



February 7, 2014

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

RE: Comments on Proposed Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Procedures of Regulated Entities

VIA ELECTRONIC MAIL: www.regulations.gov

Dear Mr. Poliquin,

The Michigan Credit Union League (MCUL), the statewide trade association representing 98% of the credit unions located in Michigan and their 4.55 million members, appreciates the opportunity to comment on the Proposed Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Procedures of Regulated Entities.

Title VII of the Civil Rights Act of 1964 deems it unlawful for an employer "to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin." This statute creates the Equal Employment Opportunity Commission (EEOC), which is empowered to prevent any person from engaging in any unlawful employment practice. This statute includes the ability for the EEOC to conduct investigations and work toward the elimination of unlawful practices. Further authority is provided to the Attorney General to take civil action against persons in violation of these laws.

Credit unions with more than 100 employees are currently required to file an Employer Information Report (EEO-1) which contains a count of the credit union employees by job category, ethnicity, race and gender. These reports are provided to the EEOC and are kept strictly confidential. The EEOC uses this data to analyze employment patterns, such as the representation of female and minority workers within the credit union. The information contained in the reports filed are used to determine if further compliance

evaluations by the EEOC are needed.¹ It would therefore appear that the EEO-1 report is already assisting in the assessment of the diversity practices at the credit union. If the EEOC finds the information reported through the EEO-1 suitable for assessing the diversity practices at a credit union, the MCUL is uncertain as to why the NCUA would not.

As written, the proposal lacks justification for further “self-assessment” which inevitably will require additional staff time and increased costs, with little explanation of how this proposal provides information that is any more useful or informative than what is captured by the EEOC – who has the authority under existing statute to take disciplinary actions for violations of these respective federal laws.

The MCUL agrees that greater diversity and inclusion promotes stronger, more effective and more innovative businesses, but believes that the existing federal framework provides the necessary information that can be evaluated to determine compliance with required diversity. The proposal as drafted, provides for a voluntary disclosure of a self-assessment that will not be used as part of the examination or supervision process. . Creating additional requirements with no functional benefit, on top of a framework of federal laws already in place, places an additional and unjustifiable regulatory burden on credit unions that are already struggling with compliance burdens and costs. The MCUL will also specifically address its concerns with each of the NCUA’s proposed self-assessment topics and relevant standards below.

Organizational Commitment to Diversity and Inclusion

The proposed joint standards indicate that leadership comes from a governing body, such as a board of directors, senior officials and those managing the credit union on a daily basis. As a member owned, not-for-profit entity, a credit union board of directors is elected by the membership. All credit union policies are required to be approved by the board of directors, with management undertaking the development of and compliance with procedures to comply with those policies. Many credit unions already have language in their employment policy related to a commitment on diversity so the MCUL would not oppose this standard.

However, the MCUL encourages the NCUA to further consider the additional requirements under the proposal including regular reports to the Board, training and the designation of a Chief Diversity Officer. As the governing body of the credit union, the MCUL believes it should be left to the board of directors to determine the standards and requirements the credit union should follow based on their established diversity policy, according to the needs and resources of the credit union.

¹ <http://www.eeoc.gov/employers/eo1/qanda.cfm>

Workplace Profile and Employment Practices

Standards within this section appear to be duplicative of those proposed in the Organizational Commitment to Diversity and Inclusion section. The MCUL does not disagree that a policy could be created and adopted by the board of directors that addresses the credit union's workplace profile and diversity practices in employment, with management held accountable for the implementation of those practices and procedures. Again, though, the MCUL believes the requirements and parameters of specific policies, and actions and expectations to comply, should be determined by the board of directors of the credit union based on the credit unions established diversity policy.

Procurement and Business Practices – Supplier Diversity

The MCUL is very concerned with the proposed standards for supplier diversity. Credit unions will now be asked to aggregate and evaluate metrics to assess supplier diversity, which is not readily available and not easily attainable. In addition to performing vendor due diligence requirements, credit unions will need to mine out demographics for their vendors, with no regulatory justification. The MCUL believes the proposed requirement to evaluate and assess supplier diversity is an unfair and unrealistic requirement on the credit union for an assessment of entities who may not even be regulated or under any obligation to provide that information. It should be sufficient that credit unions adhere to their existing regulatory requirements of performing sound due diligence on the third party vendors they seek to engage. Those third-party vendors are presumably subject to federal law, and should be supervised according to the standards for their industry without imposing an unrealistic and unattainable burden on the credit union. For the above stated reasons, the MCUL encourages the NCUA to remove this requirement for obtaining supplier or vendor diversity information.

Practices to Promote Transparency of Organizational Diversity and Inclusion

The MCUL is concerned about the proposed standard to have credit unions display information on their website about the diversity of their current workforce and suppliers. The MCUL is concerned that if the information contained in the report, which is kept "strictly confidential" by the EEOC is made publicly available, the credit union may be violating the privacy policy of their employees.

Furthermore, the proposed requirement that the credit union display diversity information on their website is clearly outside of the authority under section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which allows the Director to "assess" the diversity policies and practices of entities regulated by the NCUA. We understand that data collection is inferred from the need to "assess" as provided under the Dodd-Frank Act, but there is nothing that supports this affirmative diversity disclosure being required under this proposal. Additionally, the MCUL fails to

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see how requiring disclosure of diversity information, to benefit the public, would assist in the NCUA's assessment of a credit union's diversity policies and practices.

The MCUL is not opposed to publicly displaying the credit union's commitment to diversity policies. In fact, credit unions are required to disclose that they are an equal opportunity employer, which publicly acknowledges their commitment to the federal diversity laws and regulations.

Summary

While the MCUL understands Section 342 of the Dodd-Frank Act, and the NCUA's requirement to develop standards for assessing the diversity policies and procedures for credit unions, the interagency proposal appears misguided in several respects, in light of existing state and federal laws to eliminate workplace discrimination and provide information. The groundwork for diversity regulations already exists, and the MCUL believes the NCUA should work with this existing regulatory framework, along with the EEOC, instead of adding requirements for credit unions that have made a commitment to, and strongly support workplace diversity, and have policies and procedures to ensure it.

Sincerely,

A handwritten signature in black ink, appearing to be 'K. Ross', written in a cursive style.

Ken Ross
Executive Vice President & Chief Operating Officer