



April 24, 2015

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

RE: RIN 3133-AE39; Notice of Proposed Rulemaking for Part 701, FCU Ownership of Fixed Assets

Dear Mr. Poliquin,

The Credit Union Association of the Dakotas (CUAD) appreciates the opportunity to provide comment to the National Credit Union Administration (NCUA) with regard to the proposed amendments to Federal Credit Union Ownership of Fixed Assets. To provide a brief background, the Credit Union Association of the Dakotas represents sixty-nine state and federally chartered credit unions in the states of North Dakota and South Dakota, whose assets total over \$5.9 billion and who have more than 450,000 members.

CUAD fully supports and applauds the NCUA for reducing the regulatory burden on federal credit unions by removing the five percent cap on investments in fixed assets under §701.36 and removing the related waiver provisions. Thank you, this is greatly appreciated and will allow credit unions to accomplish their growth strategies and provide the services their members demand.

However, the NCUA notes that should this proposal be finalized it will issue supervisory guidance to examiners and federal credit unions. The NCUA explains that "The guidance will reflect current supervisory expectations that require an FCU to demonstrate appropriate due diligence, ongoing board and management oversight, and prudent financial analysis to ensure the FCU can afford any impact on earnings and net worth levels caused by its purchase of fixed assets. The guidance will ensure examiners effectively identify any risks to safety and soundness due to an FCU's excessive investment in fixed assets. It will focus on evaluating the quality of an FCU's fixed assets management relative to its planning for fixed assets acquisitions and controlling the related financial risks. The guidance will also focus on evaluating an FCU's quality of earnings and capital relative to its projected performance under both baseline (expected) and stressed scenarios." *80 FR 16601, March 30, 2015*. CUAD implores the NCUA to ensure that the supervisory guidance and examination process continues to allow credit unions the flexibility to manage their own credit unions and not subject credit unions to the micro-management and rigid scrutiny of examiners. CUAD requests that any future guidance be issued for public comment to receive feedback from the industry.



The NCUA also proposes to amend the partial occupancy requirements for premises acquired for future expansion. The proposed rule would provide that “if a federal credit union acquires premises for future expansion, including unimproved land or unimproved real property, it must partially occupy them within a reasonable period, but no later than six years after the date of acquisition.” *80 FR 16603, March 30, 2015*. The waiver process would remain in place under the proposed rule. However, the waiver request would not be required within 30 months after the property is acquired as is currently mandated.

The Federal Credit Union Act (FCU Act) §1757(4) provides that a Federal credit union shall have power “to purchase, hold, and dispose of property necessary or incidental to its operations.” The FCU Act does not include any arbitrary timeframes in which property must be occupied. The NCUA should handle partial occupancy issues through the supervisory process so that decisions may be based on the individual credit union and environment in which it operates.

It is the position of CUAD that a regulatory timeframe for partial occupancy should NOT be imposed on FCUs. Through a credit union’s strategic planning, land and/or building purchases are made in advance of their actual use. Sometimes these decisions are made when the opportunity presents itself and/or the price is right. Many factors may arise that could delay or change a credit union’s plans for expansion. The credit unions’ management and board of directors are in the best position to make decisions regarding the occupancy of property.

In The NCUA Report, April 2015, Number 4, page 5, Chairman Debbie Matz is quoted as saying “I strongly feel credit unions should be able to upgrade facilities, update technology or purchase other fixed assets without regulatory micro-management.” CUAD completely agrees with Chairman Matz. However, it is the position of CUAD that the “regulatory micro-management” must also be removed from partial occupancy requirements, and not limited to removal of the cap on fixed assets. Both areas can be successfully managed by the credit unions’ management and board of directors following supervisory guidance issued by the NCUA.

Thank you again for taking steps to reduce the unnecessary and overly burdensome regulatory burden on federal credit unions by eliminating the current provision in the fixed assets rule that established a five percent aggregate limit on investments in fixed assets for federal credit union. CUAD strongly encourages the NCUA to also eliminate the requirement of partial occupancy for premises acquired by federal credit unions for future expansion.

Thank you for this opportunity to share our comments and concerns.

Respectfully,

Robbie Thompson  
CEO/President

Amy Kleinschmit  
VP of Compliance