

YOUNG, SHERON

From: _Regulatory Comments
Sent: Tuesday, September 27, 2005 8:58 AM
To: YOUNG, SHERON
Subject: FW: Credit Union of Texas Comments on Proposed Rule Part 741.8

From: LEDERER JOHN [mailto:jlederer@cuoftexas.org]
Sent: Monday, September 26, 2005 1:43 PM
To: _Regulatory Comments
Subject: Credit Union of Texas Comments on Proposed Rule Part 741.8

Mary Rupp
Secretary of the Board
National Credit Union Administration

Dear Ms. Rupp:

Credit Union of Texas is submitting these comments with regard to NCUA's announcement that it is considering prohibiting certain investments by federally insured credit unions. The Request for Comments was apparently included in totally unrelated proposed changes. A change of this magnitude should have been much more conspicuous.

NCUA says it is considering this change because some state credit unions "may" make investments not authorized for federal credit unions and "these investments raise safety and soundness concerns." Reading this literally, it seems to be saying that any investment not specifically authorized for federal credit unions is a per se safety and soundness concern. No example or data is cited to support this statement. It is an insult to those developing various state laws and regulations that authorize investments different from or in addition to federal credit unions. We believe these persons are every bit as competent to regulate credit unions as the United States Congress or the National Credit Union Administration, and their track record shows this. We believe if NCUA is aware of safety and soundness concerns with regard to particular investments made by and authorized for state credit unions, it should address these as they occur and not propose to eliminate any other type of investment unless it is rated by a third party rating agency. Federal pre-emption of state laws is becoming more and more problematic for the states and should be avoided unless there is a compelling, overriding and substantial risk or danger involved.

Investments by state credit unions are not always for immediate and direct income. Credit unions invest in subsidiaries for various reasons and purposes. If these reasons or purposes do not coincide with federal law, then they are considered to be non-conforming investments. We do not believe that just because federal law is different on the permissible reasons for credit union subsidiaries, that investment in these subsidiaries should be prohibited. That is exactly the result that could occur, since getting a state chartered subsidiary's stock or obligations rated could be a difficult if not impossible proposition depending upon the stage of organization of the subsidiary or its age. There may also be other types of transactions labeled as investments, which do not fit squarely within federal law's purview but should not be prohibited merely because it is not, in NCUA's opinion, investment grade.

NCUA also appears to be using GAAP as a reason to prohibit investments. We believe GAAP is intended to properly account for transactions not dictate them. Using GAAP as an excuse to prohibit investments goes way beyond what it is intended to accomplish.

Finally, what NCUA is considering is, in our opinion, an attack on the dual chartering system. Credit unions need an alternative and the freedom to choose under what system it will operate. Some credit unions pay, through certain state taxes, for the privilege of operating under a state charter. As we have seen, and apparently are seeing now, regulation in one area may become too restrictive and the credit union may seek a change. This can

be due to field of membership restrictions, restrictions on certain powers, and restrictions on investments. Credit unions may be freer under state law to develop services and programs, which may later be authorized for federal credit unions as well. This regulatory move, if made, would seem to stifle if not eliminate this benefit.

We strongly encourage NCUA to drop this idea. We do not believe that any significant problems exist and do not think NCUA should unreasonably and unduly interfere with the operations of state credit unions as well as the efficient regulation of these credit unions by competent state governments.

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