



December 4, 2017

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

Re: NASCUS Comments on Proposed Rule on Accuracy of Advertising

Dear Secretary 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”) proposed rule on Accuracy of Advertising. As discussed in more detail below, NASCUS supports NCUA’s proposed changes to Part 740, Accuracy of Advertising and Notice of Insured Status. With respect to social media, we urge NCUA to craft rules flexible enough to accommodate emerging social media platforms.

NCUA Should Exempt Television and Radio Advertisements of 30 Seconds or Less

Current Part 740.5 provides an exemption to the mandatory use of the official advertising statement for radio and television advertisements that are fifteen seconds or less in duration. NCUA proposes to increase the exemption to thirty seconds in duration, matching the thirty second exemption that the Federal Deposit Insurance Corporation (FDIC) provides federally insured banks.¹

Increasing the official statement exemption to advertisements of thirty seconds or less restores parity between bank and credit union rules and ends an arbitrary and unnecessarily burdensome restriction. We wholeheartedly support this proposal.

We also note that the official statement exemption of Part 740.5 refers explicitly to radio and television advertisements.² We recommend NCUA consider more flexible language that could be adopted for future developments in commercial delivery platforms. For example, NCUA should consider clarifying the exemption applies to radio, television, *and other similar mediums*.

¹ 12 CFR 328.

² 12 CFR 740.5(7) and 12 CFR 740.5(8).

Official Advertising Statement No Longer Required on Statements of Condition

Since 2011, NCUA has required credit unions to include the official advertising statement on official statements of condition required to be filed by law.³ Banks are exempt from such a requirement.⁴ NASCUS supports withdrawing the 2011 requirement that credit unions include the official statement on conditions of report required to be filed by law.

The Official Advertising Statement

Part 740.5(b) of NCUA's Rules and Regulations authorize three versions of an official advertising statement. The three versions of the official advertising statement are as follows:

- 1) "This credit union is federally insured by the National Credit Union Administration."
- 2) "Federally insured by NCUA"
- 3) Credit unions may also use a reproduction of the official sign

NCUA now proposes authorizing a fourth version of the official statement: "Insured by NCUA." NASCUS supports creation of this fourth, shorter, version of NCUA's official statement.

In particular, we note that the proposed official statement consists of thirteen characters, as opposed to the twenty-two and seventy-one characters of the current versions of the official statement. As NCUA aptly acknowledges in its request for comments on reconciling advertising rules with emerging social media platforms, the flexibility for credit unions to utilize a minimum amount of characters, while conveying the important message of federal share insurance, will be essential in the marketplace of the future.

In addition to supporting the fourth optional official statement as proposed, NASCUS recommends NCUA consider additional short versions of the official statement. By example, the FDIC has a ten character official statement for banks: "Member FDIC."⁵ NCUA should consider allowing the eleven character "NCUA Insured" or twelve character "Member NCUSIF" as approved official statements to provide even greater flexibility to credit unions.

Social Media

It is not simply a matter of limited character usage on sites like Twitter that make the social media platforms challenging to reconcile use of the official statement with the look, feel, and tone of those platforms. Of course, the very look, feel and tone of social

³ 76 FR 30521 (May 26, 2011).

⁴ 12 CFR 328.3(d).

⁵ 12 CFR 328.3(b)(1).

media are not mere characteristics of the platforms. In fact, they are foundational to the very emergence of those platforms. NASCUS commends NCUA for seeking to reconcile legacy advertising rules with the new medium of social networking platforms. We recommend NCUA consider making the following allowances for social media advertising:

- 1) NCUA rules should distinguish between messages appearing on the credit union's own social media sites as opposed to advertising that might appear on the site of a third party;
- 2) NCUA rules should clarify that inclusion of the official advertising statement on the credit union's masthead or on the credit union's landing page for its social media sites satisfies the regulatory requirements rather than the official statement having to appear on every page; and
- 3) NCUA rules should allow the official advertising statement to appear by link, no more than one click away, to a social media posting.

Given the evolving nature of social media, NASCUS also recommends that NCUA commit to regularly reviewing the advertising rule to consider new developments and new technology. It is unrealistic to expect that stakeholders can foresee today the next dominant social media platform's structure and utility. Ensuring a process through which timely feedback on needed changes to the rules regarding the official statement may be considered will be essential in helping credit unions stay engaged across the same medium as their members.

Thank you for the opportunity to comment on NCUA's proposed changes to the rules regarding use of the official statement in advertising. We would be happy to discuss our comments in more detail at your convenience.

Sincerely,

- signature redacted for electronic publication -

Brian Knight
Executive Vice President and General Counsel