The Wisconsin Credit Union League

One League, One Focus - Your Success!

Submitted via email: regcomments@ncua.gov

Oct. 9, 2014

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

Re: Comment on Notice of Proposed Rulemaking, Federal Credit Union Ownership of Fixed Assets
RIN 3133-AE39

Dear Mr. Poliquin:

On behalf of Wisconsin's credit unions and their 2.5 million members, the Wisconsin Credit Union League welcomes the opportunity to comment on the National Credit Union Administration's (NCUA's) proposed amendments to §701.36 on federal credit union (FCU) ownership of fixed assets.

We want to commend the NCUA for its efforts to streamline federal regulations and ease the compliance burden on FCUs. In particular, we applaud the NCUA's willingness to consider the substantive changes commenters recommended in 2013 and to follow through with this proposal.

The League supports removal of the waiver requirement for FCUS to exceed the 5% aggregate limit on investments in fixed assets. However, we urge the NCUA to go further and provide even more regulatory relief in this area. In particular, we share CUNA's concerns about the proposed new requirements for FCUs to adopt Fixed Asset Management (FAM) programs that will be subject to examiner scrutiny. While the FCUs would no longer need NCUA consent to exceed the 5% ownership threshold, examiners would review the FAMs using nearly the same criteria that the NCUA now uses to review waiver requests. The end result of the proposal is that FCUs could be subject to review after acquiring fixed assets on at least the same basis that applies to the waiver process now, and they could be subject to divestiture if the examiner directs it. That it not regulatory relief; it simply shuffles the regulatory burden, adding requirements for analysis, review and board oversight that are not in the current rule. The NCUA should allow FCU boards to set their own, reasonable fixed assets limits, without seeking a waiver in advance and without being subjected to an elaborate FAM review process after the assets are purchased.

In addition, we offer the following suggestions for revisions to the proposal:

- The proposal simplifies §701.36(d)(2) by setting a single, five-year time deadline for partial occupancy of any premises acquired for future expansion, whether the premises are improved or unimproved land. While this would give FCUs *more* time to partially occupy improved property, it would give them *less*

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time to partially occupy unimproved land (from six years to five). Given the significant time that it can take to plan and build facilities, why shorten the occupancy deadline for unimproved land? Rather than focus on simplifying §701.36(d)(2) by setting a single deadline, the goal should be regulatory relief and fairness. For that reason, we recommend that the rule retain separate partial occupancy deadlines for improved and unimproved land. Both time periods should be lengthened. Since the partial occupancy deadline for improved property would gain two years (from three years to five), the deadline for unimproved land should similarly gain two years (from six years to eight).

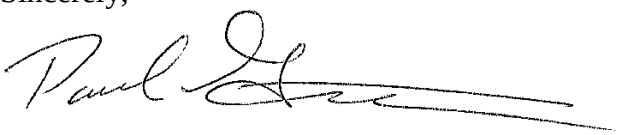
- The NCUA should consider amending §701.36(d)(1), which require FCUs to "fully occupy" premises acquired for expansion within one year or to have a board resolution in place with definitive plans for full occupation. The regulation provides that "premises are fully occupied when the federal credit union (or the federal credit union and a credit union service organization or a vendor) uses the entire space on a full-time basis." It would be more realistic to require that an FCU "significantly" or "substantially" occupy the premises. This would allow for the practical reality that an FCU may find it necessary (because of zoning laws or business necessity) to lease some portion of the premises to other businesses – whether retail establishments or office space.

- Proposed §701.36(c) says simply that an FCU's FAM program "must be annually reviewed by the board of directors." The NCUA's Summary of the Proposed Rule goes further: "The board must annually review the FCU's FAM program and update it as necessary. If the board determines that no changes to the FAM program are necessary, it must appropriately document that determination." If that documentation requirement will not be part of the actual text of §701.36(c), it should not be referenced in the Supplementary Material when the final rule is published. Including such elaborations will invite examiners to cite FCU boards for documentation failures outside the bounds of regulatory requirement.

In summary, we appreciate the NCUA's work in updating these rules to ease the burden on FCUs. We generally support the NCUA's work, but we must oppose specific aspects of this proposal. In particular, we cannot support the proposed new requirements for FCUs to adopt FAM programs that will be subject to examiner scrutiny. While the FCUs would no longer need NCUA consent to exceed the 5% ownership threshold, examiners would review the FAMs using nearly the same criteria that the NCUA now uses to review waiver requests. The proposal gives regulatory relief with one hand, but takes it away with the other.

Thank you.

Sincerely,



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