



September 22, 2015

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

Re: NASCUS Comments on Regulatory Review Pursuant to the EGRPRA

Dear Mr. Poliquin:

The National Association of State Credit Union Supervisors (NASCUS), the professional association of the state credit union regulatory agencies and the nation's state credit union system, submits the following comments in response to the National Credit Union Administration's (NCUA's) notice of regulatory review and request for comments pursuant to the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA). NCUA is not statutorily required to engage in EGRPRA review, but has elected to participate in the process by conducting an independent review that is "consistent and comparable" to the federal banking agencies process, but that takes into account the "unique circumstances of federally insured credit unions and their members."

As noted in our March 19, 2015 comments in response to the second notice and request for comments under the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA), we commend NCUA for voluntarily participating in the EGRPRA review process. NASCUS appreciates the opportunity to aid NCUA in its effort to identify outdated, unnecessary, or unduly burdensome regulations.

### **Consolidation of NCUA Title II Share Insurance Rules**

Several of the rules covered by the NCUA's June 8, 2015 EGRPRA Notice are applied to FISCUs by way of incorporation by reference in Part 741, Requirements for Insurance. NASCUS continues to urge NCUA to ease the regulatory burden on FISCUs by changing the format of its rules to incorporate in one place all of its share insurance rules.

The current structure of NCUA's Rules and Regulations is unnecessarily cumbersome and confusing for FISCUs and examiners alike. NCUA could erase any confusion, and ease regulatory burden, by systematically reorganizing its Rules and Regulations to provide federal and state examiners, and FISCUs, a consolidated chapter of applicable insurance regulations.

### **Corporate Credit Unions**

Part 704, Corporate Credit Unions, applies to state chartered corporate credit unions by way of reference in § 741.206. Taken together, Parts 704 and 741.206 preempt state regulation of state

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chartered corporate credit unions. In addition to this homogenization of the corporate credit union system, NCUA's corporate credit union rules were amended following the recession to dramatically restrict the activities permitted for corporates. As a result, the corporate credit union system has consolidated, concentrating the system into a dozen remaining corporate credit unions.<sup>1</sup>

The economic downturn of 2008 demonstrated that some corporate credit unions failed to maintain sufficient capital for the risk present on their balance sheets. While a re-evaluation of regulatory and supervisory parameters was needed, NASCUS remains concerned that the current regulatory framework for the corporate system is too homogenized.

Corporate credit unions remain an important source of liquidity and funds management for the credit union system. As the corporate system has restructured its collective balance sheets, NCUA should move to allow for prudent diversity within the corporate system. Both the diversity of operations in itself, as well as potential innovation it may generate, enhance the overall safety and soundness of the credit union system.<sup>2</sup>

NCUA's corporate credit union rule should provide for diversity of regulation at the state level for state chartered corporate credit unions. Such a provision could be modelled after existing NCUA share insurance provisions for natural person credit unions that allow for state specific rules.<sup>3</sup>

**Part 713, Fidelity bond and insurance coverage**

NCUA's § 741.201 directs FISCUs to follow the "minimum fidelity bond coverage stated in part 713." However, Part 713 contains more than just the numerical minimum bond coverage, it contains all the requirements for FCU bond coverage, including, among others, board duties (§ 713.2), forms to be used (§ 713.4), and from what entity coverage may be purchased (§ 713.3). The "minimum" coverage is contained in charts established by § 713.5 and § 713.6.

NCUA needs to clarify what fidelity bond coverage rules apply to FISCUs. Rather than incorporate by reference, NCUA should establish in § 741.201 the fidelity bond coverage requirements for FISCUs.

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<sup>1</sup> Six of the remaining corporate credit unions are state chartered.

<sup>2</sup> For example, with respect to natural person credit unions, NCUA's recent rulemaking with respect to fixed assets has prompted some states to review their existing regulations with regard to fixed assets. Likewise, recent NCUA rulemaking considerations relaxing federal credit union limitations of derivatives, field of membership, securitization, and member business lending demonstrate the forward looking state regulations which NCUA has considered emulating.

<sup>3</sup> For example, Part 723.20 allows states to seek an exemption from NCUA's MBL rule so long as the state promulgates a rule that presents no greater safety and soundness risk.

**Money Laundering**

NCUA includes 2 provisions of its money laundering rule for review: §§ 748.1 and 748.2. Under § 748.1(c)(4), credit union management must “promptly” notify its board of directors, or a designated committee of the board, of any Suspicious Activity Report (SAR) filed. In guidance issued in December, 2006, NCUA defined "promptly" as at least monthly, and notes that reporting at the monthly board meeting satisfies this requirement. See NCUA Regulatory Alert 07-RA-07 Final Rule: Part 748, Filing Requirements for Suspicious Activity Reports.

We note that not all states require monthly board meetings. In some states, credit union boards meet every other month. NCUA should revise guidance to provide that notification at the next board meeting satisfies the requirement. Allowing credit unions to sync their reporting to board meetings, rather than monthly, will help ensure boards focus on the information presented while providing credit unions regulatory relief by potentially reducing the paperwork of preparing reports for non-board meeting months.

NASCUS remains committed to working with NCUA to foster the partnership between state and federal regulators. Please do not hesitate to contact me to discuss any of these suggestions and recommendations.

Sincerely,

- signature redacted for electronic publication -

Brian Knight  
General Counsel