceptable to all parties. We are further concerned that the agency would consider it acceptable to require, through regulation, the transfer of sensitive documents to locations such as restaurants and hotel lobbies both of which are now present in the proposed list of acceptable locations. We consider this approach unacceptable due to issues of controlled access and privacy.

We would not recommend it but if this proposal does proceed, the requirement that any home-based FCU official that meets with NCUA staff at an alternative public location must safely deliver all necessary records to that location is a concern to us with regard to privacy issues and related data security. The need for FCU officials and NCUA to find a meeting space that ensures the security of records is paramount to us. If adopted, securing an FCU's record of members' personally identifiable information and other pertinent data is critical and the only acceptable approach to adopt would be one in which the records, while in the possession of NCUA staff, must be in a meeting space that is a separate area of the facility chosen and provide for secured access to prohibit unauthorized entry by unauthorized individuals. LSCU questions however; the wisdom in requiring a separate meeting space, even with adequate security measures, for discussing FCU issues and working with FCU data. As always, our concern here is with the execution of NCUA data privacy requirements by FCU and NCUA personnel on site as well as the capabilities of those third parties with overall management authority over the site chosen.

We commend the NCUA for its efforts in attempting to development guidelines that seek to enhance its ability to carry out its oversight responsibilities in a manner that is reasonable and consistent with its role as the primary supervisory agency for FCUs.

In this day of technological advances, a credit union operating without both telephone and email access is putting itself and its membership at a major disadvantage. Present-day financial institutions must possess a reliable way for members, potential members, vendors, and NCUA staff to communicate the FCU. LSCU supports the proposed requirement that directs FCUs to maintain and monitor either an email address or a telephone number or both. A dedicated email address and/or telephone number to be used exclusively for the FCU's business purposes are the minimum steps an FCU should be committed to. It goes without saying that regular monitoring by credit union officials of those resources is critical to their successful operation. We agree with these proposed rules as they relate to the FCUs in question.

Two years after the effective date of the final rule, Part 701.40 would be revised to require that FCUs maintain at least one office in a building that is accessible to credit union members during the federal credit union's normal business hours. LSCU is opposed to the requirement and we have concerns regarding the timeframe of two years after the effective date for compliance if the proposal is adopted as presented. The two year period may not be adequate for FCUs located in rural areas with limited options. The costs associated with acquiring, modifying, and maintaining separate office space may be prohibitive for many home based FCUs and force

them to consider the alternatives to their operating model. If, based on the new requirements, these home based FCUs cease operations, where will be membership turn then?

With regard to FCU records, LSCU supports the concept that that credit union data should be securely stored either within the secured location of the FCU or at an alternate commercial record storage facility that permits the timely retrieval by the FCU. While the NCUA poses the weakness of private credit union record storage within a residential location, it offers no additional data to validate that claim. Also, while the NCUA's ability to carry out its oversight responsibilities could possibly be jeopardized by local privacy laws and entrance restrictions when access to private residential property is sought, appropriate arrangements to avoid such occurrences should be negotiated with individual FCUs rather than a broad based proposal offered here. If the proposal is not adopted and home-based FCUs continue to operate, revised record storage and security requirements should be considered in response to the advancements in technology and communications capabilities. As review of the current rules to ensure they are specific enough to provide clear guidance to home-based FCUs to enable them to secure personal financial information is certainly warranted.

Finally, it appears that the rule, as it is proposed, would only apply to home-based FCUs; not federally-insured state chartered credit unions. LSCU does not support this proposed application of the rule. For consistency among institutions and efficiency in supervision, we consider the only approach here that is reasonable and equitable would be to apply the same requirements to all home-based federally insured credit unions?

Thank you again for the opportunity to comment on the agency proposal involving potential requirements for contact with federal credit unions. If you should have any questions concerning our comments, please feel free to contact me directly at (205) 437-2165.

Sincerely,



Scott Morris

Director of Regulatory Advocacy

