

To: regcomments@ncua.gov
From: Foothill FCU, Brian Hall CEO
Subject: Comments on ANPR for Part 704
Date: March 31, 2009

Foothill FCU is 50 years in business, \$230 million in assets and heavily invested in our corporate cu system; in that we are members of Wescorp, Corporate One and Members United corporate credit unions. It is our understanding that NCUA has permanent office space and examiners continuously “monitoring” the investment and ALM activities of our corporate(s), Wescorp FCU included. It is shocking that despite the continuous corporate credit union monitoring by our regulator, that we have now been informed by NCUA that our \$2,000,000 in PIC and MCA is worthless.

The March 20, 2009 decision by NCUA to place US Central and Wescorp into Conservatorship is, without question, a decision that was made without the best interests of the corporates or natural person credit unions in mind. It’s difficult to imagine, given the recent NCUA actions and lack of factual disclosures, that NCUA seriously considers credit union opinions or the responses to this ANPR.

NCUA’s action appears to have been determined in advance with little regard to important debate over accounting guidelines determining market valuation of investments impacted by extreme market dislocations and “Other Than Temporary Impairment” guidelines. New CEOs were sought out and perhaps even hired before the analysis of the corporate investment portfolios was completed by PIMCO.

To add insult to the conservatorship decision, NCUA holds that the facts used in making this decision are so confidential that they were not and cannot be shared with the corporate Boards of Directors (our elected representatives) or corporate management for debate and review prior to a decision of this magnitude. NCUA further states that Wescorp may have been unrealistic or optimistic in their valuation of the securities in question. Imagine that, with no loss of principle or interest in the portfolio to date (according to Wescorp portfolio managers), NCUA now can project with extreme accuracy that Wescorp overstated the future value of investments that are currently subject to unrealistic and extreme market dislocation, making any estimate of future value debatable.

With the foregoing comments as perspective on NCUA’s lack of transparency and questionable judgment, we offer the following comments in response to the ANPR request:

Role of Corporates in the Credit Union System.

Should the agency consider eliminating the second or wholesale tier from the corporate system?

Yes. As the individual corporate(s) have developed their depth and resources, it does not appear that they are dependent on US Central to offer core services such as liquidity, wire, investment purchase and safekeeping. At this point it seems that US Central has only added risk to the support system for credit unions.

Foothill FCU deals directly with several local corporate credit unions for a variety of products, based upon the competitiveness of each individual corporate.

Should payment system services be isolated from other services to separate the risks?

No. We see little value in creating a system that narrows the scope of services for the corporates. It also seems that this creates unwarranted complexity and perhaps a business that has doubtful economic viability. Risk management can be done appropriately on business units without creating separate organizations.

Should NCUA consider limiting a corporate's ability to offer other specific types of products and services in order to preserve and defend the liquidity function?

No. Speaking from our experience with Wescorp FCU, they have historically fulfilled the liquidity demanded by natural person credit unions. Credit unions have also increased their sophistication, adding additional borrowing/liquidity sources like the FHLB and CLF for diversification. We do not believe that NCUA should or could effectively manage the service profile of the corporate credit unions to foresee all possible future market events that may adversely impact liquidity.

With respect to NCUA mandating additional cash flow requirements and specific cash flow duration limits, we believe that step should be carefully considered as it is often very difficult to establish meaningful regulatory limitations that consider the unique operating needs of different institutions.

Field of Membership (FOM) Issues

Should the agency return to defined FOMs, for example, state or regional FOMs?

No. Credit union to credit union competition is one aspect of the economic factors that have perhaps driven the corporates to take more risk than perhaps they should have, however, the corporates also compete extensively with bond traders/broker dealers. We do not believe that NCUA could or should try to "protect" the corporates from interstate competition.

Expanded Investment Authority

Should NCUA modify the procedures and qualifications, such as higher capital standards, by which corporate credit union's currently qualify for expanded authorities?

Yes. We suggest that NCUA increase the capital standards for corporates that qualify for and use their expanded investment authority. If you buy CDOs, private label and/or subprime mortgages; hold more real "retained earnings" capital. We stress "retained earnings" not "member capital" since we don't think it is a viable long-term strategy to actually lose "member capital".

Corporate Capital

NCUA is considering revising various definitions and standards for determining appropriate capital requirements for corporate credit unions. What capital restructure recommendations would you make?

Core Capital – It's clear at this point that the corporates need more "core capital". Capital requirements should be similar to natural person credit unions, primarily considering corporate investment, balance sheet, transactional and strategic risk. Why are the corporate allowed to participate in riskier investments and yet hold lower capital positions?

Corporate credit unions with expanded investment authorities should hold at least 7% capital, the current minimum for a "well capitalized" natural person credit union.

Capital Limitation, Capital Restoration – Part 704.3 g (1) of the Rules and Regulations includes a comprehensive set of rules for capital restoration in a corporate credit union. Without extensive analysis and consideration of the potential impact of any new rules, we could not be sure we would improve or harm the corporate system by making recommendations other than increasing reserves and undivided earnings.

Credit Risk Management

Should NCUA require more than one rating for an investment, or require that the lowest rating meet the minimum rating requirements of Part 704?

Yes. NCUA should require more than 1 rating for an investment. If not, the lowest rating should meet the minimum rating required by Part 704. These ratings should be monitored on a regular basis to avoid holding below investment graded securities in the portfolio.

There should be an independent audit of the portfolio. I think for the annual audit, both NCUA and the external auditors focus on the financial areas and sometimes oversee

the credit risk of the portfolio. Perhaps a special group with capital knowledge should be assigned to perform the credit risk audit.

Corporate Credit Unions should establish specific procedure/policy when securities are downgraded. For instance, if a security is downgraded from AAA to A, there should be a specific course of action. This may be selling of the security or swapping it to another performing security.

Asset Liability Management – Based upon our observations of the corporate ALM monitoring, we think the ALM process is robust under foreseeable economic circumstances.

Corporate Governance

Should NCUA institute minimum standards for directors; requiring a director to possess an appropriate level of experience and independence?

Yes, if there are not already standards in place, the corporate should be required to develop reasonable standards and qualifications for directors.

Should term limits be established and should compensation be allowed for corporate directors?

No. With respect to term limits; this seems to force change, however, not necessarily positive change. I'm not in favor of term limitations, unless they could be used to ensure that the overall makeup of the board of directors would in all cases be strengthened by limiting the terms of some or all of the directors.

No. Compensation of directors, in our opinion, would not significantly improve corporate governance or oversight of corporate operations. Any significant director compensation could actually cause involvement for the wrong reasons, perhaps degrading board competency.