

April 20, 2006

Ms. Mary Rupp, Secretary of the Board
National Credit Union Association
1775 Duke Street
Alexandria, VA 22314-3428

RE: Comments on ANPR concerning Part 715, Supervisory Committee Audits

To Whom It May Concern:

On behalf of the Board of Directors and Executive Management Team of Black Hills Federal Credit Union, I am responding to NCUA's request for comments on the proposed modification of Rule 715, Supervisory Committee Audits.

- 1. Should part 715 require, in addition to a financial statement audit, an "attestation on internal controls" over financial reporting above a certain minimum asset size threshold? Explain why or why not.**

We do not believe that Part 715 should require an "attestation on internal controls" over financial reporting. Our Credit Union presently has an annual audit of our financial statements performed by independent auditors, and have implemented an annual internal audit program that focuses on operational and financial internal controls. All external and internal reports are reviewed by the Supervisory Committee and discussed at Board meetings.

We have concerns about regulation that is designed to standardize regulation across different types of industries. This potential modification to Supervisory Committee audit rules did not result from audit failures, frauds and misreporting in the credit union industry. Attestation on internal controls over financial reporting, part of the Sarbanes-Oxley Act of 2002, was meant to address financial problems at large public companies in the wake of accounting scandals at Enron, WorldCom, and Tyco International.

Credit unions of all sizes already face regulation from NCUA, and this additional requirement would just add another level of work and expense with no clear gain to the membership. In addition, as cooperatives, credit unions already have a

level of member oversight and involvement that is unheard of in public companies.

- 2. What minimum asset size threshold would be appropriate for requiring, in addition to a financial statement audit, an “attestation on internal controls” over financial reporting, given the additional burden on management and its external auditor? Explain the reasons for the threshold you favor.**

As noted above we are not in favor of this requirement, but if an internal control attestation was required, we feel a minimum asset size of \$5 billion would be appropriate. While the FDIC requires banks and thrifts over \$1 billion in assets to present an attestation, the credit union charter is inherently less risky than bank and thrift charters.

Small credit unions also operate differently than large ones. The correlation between asset size and risk of errors and fraud in financial reporting is usually much greater at smaller institutions. With that being said, smaller credit unions have relatively fewer administrative employees and the costs associated with compliance would be disproportionately high. Forcing new requirements on credit unions with total assets less than \$5 billion would create an undue financial burden which could weaken these credit unions and potentially lead to more mergers.

- 3. Should the minimum asset size threshold for requiring an “attestation on internal controls” over financial reporting be the same for natural person credit unions and corporate credit unions? Explain why.**

If a minimum asset size threshold is established, it should apply to both natural person and corporate credit unions.

- 4. Should management’s assessments of the effectiveness of internal controls and the attestation by its external auditor cover all financial reporting, (i.e., financial statements prepared in accordance with GAAP and those prepared for regulatory purposes), or should it be more narrowly framed to cover only certain types of financial reporting? If so, what types?**

Since the users of a credit union’s financial statements differ tremendously from those of a publicly held company (e.g. investors), we believe that any potential reporting requirements should be limited to regulatory reporting purposes (e.g. 5300 call report).

- 5. Should the same auditor be permitted to perform both the financial statement audit and the “attestation on internal controls” over financial reporting, or should a credit union be allowed to engage one auditor to perform the financial statement audit and another to perform the “attestation on internal controls?” Explain the reasons for your answer.**

We believe that the same auditor should be permitted to perform both the financial statement audit and the attestation on internal controls. The current financial statement audit already incorporates limited internal control testing. Integrating more advanced internal control reviews during the financial statement audit would be more efficient and cost effective. The hiring of an additional audit firm would be disproportionately time-consuming and expensive in light of the risks that credit unions face. By having to explain internal controls on two separate occasions, audit operations will become much more costly, burdensome and time consuming.

- 6. If an “attestation on internal controls” were required of credit unions, should it be required annually or less frequently? Why?**

Due to the current internal control environment, less frequent attestations would be more than sufficient to offset the risk in the credit union environment. If required, a five-year cyclical review of each portion of the regulatory call report would be sufficient. This approach would allow for greater attention to detail on each area reviewed to ensure that the review is quantifiable, reliable and useful.

- 7. If an “attestation on internal controls” were required of credit unions, when should the requirement become effective (i.e., in the fiscal period beginning after December 15 of what year)?**

Few credit union managers, staff, directors and supervisory committee members have experience in this area. The experience of other companies illustrates that having this type of attestation performed is both expensive and time-consuming. Since it will require increased staffing, research, identification, implementation and testing, at least three years should be allowed before this requirement would become effective.

- 8. If credit unions were required to obtain an “attestation on internal controls,” should part 715 require those attestations, whether for a natural person or corporate credit union, adhere to the PCAOB’s AS 2 standard that applies to public companies, or to the AICPA’s revised AT 501 standard that applies to non-public companies? Please explain your preference.**

Since credit unions are non-profit, non-public institutions, we believe that the AICPA's standard that applies to non-public companies should be adhered to.

- 9. Should NCUA mandate COSO's Internal Control – Integrated Framework as the standard all credit union management must follow when establishing, maintaining and assessing the effectiveness of the internal control structure and procedures, or should each credit union have the option to choose its own standard?**

We believe that no specific model should be mandated; however, we feel that guidance should be given which would allow credit unions to develop acceptable models.

- 10. Should Supervisory Committee members of credit unions above a certain minimum asset size threshold be required to have a minimum level of experience or expertise in credit union, banking or other financial matters? If so, what criteria should they be required to meet and what should the minimum asset size threshold be?**

We believe that all credit unions greater than \$100 million in assets should be required to have at least one Supervisory Committee member with an accounting, finance and/or auditing background and experience.

- 11. Should Supervisory Committee members of credit unions above a certain minimum asset threshold be required to have access to their own outside counsel? If so, at what minimum asset size threshold?**

If necessary, the Supervisory Committee should have access to outside legal counsel. However, we do not believe that Supervisory Committee members should be "required" to have access to their own individual outside counsel. This requirement would make it extremely difficult to recruit volunteers to serve as this would raise concerns regarding personal liability.

- 12. Should Supervisory Committee members of credit unions above a certain minimum asset size threshold be prohibited from being associated with any large customer of the credit union other than its sponsor? If so, at what minimum asset size threshold?**

Regardless of asset size, Supervisory Committee members should remain free from any conflicts of interest.

- 13. If any of the qualifications addressed in questions 10, 11 and 12 above were required of Supervisory Committee members, would credit unions have difficulty in recruiting and retaining competent individuals to serve in sufficient numbers? If so, describe the obstacles associated with each qualification.**

Clearly these requirements would enhance the role of the Supervisory Committee, but it would be extremely challenging for credit unions to find qualified volunteers. It has become difficult for smaller companies to find compensated directors who are willing to take the risk of serving on an audit committee.

Instead of focusing on requirements that are tailored towards for-profit institutions with compensated audit committees, we believe that any new requirements should focus on the Supervisory Committee's role in the audit process from beginning to end, the levels of communication about critical risk areas, conflicts with management, and the routine communications the Committee should have with their auditors.

- 14. Should a State-licensed, compensated auditor who performs a financial statement audit and/or "internal control attestation" be required to meet just the AICPA's "independence" standards, or should they be required to also meet SECs "independence" requirements and interpretations? If not both, why not?**

The State-licensed, compensated auditor should only be required to meet the AICPA's independence standards since credit unions are not regulated by the SEC. Imposing the SEC "independence" requirement could significantly limit the amount of available auditors, thus increasing audit fees.

- 15. Is there value in retaining the "balance sheet audit" in existing 715.7(a) as an audit option for credit unions with less than \$500 million in assets?**

We believe that all credit unions over \$100 million in assets should be required to annually obtain a financial statement audit.

- 16. Is there value in retaining the "Supervisory Committee Guide audit" in existing 715.7(c) as an audit option for credit unions with less than \$500 million in assets?**

As stated in the answer to question #15, we believe that all credit unions over \$100 million in assets should be required to annually obtain a financial statement audit.

- 17. Should part 715 require credit unions that obtain a financial statement audit and/or an “attestation on internal controls” (whether as required or voluntarily) to forward a copy of the auditor’s report to NCUA? If so, how soon after the audit period-end? If not, why not?**

All audit reports should be made available for review to the NCUA examiner during their regular examination. If credit unions were required to forward a copy, this should be done within 90 days after receipt of the report.

- 18. Should part 715 require credit unions to provide NCUA with a copy of any management letter, qualification, or other report issued by its external auditor in connection with services provided to the credit union? If so, how soon after the credit union receives it? If not, why not?**

As stated in the answer to question #17, all reports should be made available for review to the NCUA examiner during their regular examination. If credit unions were required to forward a copy, this should be done within 90 days after receipt of the report.

- 19. If credit unions were required to forward external auditors’ reports to NCUA, should part 715 require the auditor to review those reports with the Supervisory Committee before forwarding them to NCUA?**

The Supervisory Committee should have the opportunity to review all reports before they are forwarded to NCUA.

- 20. Existing part 715 requires a credit union’s engagement letter to prescribe a target date of 120 days after the audit period-end for delivery of the audit report. Should this period be extended or shortened? What sanctions should be imposed against a credit union that fails to include the target delivery date within its engagement letter?**

We believe that the 120 day target date is reasonable. Also, we do not believe that sanctions should be imposed against a credit union that fails to include the target delivery date in the audit engagement letter.

- 21. Should part 715 require credit unions to notify NCUA in writing when they enter into an agreement with an auditor, and/or when an engagement ceases by reason of the auditor’s dismissal or resignation? If so in cases of dismissal or resignation, should the credit union be required to include reasons for the dismissal or resignation?**

No requirements should be put in place that requires written notification to NCUA when credit unions enter into an agreement with an auditor. However, a dismissal or resignation of an independent auditor outside the term of the engagement letter should require written notification, documenting the reasons for the dismissal or resignation.

- 22. NCUA recently joined the final Interagency Advisory on the Unsafe and Unsound Use of Limitation of Liability Provisions in External Audit Engagement Letters, 71 FR 6847 (Feb. 9, 2006). Should credit union Supervisory Committees be prohibited by regulation from executing engagement letters that contain language limiting various forms of auditor liability to the credit union? Should Supervisory Committees be prohibited from waiving the auditor's punitive damages liability?**

The language in engagement letters that limits various forms of auditor liability and punitive damages is a cost/benefit issue. Until this language becomes an issue, regulatory requirements do not seem necessary.

We strongly oppose any modifications to the Supervisory Committee audit rules that would require credit unions of any asset size to obtain an "attestation on internal controls" in connection with the annual audit. While much attention has been focused on the Sarbanes-Oxley Act of 2002, it is important to remember the activities that provoked it. This act did not result from audit failures, frauds and misreporting in the credit union industry. We have concerns about regulation that is designed to standardize regulation across different types of organizations. Unnecessary regulatory burdens such as this would drive up the cost of doing business for credit unions; credit union members would feel the impact in the form of higher prices and, in some cases, diminished product choice. As a former credit union auditor, it is hard for me to see the benefits in any of the proposed regulation.

I would welcome a call if you have any questions about our letter.

Sincerely,

BLACK HILLS FEDERAL CREDIT UNION

Tyler D. Grodi
Vice President of Finance
tylerg@bhfcu.net
605-718-6140