

September 22, 2015

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

Re: Comments on Regulatory Review pursuant to EGRPRA  
**Delivered via e-mail: [regcomments@ncua.gov](mailto:regcomments@ncua.gov)**

Dear Mr. Polquin:

The Credit Union National Association (CUNA) appreciates the opportunity to submit comments concerning the National Credit Union Administration's (NCUA) Request for Comment pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA). CUNA represents America's credit unions and their more than 100 million members.

CUNA appreciates that the NCUA has elected to voluntarily participate in the EGRPRA review process, although the agency does not technically fall within EGPRAs definition of an "appropriate Federal banking agency." We further commend the NCUA's willingness to identify opportunities to reduce regulatory burden while maintaining continued safety and soundness of credit unions. In that spirit, we provide our comments on the identified categories.

**1. Corporate Credit Unions (Corporate Credit Unions (12 CFR 704))**

CUNA acknowledges that during the 2010 and 2011 timeframe, NCUA made substantial changes to the regulations surrounding corporate credit unions. Most of these were a result of events that occurred during the Great Recession and the "lessons learned" from one of the worst economic crises faced by the country since the Great Depression. With now almost 5 years since the implementation of these reforms, CUNA suggests NCUA should revisit some of the provisions to reflect on their efficacy. In particular, the requirement imposed in §704.13, which requires the recordation of votes, should be re-evaluated. CUNA strongly believes these matters are better left to the bylaws as opposed to regulation.

In 2011, NCUA also increased the reporting requirements to impose additional audit and reporting requirements pursuant to §704.15. Many of the provisions mirrored those required of banks by the Federal Deposit Insurance Corporation (FDIC) or Sarbanes-Oxley. CUNA believes these requirements were not appropriate for corporate credit unions, and that the NCUA should revisit those additions and modify them accordingly to reduce regulatory burden on corporate credit unions.

2. **Directors, Officers, and Employees** (Reimbursement, insurance, and indemnification of officials and employees (12 CFR 701.33), Fidelity bond and insurance coverage (12 CFR 713), and Golden parachutes and indemnification payments (12 CFR 750))

NCUA amended these provisions in part and parcel as a result of events that transpired during the Great Recession. These provisions largely mirrored similar changes made for corporate credit unions. CUNA has a long-standing history of supporting strong safety and soundness regulation of credit unions and has endorsed the agency's efforts on numerous occasions to reduce and limit NCUSIF costs. Nonetheless, we believe that the approach taken for natural person credit unions for purposes of indemnification was too far-reaching and continues to have a chilling effect on the ability of credit unions to attract management personnel and board members. These are volunteer board members being asked to assume a role to which the NCUA appears to attach greater liability. The process that was set in place in the 2011 rule for indemnification is too cumbersome and the standards for assessments are too vague, leaving the agency considerable latitude to second guess the credit union's decision. Further, a wrongly accused Institution Affiliated Party (IAP) would be forced to burden defense costs until adjudicated before receiving payment from the credit union. CUNA suggests these provisions be revisited to provide a better mechanism to achieve the agency's objectives while protecting upstanding and committed credit union officials.

3. **Money Laundering** (Report of crimes or suspected crimes (12 CFR 748.1) and Bank Secrecy Act (12 CFR 748.2))

CUNA acknowledges that the NCUA is not the primary agency responsible for the promulgation of the underlying Bank Secrecy Act (BSA) regulations, however, NCUA has an important role in enforcing these provisions. CUNA further supports the objectives of laws and regulations to track money laundering and terrorist financing. However, our concern is that there are currently several items under consideration in the ever growing panoply of regulations in the BSA area. CUNA encourages NCUA to work closely with the Federal Financial Institution Examination Council (FFIEC), Treasury, Financial Crimes Enforcement Network (FinCEN), and Office of Foreign Assets Control (OFAC) to achieve the following objectives:

- Minimize the regulatory burden on credit unions;
- Reduce duplication of the same or similar information;
- Provide flexibility based on the reporting institution or level of transaction;
- Curtail the continually enhanced due diligence requirements;
- Increase the Currency Transaction Report (CTR) threshold; and
- Reduce the reporting of Suspicious Activity Reports (SARs) and CTRs that have limited usefulness to law enforcement.

Thank you for the opportunity to express these views to the NCUA. If you have further questions or would like to discuss CUNA's comments in more detail, please feel free to contact me at 202-508-3630.

Sincerely,

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