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Indiana Credit Union League Comments on NCUA Proposed Rule - Federal Credit Union Ownership of Fixed Assets

message

John McKenzie <johnm@icul.org>
To: regcomments@ncua.gov
Bcc: DebM@icul.org

Thu, Oct 9, 2014 at 12:56 PM

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

Re:

Indiana Credit Union League Comments on NCUA Proposed Rule - Federal Credit Union Ownership of Fixed Assets

Dear Mr. Poliquin:

The Indiana Credit Union League (ICUL) appreciates the opportunity to submit comments on the National Credit Union Administration's Notice of Proposed Rulemaking on Federal Credit Union Ownership of Fixed Assets. The ICUL member credit unions represent 97% of assets and members of Indiana's credit unions, with those memberships totaling more than two million consumers.

We appreciate NCUA 's efforts to reduce the regulatory burden on credit unions and the challenges often associated with requesting waivers to NCUA regulations. We agree that the proposed regulation regarding fixed assets is an improvement over the existing rigid fixed asset ratio and waiver request process. However, we do not agree that the proposal goes far enough. We would encourage NCUA to consider eliminating the fixed asset ratio limit all together since it is not a requirement of the Federal Credit Union Act. With that being said, the following are our comments on the proposed rule should NCUA proceed down this path.

Fixed Asset Management Program

ICUL supports allowing federal credit unions (FCUs) to exceed the

5% fixed assets limit through a Fixed Asset Management (FAM) program, as an improvement over the current waiver request process. This proposal allows federal credit unions more flexibility in managing fixed assets portfolios compared to the existing process, and would allow FCUs greater flexibility in responding to fixed asset needs without being delayed by the waiver request process.

In the proposed rule, NCUA references additional guidance being provided related to the FAM policy requirements and proposed rule. Should NCUA proceed with this proposed rule, the guidance should be provided prior to any final rule in order for interested parties to determine the true flexibility this rule may provide. NCUA should solicit comments on any proposed guidance. Any guidance the NCUA provides could significantly dictate how the requirements in the proposal are applied. Therefore

, it is crucial to allow credit unions to express their opinion and take them into consideration.

ICUL supports including a formal appeals process for credit unions in the regulation. This appeals process should allow credit unions to appeal when NCUA contests a fixed asset investment, requires any divestiture of an asset, or when an examiner disapproves any portion of the credit union's FAM program. Credit unions should have the opportunity to defend their decision to invest in a particular fixed asset since every credit union has a different business plan.

Occupancy Requirements

While the ICUL does not see a need to modify the full occupancy requirement of premises at this time, we do believe that the NCUA should work on the definition of full occupancy. Currently, premises are considered "fully occupied" when the federal credit union (or the federal credit union and a credit union service organization or a vendor) uses the entire space on a full-time basis. If a merger occurs and two credit unions consolidate their operations, there will likely be a fixed asset that is not considered "fully occupied." A credit union should be allowed to lease out that portion of office space for the time being until the credit union eventually grows and needs to fill the space.

ICUL does agree with increasing the time requirement for partial occupancy on unimproved land or unimproved real property to a period of time longer than the current three years. Given that the current rule allowed for extending the three years to six years, we would recommend that the time period be increased to six years, rather than the five years proposed.

We commend NCUA for putting forth a proposal that would no longer require federal credit unions to obtain permission from the agency before making a fixed asset investment that would cause them to exceed the

5% ownership threshold. We do believe that NCUA should not set any fixed asset ratio limits since they are not required by the Federal Credit Union Act. If NCUA proceeds with development of a final rule in this area, it is important NCUA be clear on the requirements of a FAM program and that credit unions have an opportunity to appeal any decisions made at the examination level challenging the FAM program or requiring divestiture of any fixed assets. Any guidance related to this area should be disseminated prior to any final rule being adopted, since the guidance effectively becomes the rule. We encourage NCUA to allow comments on any proposed guidance.

Thank you for the opportunity to comment on the proposal. If you have any questions about our letter, please do not hesitate to give me a call at (317) 594-5320.

Sincerely,

John McKenzie

President, Indiana Credit Union League