



Credit Union National Association

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Filed via regcomments@ncua.gov

January 23, 2014

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

Re: Requirements for Contacts with Federal Credit Unions; RIN 3133-AE34

Dear Mr. Poliquin:

This letter represents the views of the Credit Union National Association (CUNA) on the National Credit Union Administration (NCUA) Board's proposed requirements for contacts with federal credit unions. CUNA is the largest credit union advocacy organization in this country, partnering with our state leagues to represent state and federal credit unions nationwide, which serve over 99 million members. Our letter was developed with substantial guidance from the CUNA Small Credit Union Committee and the CUNA Examination and Supervision Subcommittee.

Rules Should Not Be Issued to Address Singular or Isolated Problems

Increasingly, the agency is developing regulations to address issues that should more appropriately, more effectively and more efficiently be dealt with on an individual credit union-problem basis. This is the case with the current proposal, which CUNA does not support as issued for comments.

The Proposal Is Not Justified on Safety and Soundness Grounds

While CUNA does strongly support appropriate member and examiner access as well as safety and soundness for credit unions of all asset sizes, CUNA disagrees with the agency's assumption that problems among home-based credit unions are characteristic of all members of that group. We also disagree that problems among home-based credit unions are so threatening to the National Credit Union Share Insurance Fund that they can only be satisfactorily handled through the issuance of a new rule.

As proposed, the agency would require federal credit unions to have a business office outside of a personal residence or have another public location that is appropriate for contacts with NCUA, if they do not already. Also, the federal credit



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union would be required to have in place a dedicated phone number or email address for contact with NCUA and members.

Within two years of the rule's effective date, all federal credit unions would be required to maintain a business office that is not located in a personal residence and would not be able to store required records at residential locations.

Small, home based credit unions feel that the proposal, particularly the requirement that all federal credit unions maintain an office that is not within a personal residence beginning two years after the rule is implemented, is unjustified and punitive.

We agree that the data does not support this rule on a safety and soundness basis, the primary rationale for any new NCUA regulation. CUNA's Economics Department has identified 81 federal credit unions that would be subject to the rule if adopted. These credit unions collectively have less than \$150 million in insured shares, or about 0.017% of total insured shares. That amounts to less than two one-hundredths of a percent of insured shares. Moreover, the group's average net worth is 15.64%. While based on operating results from December 2007 to September 2013 there was a median annual decline of 27 members for the group, other similarly sized credit unions saw larger membership declines and almost 30% of home-based credit unions experienced membership increases. Home-based credit unions as a group experienced an 11% increase in total assets, for the same time period.

The Proposal Ignores the Unique History of Credit unions

While we do not have an exact number, many of today's strong credit unions likely began without formal offices yet matured into important, financially sound institutions. Had this rule been in place in times past, the growth of these credit unions would have been unnecessarily impaired.

The Harm to Some Home-Based Credit Unions Could Be Irreparable

Even though the proposal is not justified on an across-the-board safety and soundness basis, the harm of the proposal to the affected credit unions and their communities could be irreparable.

One in six home-based credit unions serves underserved, at-risk fields of membership and communities that absent a credit union would have very limited access to mainstream financial services. Yet the relative costs of compliance with the proposal in terms of the affected credit unions' available resources and lack in some cases of affordable business space in certain areas could mean covered credit unions will be forced to end their services, including to communities that need them the most.

We realize that the ever-increasing regulatory burdens faced by credit unions make viability more difficult for all credit unions and small credit unions in particular. This is why CUNA continues to press aggressively for regulatory relief. We begrudgingly

accept that a home-based credit union may have no choice but to merge or shut down because it is having difficulty meeting members' needs, cannot provide complex services or is crushed by the ever-increasing regulatory burden; however, we oppose any regulation that directly would eliminate a class of credit unions regardless of their ability to meet safety and soundness regulatory and other requirements.

Examiner Convenience Seems to Be a Chief Influence

The main impetus for the proposal appears to be concerns for examiners' safety and convenience. However, the agency has not provided sufficient examples to demonstrate that its employees are not safe or are inordinately inconvenienced by entering a private residence for a few hours to review the records of a small credit union. Federal employees at other, various agencies are called on to do the most dangerous jobs in the world. We feel confident that NCUA's staff can find a way to safely visit most home-based credit unions for a few hours to review documents.

We also think that imposing new rules to address anecdotal examiner safety issues is a slippery slope that NCUA should avoid. Some credit unions have locations in high crime areas or areas that for other reasons make access more dangerous for NCUA staff. In addition, some examiners travel on smaller airlines or on rural roads, which could be dangerous as well. Traveling to credit unions is part of an examiner's job; it is even in the job description that NCUA advertises. Thus, we believe that NCUA staff has the capability and duty to go to all credit unions regardless of location to perform their jobs.

If the location of a credit union presents hazards for NCUA staff—for any legitimate reason—than NCUA should address the issue directly with the credit union on an individual basis. NCUA has authority under the Federal Credit Union Act to address NCUA staff safety without imposing this proposal.

Monitoring Telephone Number, Electronic Mail

The proposed rule requires federal credit unions to maintain and monitor telephone numbers or electronic mail addresses, or both. While this requirement sounds reasonable, we feel there should be some flexibility provided by way of exceptions, if the rule is adopted. We also feel that member access through the U.S. mail should be an option.

Most home-based credit unions offer a very limited selection of services. Some operate during nonbusiness hours to accommodate their members' needs. Such limited access is apparently acceptable to members who continue to belong to the affected credit unions. In light of this, we feel the agency should work with a credit union that demonstrates that the requirements for providing and monitoring telephone or email access would be unduly burdensome.

NCUA's Rules On Records Preservation Already Address Concerns

NCUA is concerned that many home-based federal credit unions are storing records in areas where they are at risk for accidental destruction, such as in basements near water heater tanks. Also, member privacy could be at risk if records are stored where other residents of the household could access them. For these reasons, home-based credit unions should be subject to the same preservation and security of records requirements as other credit unions, and they are.

If home-based credit unions are meeting NCUA's requirements for records preservation and privacy then there should be no greater or lesser risk to members from a credit union with commercial office space.

Office of Small Credit Union Initiatives

NCUA indicated its Office of Small Credit Union Initiatives (OSCU) will help home-based credit unions find nonresidential facilities. While we applaud this effort, we encourage the office to focus its efforts on helping home-based credit unions to comply with rules that apply to all credit unions and to operate efficiently. For example, helping a credit union develop a records preservation program and ensure that it has the ability to file call reports electronically are the kinds of efforts that OSCUI should continue to do.

A professionally operated financial institution should be able to operate from a residence as long as it meets legal and regulatory requirements. Credit union leagues and OSCUI can help facilitate this without requiring that credit unions move in order to operate out of commercial or nonresidential space.

If NCUA Proceeds with a Final Rule

As stated above, but worth reiterating here, NCUA has sufficient authority to deal with any problems presented by a home-based credit union on a case-by-case basis. If, however, NCUA goes ahead with a final rule, we urge the agency to justify sufficiently the need for such a rule based on safety and soundness concerns.

We also urge the agency to make the following changes:

- Grandfather existing home-based credit unions;
- Allow for exceptions to the rule's requirements to be granted under a fair and expeditious process;
- Allow member access to be through U.S. mail as well as the telephone or email; and
- Allow affected credit unions the option to correct legitimate problems identified by the examiner on a timely basis or move to retail space.

Conclusion

Instead of promulgating a rule that will likely result in closing a number of home-based federal credit unions, we urge NCUA to consider any individual problems presented and address them on a case-by-case basis under existing authority. Rather than issuing a new rule, we urge NCUA through OSCUI to help these credit unions without imposing the specific requirement that they cease operation from private residences. Thank you for the opportunity to comment. If you have any questions about our letter, please do not hesitate to give me a call at (202) 508-6736.

Sincerely,

A handwritten signature in cursive script that reads "Mary Mitchell Dunn".

Mary Mitchell Dunn
CUNA Deputy General Counsel and Senior Vice President