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June 27, 2016

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

Re: Occupancy, Planning and Disposal of Acquired and Abandoned Premises, Incidental Powers RIN 3133-AE54

Dear Mr. Poliquin:

The Pennsylvania Credit Union Association (PCUA) appreciates this opportunity to comment on the National Credit Union Administration's (NCUA) proposed rule addressing occupancy, planning and disposal of acquired/abandoned premises and incidental powers. PCUA is a statewide advocacy organization that represents a majority of the 400-plus credit unions in the Commonwealth of Pennsylvania.

PCUA consulted with its Regulatory Review Committee and State Credit Union Advisory Committee (the Committees) in order to provide comments on the proposal. The Committees consist of credit union CEOs and senior management staff. Members of the Committees also represent credit unions of all asset sizes. The comments contained in this letter reflect the input of the Committees and PCUA staff.

Proposed section 701.36 adds new definitions for the terms "abandoned premises" and "partially occupy." It also clarifies the time in which a federal credit union must occupy premises. Partially occupy means occupation and use, on a full-time basis, by a federal credit union or a credit union service organization in which it has a controlling interest, of at least fifty percent of the premises. 81 F.R. 24742. We appreciate the proposed approach and support the definition of partially occupy. For the time being it offers federal credit unions additional flexibility with regard to capitalizing on opportunities for premises to serve the membership. As we gather experience with the rule and credit union usage of premises, it may be advisable to redefine partial occupancy at less than fifty percent of the premises.

Subsection (c) of proposed 701.36 addresses premises not currently used to transact credit union business. This provision states that in the case of an acquisition of premises or unimproved land, the federal credit union must partially occupy each of them no later than six years after the date of acquisition. 81 FR 24742. A federal credit union may seek a waiver to partial occupancy by submitting a written request to the appropriate NCUA Regional Office. Here, again, we

appreciate the flexibility offered by the rule. For several years, however, Pennsylvania's credit unions have commented that occupancy can be a trying process, delayed by zoning regulations, environmental regulations, construction, and other factors that may not be evident at the time of purchase. We suggest allowing up to ten years for partial occupancy to address building concerns and reduce the need for waivers.

The proposal also amends section 721.3 of the NCUA regulations, incidental powers. A new subsection (e) clarifies that "excess capacity" is the excess use or capacity remaining in facilities, equipment, or services that a federal credit union properly invested in in good faith with the intent of serving its members or supporting business operations. 81 FR 24742. This section further clarifies that a federal credit union may sell or lease excess capacity in facilities such as office space and other premises. We support NCUA's clarification of the incidental powers rule. For many years, PCUA has supported measures to enable credit unions, where appropriate, to lease excess office space and realize income from the activity. Over the years, our members have advised us of opportunities to acquire premises that might be larger than necessary, at first, to serve the members. However, the credit unions have had the opportunity to lease excess space to professional concerns and earn revenue. With only one source of capital, retained earnings, affording credit unions with additional means to earn income is prudent.

During the April, 2015, Board Meeting, Board Member McWatters asked whether the occupancy and timing requirements provided adequate protection against speculative practices connected to acquiring premises. NCUA staff replied that the fifty percent usage of the premises, timing requirements, and the mandate that property to serve members would deter speculation. We agree. While Pennsylvania's credit unions have long advocated for the flexibility to lease excess space, we have not sought to create an environment that would permit speculation. A credit union's investment and use in premises must first meet the needs of the membership. If a credit union would suffer losses as a result of speculative activity that harms the membership and the reputation of credit unions in general.

If the proposed rule is finalized, we anticipate that the need for waivers will decrease. This is consistent with amendments to the fixed asset rule and occupancy over the past few years. Again, we support the inclusion of a waiver process in this proposal. The waiver process raises a larger policy question; an independent appeals process. The NCUA has undertaken a meaningful effort to reduce regulatory burdens during the two most recent years. But, NCUA retains significant discretion over many areas of the operation of federal credit unions. Credit unions invest enormous amounts of time in connection with charter amendments, member business lending policies, liquidity, net worth maintenance plans, and investments in fixed assets, just to name a few. In cases where NCUA might deny approval of those types of activities, there can be enormous impact on the credit union and its budget. Therefore, NCUA should adopt the appropriate regulations creating an independent appeals process. The process should be conducted pursuant to formal rules for the purpose of the adjudicating material issues. NCUA's decisions should be supported by findings of fact and conclusions of law.

Conclusion

The proposed rule on occupancy and disposal of abandoned/acquired premises is a logical step in the evolution on regulations related to investments in fixed assets. The proposal affords appropriate flexibility to federal credit unions and contains reasonable safeguards against speculative activity. We would be happy to address any questions you might have about our comments at your convenience.

Very truly yours,

PENNSYLVANIA CREDIT UNION ASSOCIATION



Richard T. Wargo, Jr., Esq.
Executive Vice President/General Counsel

RTW:llb

cc: P. Conway
PCUA Board
Regulatory Review Committee
State Credit Union Advisory Committee
Elizabeth Eugubian, CUNA