

Following is a draft of WBA's final comment letter regarding NCUA's proposal. If you have not already sent a letter, we hope you will consider sending comments to NCUA on these issues. Please remember that if you use WBA's letter, you will need to modify it to include your own personal comments and examples from your bank. Unlike the Congress or the legislature, quality is more important than quantity.

Incorporated in this comment letter is a reference to NCUA's Office of Inspector General 2020 Report regarding CUSOs. The full report may be viewed at:
<https://www.oversight.gov/sites/default/files/oig-reports/ncuaoig-audit-cusos-vendors-2020.pdf>

In addition, remove: the text box containing the word "DRAFT"; make appropriate changes to introductory paragraphs, signature blocks, date, etc.; and include any other comments that you believe are important, as WBA did not comment exhaustively on every aspect of the proposal. We have highlighted areas to within the draft to assist with this process.

The proposed rule may be accessed at: <https://www.govinfo.gov/content/pkg/FR-2021-02-26/pdf/2021-01398.pdf>

Due to recent extension of the comment period, comments are due to NCUA by April 30

To submit comments, to go: www.regulations.gov.

Follow the instructions for submitting comments for Docket NCUA-2021-0036

DRAFT

Bank Letterhead

[DATE]

VIA E-MAIL ONLY

Melane Conyers-Ausbrooks, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428
www.regulations.gov
Docket No. RIN 3133-AE95, NCUA-2021-0036

RE: Proposed Rules on Credit Union Service Organizations (CUSOs): RIN-3133-AE95, NCUA-2021-0036

Dear Secretary Conyers-Ausbrooks,

[BANK NAME and background, description of bank as introduction.] [BANK NAME] appreciates the opportunity to comment on the National Credit Union Administration's (NCUA's) proposed rule regarding credit union service organizations (CUSOs).

The proposed rule would expand the list of permissible activities and services for CUSOs and grants NCUA additional flexibility to approve permissible activities and services. [BANK NAME] is opposed to this expansion, as another example of NCUA fueling the growth of the credit union industry without regards to consumer protection or risk to the credit union and interconnected financial industries.

Discussion of the Proposed Expanded Activities and Services

NCUA permits CUSOs to conduct those activities and services listed within 12 Code of Federal Regulation (CFR) 712.5. The list was last revised in 2008. It is currently permissible for CUSOs to engage in several types of lending, including consumer mortgage, business, student, and credit card. As proposed, NCUA would permit CUSOs to originate, purchase, sell, and hold any type of loan permissible for FCUs to originate, purchase, sell, and hold. The proposed revisions would allow CUSOs to now originate general consumer loans, direct auto loans, and unsecured loans and lines of credit. CUSOs would also be allowed to purchase vehicle-secured retail sales contracts from vehicle dealers. NCUA stated it expects the proposed rule would principally result in CUSOs originating automobile loans and small dollar consumer loans.

The proposed rule also broadens the type of loans CUSOs are permitted to buy and sell participation interests in. Currently, CUSOs are permitted to buy and sell participation

interests in consumer mortgage, business, and student loans. NCUA rules do not allow CUSOs to buy and sell participation interests in credit card loans. As proposed, CUSOs would be granted authority to purchase and sell participation interests that FCUs are permitted to purchase and sell, including for example the authority to buy and sell participation interests in credit card loans.

[BANK NAME] is concerned as the proposed rule allows for CUSOs to engage in even broader types of lending. Loan originated by CUSOs are not subject to the same restrictions as loan originated by FCUs as CUSOs are separate entities from FCUs. Any consumer protection otherwise imposed under NCUA's 12 CFR part 701 regarding interest rate, maturity, and prepayment do not apply to loans originated by CUSOs. Furthermore, NCUA does not directly regulate CUSOs.

Additionally, the financial industry and financial markets are only just starting to emerge from a year battling a never-before-seen pandemic and complete closure of many businesses, whole industries, and economic sections. While the financial industry has shown strength to this point of initial recovery, there are still many unknown pressures and rippling effects for financial markets, financial institutions, and consumers' own financial stability and future.

[BANK NAME] believes it irresponsible of a regulator to allow for the broadened of lending authority and investment participations by entities that are not bound to direct supervisory scrutiny and oversight to ensure consumer protections and prudent underwriting practices are in place; let alone the overarching concerns over how unsupervised lending and investments can adversely impact the safety of the credit union industry and financial industry overall.

Equally absurd is for NCUA, as regulator, to propose these changes when it knows firsthand of the concerns over such expansion without oversight given the findings of its own 2020 Office of Inspector General (OIG) self-initiated audit regarding CUSOs. The report outlined a number of concerns regarding NCUA's lack of authority to supervise actions by CUSOs, as is illustrated in statements from the report's Executive Summary:

“Although the NCUA conducts CUSO reviews, there is currently nothing in the Federal Credit Union Act that provides the NCUA with the authority to supervise CUSOs and vendors to hold them accountable for unsafe and unsound practices that have direct and lasting impact on the credit unions they serve. In addition, the lack of statutory vendor oversight and regulatory enforcement authority hinders the NCUA's ability to conduct effective reviews of vendors. As a result, the NCUA's Share Insurance Fund is exposed to risk from CUSOs and vendors that can cause significant financial hardship, or even failure to the credit unions that use them.”¹

¹See NCUA Office of Inspector General Report, “Audit of the NCUA's Examination and Oversight Authority Over Credit Union Service Organizations and Vendors” Report #OIG-20-07, Sept. 1, 2020, at 1.

[BANK NAME] wishes to remind NCUA, NCUA is a regulator. Therefore, it need regulate the credit union industry, including CUSO activities. Not cheerlead. It is exhausting that NCUA continues to disregard its supervisory duties to instead create ways for circumvention, including field of credit union membership and in allowing for the offering of products or services to non-members.

[INCORPORATE HOW PROPOSAL WOULD IMPACT YOU INSTITUTION COMPETITIVELY, OR YOUR MARKET PLACE FROM CONSUMER PROTECTION PERSPECTIVE, OR OTHER].

[BANK NAME] strongly believes it reckless of NCUA, as regulator, to permit broader lending opportunities and investments by entities it cannot directly regulate, especially given its own recent OIG audit findings and the current early economic recovery from a global pandemic. This is especially concerning when NCUA, as regulator, expects the result of the proposal to be an expanded use of automobile and small dollar consumer loan products as these are the types of loans that have historically been heavily used by low-income and underserved communities.

For the reasons outlined above, NCUA must withdraw this proposal in its entirety.

I appreciate your consideration of these comments.

Respectfully,

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