

August 2, 2017

National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

Attention: Mr. Gerard Poliquin, Secretary of the NCUA Board

Re: Comments on Supervisory Review Committee; Proposed Procedures for Appealing Material Supervisory Determinations

Thank you for the opportunity to comment on the proposed changes to the NCUA's Procedures for Appealing Material Supervisory Determinations contained in 12 CFR Part 746. I am in strong support of the proposed changes and applaud the Board for its proposal to enhance the due process for credit unions and to apply NCUA's policies and practices fairly and consistently among all FICUs.

I have long been concerned over the extremely limited definition of material supervisory determinations that had qualified for appeal. Without the use of formal enforcement actions, NCUA examiners have had the ability to issue Documents of Resolution instructing FICUs to make material and substantive changes to balance sheets and/or effectively cease and desist of certain operational practices, leaving the FICU without the ability to appeal such decisions. This has posed a significant risk to the credit union industry, which is now being addressed through the proposed new definition of material supervisory determinations.

Furthermore, the addition of the optional level of review by the Director of Examinations and Insurance is also a definite improvement. One significant benefit of the existence of a Federal Charter is to provide for consistent regulatory supervision across the United States. The NCUA's practice of allowing Regional Directors the ability to self interpret national examination policy without the formal oversight of the central head of examination policy has resulted in inconsistent supervision of Federal institutions between the various regions. The inclusion of the ability to appeal regional decisions to the central office addresses, at least in part, this weakness and will take a significant step towards ensuring consistent supervision of FICUs across the United States.

However, the ability of the program office to appeal the decision of the Director of E&I is concerning. I recommend that ability be removed. Only the FICU should have the ability to appeal the Director of E&I. Should the Board decide to allow the program office the ability to appeal in its final rule, then I recommend that the Director of E&I be required to be a member of the Supervisory Review Committee, as opposed to being recused from such. I do agree that the Director and staff of E&I should be recused in the event that the FICU appeals the decision of the Director of E&I.

In closing, I thank you for the opportunity to comment on the proposed rule and I thank you for improving the transparency and objectivity of the appeals process. Although one should always try to find the middle ground to address an examiner's supervisory concerns, I strongly believe in the importance of the appeals process as providing a "check and balance" that enhances the strength of the NCUA and the credit union industry as a whole. I am hopeful that the NCUA finds my comments useful and they will be given due consideration. If you have any questions, I can be reached at 1-800-335-5371 or pford@bsmservices.com.

Respectfully Yours,

E. Prescott Ford

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