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National Association of Federal Credit Unions | www.nafcu.org

October 28, 2015

Joy Lee
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

RE: Comments on Submission to OMB for Revision of a Currently Approved
Information Collection, Credit Union Service Organizations

Dear Ms. Lee:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only national trade association focusing exclusively on federal issues affecting the nation's federally insured credit unions, I am writing to you regarding the National Credit Union Administration's (NCUA) submission to the Office of Management and Budget (OMB) for review and clearance of revisions to OMB Control Number 3133-0149. Under this request, NCUA seeks to incorporate 2013 amendments to 12 CFR 712. For the reasons discussed below, NAFCU continues to believe that NCUA should not resort to its new reporting mechanism in an effort to oversee credit union service organizations (CUSOs). As we have consistently maintained, such a move risks running afoul with the legal authority designated to the agency by Congress, as well as imposing significant costs and burdens on CUSOs and their credit union-owners. Further, NAFCU is concerned that NCUA has failed to justify the associated costs and burdens of this data collection on both the industry and the agency, as the registry will also require considerable NCUA expenditure for its implementation.

General Comments

CUSOs have long been strong partners for credit unions to meet their members' needs. They provide a range of services to credit unions and their members, including tools to meet the growing regulatory requirements on financial institutions. A CUSO's ability to provide such service not only benefits the credit union, it also enhances the industry's overall safety and soundness. In addition, and equally importantly, CUSOs have proved to be an important source of cost savings for credit unions. During these challenging economic times, credit unions need to be able to function effectively from a business standpoint, and not endure increased unnecessary regulations.

Over the past few years, however, NCUA has increased its focus on CUSOs. Most notably, on November 21, 2013, the NCUA Board approved a final rule that extends the agency's regulatory authority over CUSOs by requiring CUSOs to submit financial reports directly to NCUA in order for the agency to support a public CUSO Registry. As the agency is aware, NAFCU is concerned that this rule is not only beyond NCUA's legal authority designated to it by Congress, but it is also an unjustified and duplicative information collection. Because NCUA already has the information it needs to effectively oversee the safety and soundness of credit unions as well as the National Credit Union Share Insurance Fund (NCUSIF), NAFCU and our members believe that the agency does not need to regulate and oversee CUSOs through the Registry.

Furthermore, CUSOs provide these great values with minimal risk. Despite the concerns expressed by the agency, credit unions, in a vast majority of cases, conduct their relationships with CUSOs and other third parties well within the agency's regulatory parameters and in accordance with all applicable laws and regulations. As the agency has indicated, there appear to be some cases where some credit unions have not appropriately managed their third-party relationships and, consequently, exposed themselves and the NCUSIF to increased risk. These are, however, rare cases and not representative of the conventional third-party relationship credit unions have with third parties, especially CUSOs.

NAFCU firmly believes that the most appropriate and least burdensome way for NCUA to address the perceived issues surrounding CUSOs is to continue examining third party vendor relationships through the agency's examination process. NCUA's existing supervision program requires credit unions to prioritize vendor due diligence, including building controls for selecting and monitoring third parties with whom they engage. Specifically, NCUA Letter to Credit Unions 01-CU-20 outlines six different areas credit unions must thoroughly consider before entering into any third-party arrangement. Additionally, NCUA's AIRES exam questionnaires contemplate information regarding third-party relationships including due diligence requirements. Given these supervisory mechanisms for assessing credit union relationships with CUSOs, NAFCU firmly believes that NCUA does not need to separately collect information directly from CUSOs. The information collection is not only redundant based on what is currently available to NCUA, but it is also an unjustified burden on CUSOs and their credit union-owners.

Necessity of information

The final rule seeks to, among other things, require basic registration information from all CUSOs, regardless of complexity, including the CUSOs' customer lists. With this information, NCUA will create a CUSO Registry to aggregate the total number of CUSOs in the market, as well as their various lines of business.

NCUA's stated basis for this Registry is a perceived "regulatory blindspot" as to the amount of operating CUSOs and the services they provide to credit unions. Through the Registry, NCUA seeks to determine the full range of CUSO activity in the marketplace. However, NCUA does not make clear how collecting a customer list will help facilitate the creation of a CUSO

Registry. There does not appear to be a direct nexus between a CUSO Registry and a CUSO's customer list.

NAFCU disagrees with NCUA's stated justification for creating the Registry. As we articulated above, NCUA already has the information it needs to effectively oversee credit union relationships with CUSOs, as well as discern what services credit unions garner from CUSOs. NCUA has issued standards and guidelines for credit unions to adhere to in establishing and maintaining third party vendor relationships, and NCUA can and does conduct proper oversight of these relationships during examinations with existing authority. Through such oversight, NCUA has the full ability to discern how credit unions are using CUSO services, as well as participating as member-owners of CUSOs.

Increased Budgetary Allocations

In order to collect additional CUSO information, NCUA will likely need to increase its budget to fund the additional personnel and technology platforms needed to process and support additional CUSO information. As the agency is aware, its budget is funded exclusively by the credit unions it regulates and insures. NCUA expenditures have a direct impact on federally insured credit unions, and as such, NCUA's budget is of the utmost and ever-increasing importance to NAFCU's membership, the credit union industry.

NAFCU does not support spending credit union resources to expand NCUA's oversight into CUSO activities. NAFCU and our members firmly believe that such oversight is unnecessary and will require considerable expenditure of the agency's resources and time. We are deeply concerned that the Registry will require an additional outlay of agency resources, which will in turn necessitate higher costs to credit unions.

Conclusion

NAFCU appreciates the opportunity to comment on this OMB review. For the reasons stated above, NAFCU believes there are less burdensome and more effective ways for NCUA to ensure the safety and soundness of the credit union system as it relates to CUSOs. Should you have any questions or would like to discuss these issues further, please contact me at 703-842-2249 or by email at memancipator@nafcu.org.

Sincerely,



Michael Emancipator
Senior Regulatory Affairs Counsel