



4309 North Front Street
Harrisburg, PA 17110-1618
800-932-0661 • 717-234-3156 • Fax 717-234-2695

January 23, 2014

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

Re: *Proposed Rule on Requirements for Contacts with Federal Credit Unions*
RIN 3133-AE34

Dear Mr. Poliquin:

The Pennsylvania Credit Union Association (PCUA) appreciates this opportunity to comment on the National Credit Union Administration's (NCUA) proposed rule on requirements for contacts with Federal Credit Unions (FCUs). PCUA is a state-wide advocacy organization that represents a majority of the nearly 500 credit unions located in the Commonwealth of Pennsylvania.

PCUA consulted with its Regulatory Review Committee and State Credit Union Advisory Committee (the Committees) in order to provide comments on the proposal. The Committees consists of credit union CEOs and senior management staff. Members of the Committees also represent credit unions of all asset sizes. The comments contained in this letter reflect the input of the Committees and PCUA staff.

Summary Position

The Committees urge NCUA to take a more targeted approach to curing the workplace safety issues described in the proposed rule. NCUA has a significant arsenal of supervisory enforcement tools at its disposal to correct deficiencies connected to workplace conditions for examiners or the state of repair of the premises of an FCU. A robust regulatory scheme currently provides for physical security and consumer privacy, obviating the need for the proposed rule. A majority of the Committee members oppose the requirement that would force home-based credit unions to obtain some type of commercial or public space to conduct business with members or to meet or conduct examinations with NCUA staff. On the other hand, the Committees unanimously support safety and soundness or similar guidelines ensuring examiner safety and the protection of consumer information. NCUA could achieve those ends by issuing properly tailored guidelines as opposed to fashioning a broad-based rule.

Office Space Requirements

The proposal requires examinations and on-site contacts between the NCUA and an FCU to occur at the credit union's office or an alternative public location. Office space in a private residence would not meet this requirement. Additionally, an FCU would be required to maintain at least one office in a building that is accessible to members during the credit union's normal

business hours. The proposal states that office space maintained in a home or on the premises of a residential address does not satisfy the requirement. NCUA cites sections 1756, 1782, 1784 of the Federal Credit Union Act (FCUA) and Part 741.6 of its regulations as legal authority for the office space mandate. 12 U.S.C. §§ 1756, 1782, 1784, 12 C.F.R. § 741.6.

A plain-language reading of the FCUA does not support NCUA's conclusion that it can regulate the type of premises occupied by an FCU. Sections 1756, 1782 and 1784 are quite specific and simply provide for financial reporting by FCUs and the examination authority of the NCUA. 12 U.S.C. §§ 1756, 1782, 1784. Nothing can be read into the FCUA, as currently written, that authorizes NCUA to compel an FCU to obtain or occupy a certain type of premises. The proposed interpretation of the FCUA is arbitrary and capricious and this aspect of the proposal should be withdrawn.

We support safety and soundness and will amplify that support in this letter. We have grave concerns about the potential unintended consequences of prohibiting FCUs from continuing to occupy private residences. In Pennsylvania, approximately twenty-two (22) FCUs operate out of private residences. They range in assets from \$288,000 to \$12 million. The average net worth of this group of 22 FCUs is 17.75% as of September 30, 2013. The lowest net worth ratio within this peer group is 7.64%. On the basis of net worth, arguably the most critical of key ratios and determinants of safety and soundness, this group of credit unions poses no threat to the share insurance fund or its members. If the proposal is finalized, this group of credit unions will experience a substantial increase in operating expenses in an effort to find the office space required by the rule. The expenses can diminish retained earnings and erode net worth. Bearing that in mind, we urge NCUA to withdraw this proposed rule and focus appropriate supervisory enforcement action on those home-based credit unions that caused any of the unsatisfactory workplace or retail space conditions noted in the background to the proposed regulation.

Examination Working Conditions

We are troubled by some of the conditions cited in the NCUA proposal regarding the working environment that has allegedly occurred in home-based credit unions. For example, examiners should not be menaced by aggressive pets. An FCU, home-based or otherwise, should be able to provide work space for the examiner with appropriate lighting or seating. Examiners should not be denied access to restroom facilities or the books and records of the credit union.

To the extent that such conditions occur, we maintain that NCUA has adequate supervisory enforcement powers to correct such conditions at individual FCUs. For example, in the event that an officer of the FCU would deny an examiner access to the premises or the books and records of the FCU, NCUA could invoke the provisions of the FCUA noted above and administer a targeted order to resolve the matter. With respect to lighting or decaying facilities that might present a danger to examiners or consumers, NCUA could resolve that matter by resorting to its enforcement powers pursuant to section 1786 of the FCU and issue the appropriate order requiring repair of such conditions. 12 U.S.C. § 1786.

It is inappropriate for a credit union to subject its members or examination teams to unsatisfactory conditions. Whether operating from a residence or commercial space, FCUs are public accommodations; at least to the extent they are open to conduct member business. Therefore, a credit union's premises should be in good repair with proper lighting. The interior should provide reasonable work space for members to transact business and examiners to conduct their review. NCUA could accomplish this objective by issuing guidelines for physical plant conditions of an FCU's premises. Such guidance would eliminate the need for the proposed regulation.

Protection of Consumer Information

We appreciate NCUA's concern for the protection of member information and the preservation of records. Data security is a significant public concern. A lapse in data security or failing to maintain the integrity of member information can harm the reputation of all credit unions. Therefore, we support regulations or public policy that protects consumer information and the vital records of a credit union.

Part 748 of the NCUA Rules and Regulations requires federally insured credit unions to maintain detailed security programs aimed at the physical premises of the credit union and the protection of consumer information. Among other things, this rule mandates that a federally insured credit union:

- (2) Ensure the security and confidentiality of member records, protect against the anticipated threats or hazards to the security or integrity of such records, and protect against unauthorized access to or use of such records that could result in substantial harm or serious inconvenience to a member; 12 C.F.R. § 748.0(2).

Further, Regulation P implements the consumer privacy protections of the Gramm-Leach-Bliley Act which provides for privacy notices to consumers and imposes restrictions on the use of nonpublic, personal financial information. 12 C.F.R. Part 1016.

Part 748 and Regulation P, working in conjunction; establish rigorous criteria to protect consumer financial information. NCUA's proposal does not address these regulations. There was no discussion in the background or during the Board meeting to suggest that home-based credit unions experience inherent difficulty in complying with such rules. In a situation where an examiner observes that consumer information is being mishandled or where security policies and procedures are not in place or not followed, NCUA can employ its supervisory powers and command the credit union to comply. As adequate authority exists to correct deficiencies regarding consumer privacy, NCUA's broad mandate forcing home-based credit unions to obtain commercial space is not warranted.

Alternative Public Location

The alternative public location provisions of the proposal present privacy concerns. We appreciate the flexibility in terms of permitting contact between NCUA and an FCU to occur at a library, restaurant, hotel lobby or community center. Permitting the use of such facilities can spare an FCU expense. The last sentence of the provision states, however, that if member information protected by federal privacy laws would be discussed, the alternative public location must allow for the necessary safeguards for such information. It strikes us as odd that member information, the general ledger or similar records would be removed from a credit union facility where Part 748 and Regulation P safeguards should be in place to a public facility where the ingress or egress of members of the public increase the chances of an inadvertent disclosure of private information.

Conclusion

Establishing safe workplace conditions for NCUA employees is an appropriate goal and we support that effort. It is equally important that NCUA undertake any new regulation within the bounds of its statutory authority. The aspect of the proposal whereby NCUA would force home-based credit unions to acquire commercial space is not within NCUA's authority. NCUA can take a variety of actions consistent with its supervisory authority to correct workplace safety issues or safety and soundness issues. Further, such corrections can be accomplished without imposing a rule on all home-based credit unions. Accordingly,

Mr. Gerard Poliquin

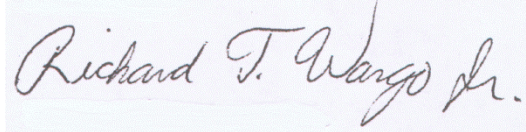
-4-

January 23, 2014

the proposal should be withdrawn. We would support, however, reasonable NCUA guidance on adequate working conditions for examiners and the condition a credit union's premises.

Sincerely,

PENNSYLVANIA CREDIT UNION ASSOCIATION

A handwritten signature in cursive script that reads "Richard T. Wargo Jr." is displayed on a light blue rectangular background.

Richard T. Wargo, Jr., Esq.
EVP/General Counsel

RTW:llb

cc: P. Conway
Association Board
Regulatory Review Committee
State Credit Union Advisory Committee
M. Dunn