Wisconsin Bankers
ASSOCIATION

April 6, 2021

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,

The Wisconsin Bankers Association (WBA) is the largest financial trade association in Wisconsin, representing approximately 220 state and nationally chartered banks, savings and loan associations, and savings banks. WBA 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. WBA 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.

WBA is concerned as the proposed rule allows for CUSOs to engage in broader lending and investments in the types of loans which are used by low-income and underserved communities; and, yet the loans will be originated, underwritten, and held without supervisory scrutiny. Loans originated and held by CUSOs are not subject to the same restrictions as loans originated or held by FCUs because CUSOs are separate entities from FCUs. Any consumer protections otherwise imposed under NCUA's 12 CFR part 701 regarding interest rate, maturity, and prepayment do not apply to loans originated by CUSOs. NCUA does not have the authority to 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 the complete closure of many businesses, whole industries, and economic sectors. While the financial industry has shown strength at 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.

WBA believes it irresponsible of a regulator to allow for the broadening of lending authority, participations, and investments by entities that are not bound to direct supervisory scrutiny and oversight to ensure consumer protections and prudent underwriting are in place. In addition, WBA has overarching concerns over how unsupervised lending, participations, and investments can adversely impact the safety of the credit union industry and financial industry overall. These concerns are heightened given the uncertainty of the lingering effects of the pandemic and economic recovery. Furthermore, as NCUA cannot directly regulate CUSOs' activities, it cannot effectively investigate or resolve consumer complaints of CUSOs' loan terms or actions, nor can NCUA enforce any remedies on a CUSO for harmful acts by the CUSO.

Equally concerning is for NCUA, as a regulator, to propose these changes when it knows firsthand of the risks of over 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. This 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]

As WBA has stated in many letters to NCUA, NCUA is a regulator. Therefore, it should be focused on regulation of the credit union industry, and not cheerleading of the industry. It is frustrating that NCUA continues to disregard its supervisory duties to instead create ways for circumvention of the permissible activities allowed under the Federal Credit Union Act.

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[1] *See* 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.

WBA believes it is dangerous for NCUA to permit broader lending opportunities and investments by entities it cannot directly supervise, especially given its own OIG 2020 audit findings and recommendations and the current economic uncertainties in light of a global pandemic. For these reasons, NCUA must withdraw this proposal in its entirety.

WBA appreciates your consideration of these comments.

Respectfully,

Rose Oswald Poels

Rose Oswald Poels
President/CEO